

## MEMORANDUM

**TO:** City Council  
**FROM:** City Manager  
**DATE:** July 9, 2015  
**SUBJECT:** Comments on Agenda Items, Meeting of July 14, 2015

**ITEM 6.A.** Brenda Daniels of Supervisor Michael Antonovich's office will be recognized as she retires after 25 years of service as Staff Assistant III.

**ITEM 6.B.** Mr. Rodney Jefferson will make a presentation on behalf of Chapcare Health Care Services. They will have a Grand Opening on August 3, 2015, in Monrovia, and will provide health care services to Duarte residents, including general medicine, pediatrics, optometry, and mental health counseling.

**ITEM 6.C.** Public Safety Director Brian Villalobos will provide an overview of the public safety efforts undertaken over the July 4<sup>th</sup> weekend.

**ITEM 10.D (Consent Calendar).** A Proclamation will be presented declaring the month of July as "Parks Make Life Better Month." Duarte Parks and Recreation has embraced CPRS's "Parks Make Life Better" slogan as part of the department's goals to provide a wholesome and healthy environment for our residents to enjoy.

**ITEM 10.E (Consent Calendar).** This is a Proclamation naming July 22, 2015, as the "Duarte Day" Host Town Celebration for the Special Olympics World Games 2015. The Special Olympics World Games 2015 will be held in Los Angeles from July 25-August 2, with 7,000 athletes from 177 countries competing. The City of Duarte is proud to be part of a three-City collaboration, including Azusa and Glendora, hosting the South African delegation for the Host Town Program. The City and its Special Olympics Host Town Steering Committee, a group comprised of City Councilmembers, City staff, the City of Hope, Duarte Chamber of Commerce, and community members, have planned a daylong schedule of activities to give the delegation a "day in the life of Duarte" experience.

**ITEM 10.F (Consent Calendar).** This item is associated with the Active Transportation Program (ATP) grant that the City received for sidewalk, bicycle, and pedestrian improvements along Duarte Road and other locations, and the Citywide way-finding sign program. This is an authorization for the City Manager to execute a Professional Services Agreement with RKA Consultant Group in the amount of \$124,295 for the design phase of the sidewalk and bike lane project. RKA Consulting Group has performed work for the City in the past, and the project manager for this project has specific experience with Gold Line related projects.

**ITEM 10.G (Consent Calendar).** This item is associated with the Active Transportation Program (ATP) grant that the City received for sidewalk, bicycle, and pedestrian improvements along Duarte Road and other locations, and the Citywide way-finding sign program. This is an authorization for the City Manager to execute a Professional Services Agreement with Hunt Design Associates in the amount of \$61,555 for the design phase of the Citywide way-finding sign program. Hunt Design Associates has designed way-finding signs for other cities such as Pasadena, Claremont, and Newport Beach.

**ITEM 10.H (Consent Calendar).** A request has been made by the Arcadia Association of Realtors for the City to co-sponsor a Home Buyers Fair on October 24, 2015. The event is scheduled to start at 10:00 a.m. and to conclude by 2:00 p.m. There will be a series of speakers on various aspects of home ownership, as well as information and educational sessions in the breakout room. All revenue generated

will go toward the costs associated with hosting the event, including lunch/refreshments. Raffle prizes will be given away throughout the event. Prizes will be donated from the exhibitors or the Arcadia Association of Realtors. Community Development staff will help coordinate the outreach of the event, and coordinate with other City Departments.

**ITEM 10.I (Consent Calendar).** This item recommends that the City Council approve extending the professional services agreement with Townsend Public Affairs (TPA) for grant writing and advocacy services. In addition to helping the City secure numerous grant funds, TPA will continue to engage in advocacy work with State and Federal agencies supporting City programs and projects. Most recently, TPA has been instrumental in assisting staff work with the U.S. Army Corps of Engineers on mitigating a prospective construction project proposed to impact local City streets and throughways.

**ITEM 10.J (Consent Calendar).** A request from California Contract Cities has been made for the City to support proposed Federal legislation addressing the high cost of compliance for water regulations, including stormwater. Specifically, the U.S. Conference of Mayors is requesting that Mayors consider signing a joint letter to the California Congressional delegation requesting support for the proposed “Water Quality Improvement Act of 2015” legislation.

**ITEM 10.L (Consent Calendar).** This item would accept the Concrete Repair Program FY 2014-15 project as complete. This project consisted of the removal and replacement of concrete sidewalks, curbs, and gutters that were damaged by tree roots and other factors. These improvements allow for safer sidewalks, and reduce the number of trip and fall claims in the City, and has become an integral part of the City’s Risk Management Plan.

**ITEM 12.** This is a Public Hearing to consider a resolution ordering the levy and collection of assessments for fiscal year 2015-16 within the Citywide Landscape and Lighting District. The work to be done within this District includes: 1) Maintenance and servicing of street landscaping and street trees; 2) Maintenance and servicing of street lighting facilities; 3) Maintenance and servicing of traffic signals; 4) The cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti within street right-of-way; 5) Funding for the construction of the Senior Center; 6) Maintenance and servicing of parks; and 7) Any and all work and materials appurtenant thereto.

**ITEM 13.** This item is an appeal by Roxana Ponce De Leon of the revocation of her business license doing business as Bellagio Fountain of Youth. On April 22, 2015, the City provided notice to Ms. De Leon that the business license for Bellagio was revoked and that she had 10 days to request an appeal of that decision to the Finance Director. On May 5, 2015, the City mailed a letter to Ms. De Leon informing her that a hearing would be held on May 13, 2015. The City conducted a Business License Revocation Hearing on that date, and despite receiving notice from the City of the hearing date and time, Ms. De Leon did not appear at the hearing. Based on the evidence presented, the Finance Director determined that Bellagio was operating in violation of DMC Section 5.04.230 for knowingly misrepresenting to the City that the business would only be providing nutrition and weight loss counseling, and selling products. It was also determined that Ms. De Leon was performing massage services without proper permits or licenses as required by DMC Section 5.04.030. Based upon these violations of law, the business license was revoked, and Ms. De Leon was informed she had 15 days to appeal the decision to the City Council.

On June 3, 2015, Ms. De Leon, through her attorney Victor S. Korechoff, appealed the decision to revoke the business license for Bellagio. Ms. De Leon’s appeal claims she was lawfully conducting massages as an ancillary permitted use prior to the enactment of the City’s Urgency Ordinance No. 850, and Ms. De Leon should be “grandfathered” in and not subject to the moratorium. The moratorium was adopted on June 8, 2015. Ms. De Leon did not even apply for her first business license for a massage business until

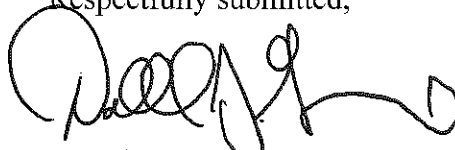
August 5, 2015. The City denied that application, notifying Ms. De Leon that massage establishments were not currently permitted in the City due to the moratorium. The business license Ms. De Leon was subsequently granted was for business services and retail operations unrelated to massage. She cannot be “grandfathered” in because she did not apply for a business license, nor was she approved to operate as a massage establishment prior to the moratorium taking effect. Staff recommends that the City Council deny Ms. De Leon’s appeal and uphold the Finance Director’s decision to revoke the business license issued to Ms. De Leon for Bellagio Fountain of Youth Wellness Center.

**ITEM 14.A.** This item presents a revised Field Rental Policy to the City Council for consideration and approval, which was previously recommended by the Duarte Parks and Recreation Commission at its regular meeting on May 11, 2015. Over the last two years, staff has worked with the Commission to address the field use availability and field condition problems at the various Duarte parks and sports parks that are available for rent. The Commission has previously identified several issues that it has determined must be addressed. Last year, the first step was taken, and field rental fees were revised with City Council approval. Staff has again worked with the Commission to revise and modernize the Field Rental Policy that dates back to the early 1980’s when the only field users were youth baseball/softball and youth tackle football leagues. Today, there are these same groups, plus more youth baseball/softball travel teams, and many Duarte and non-resident club and youth soccer league teams, who are all competing for limited field rental spaces.

**ITEM 14.B.** This item provides the City Council with an update on the mandatory 2015 Statewide Water Conservation Measures. Water conservation efforts transitioned from voluntary to mandatory on August 14, 2014, when the California Public Utilities Commission issued a resolution requiring all water agencies to inform their customers about the four mandatory Statewide water restrictions and their potential fines. The restrictions included prohibitions against 1) using potable water on outdoor landscape causing runoff into adjacent properties, roadways, parking lots, or private/public walkways; 2) using a hose to wash a vehicle except when the hose is fitted with a shut-off nozzle; 3) using water on driveways and sidewalks; and 4) using potable water in a fountain or other decorative water feature except where water is part of a recirculating system.

Enforcement of the new State Water Board regulations will be handled by California American Water Company effective July 14, 2015. The City of Duarte will coordinate and support California American Water with enforcement by referring all calls that come into the City to California American, tracking on a weekly basis calls that come in through email, voice mail, and social media, and reporting them on a form provided by California American, and publicizing and promoting compliance with water restrictions via social media, Duarte City News, the City’s webpage, etc.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darrell J. George", with a stylized flourish at the end.

Darrell J. George  
City Manager



## ChapCare Lime

Grand opening this **August 3rd!**



Health Care Services:

- General medicine
- Womens' health
- Pediatrics
- Mental health counseling
- Optometry
- Health insurance enrollment
- Referrals for dental services

\*Medi-Cal, Medicare, My Health LA, and Covered CA plans are welcome!

Call (626) 398-6300 or visit [www.chapcare.org](http://www.chapcare.org)  
to make an appointment today!

### ChapCare Lime Location:

513 E. Lime Ave. Suite 101

Monrovia, CA 91016

Hours: Monday-Friday 8AM-5PM

*Corner of Lime & Jasmine Ave,  
Next to Monrovia Memorial Hospital*



## MINUTES

### JOINT CITY COUNCIL/CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY/HOUSING AUTHORITY/COMMUNITY FACILITIES FINANCING AUTHORITY OF THE CITY OF DUARTE REGULAR MEETING – JUNE 23, 2015

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CALL TO ORDER                         | The City Council/City Council as Successor Agency to Dissolved Redevelopment Agency/Housing Authority/Community Facilities Financing Authority of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Paras-Caracci called the meeting to order at 7:05 p.m.                                                                                            |
| RECORDATION OF ATTENDANCE             | <p>The following were in attendance:</p> <p>PRESENT: Fasana (arrived at 7:18 p.m.), Finlay, Kang, Reilly, Paras-Caracci</p> <p>ABSENT: None</p> <p>ADMINISTRATIVE STAFF PRESENT: City Manager George, City Attorney Melching</p>                                                                                                                                                                                          |
| ADOPTION OF AGENDA                    | Finlay moved, Reilly seconded to adopt the Agenda, as amended to adjourn in memory of the nine shooting victims in Charleston, South Carolina, and carried with Fasana not present.                                                                                                                                                                                                                                       |
| PLEDGE TO THE FLAG                    | Bryan Urias led the Pledge of Allegiance to the Flag.                                                                                                                                                                                                                                                                                                                                                                     |
| MOMENT OF REFLECTION                  | A moment of reflection was observed.                                                                                                                                                                                                                                                                                                                                                                                      |
| FITNESS/MENTAL WARM-UP                | Kang and Finlay provided the warm-up.                                                                                                                                                                                                                                                                                                                                                                                     |
| SPECIAL ITEMS<br>Public Safety Update | <p>Brian Villalobos presented the monthly Public Safety update, including an overview of deployment and response times, and answered questions from City Councilmembers.</p> <p>Fasana suggested the basic issues of homelessness facing the City could possibly be discussed by the City Commissions, and stated he would like to look at a resolution about the abandonment of mental health services by the State.</p> |
| Redevelopment Dissolution             | Darrell George and Kristen Petersen provided information about a recent conference call with Assemblymember Hernandez pertaining to redevelopment, and provided information about the interpretation of language for reimbursement agreements. Jeff Melching noted the State Legislature acted upon the budget on June 15, and the language will now become part of a trailer bill.                                       |
| ANNOUNCEMENTS                         | <p>Joanna Gee, Duarte Library, announced upcoming events, story times, programs, and classes in June and July.</p> <p>Karen Herrera presented community announcements about City events, projects, programs, and activities in June and July.</p> <p>Reilly announced Angeles National Forest public hearing to be held on June 24 at Glendora Public Library.</p>                                                        |

|                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ORAL COMMUNICATIONS                                        | The following spoke on items not on the Agenda.<br>John Lee – Metro 88 Cities Initiative program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| CONSENT CALENDAR                                           | Finlay moved, Kang seconded to approve the Consent Calendar, as follows, and carried unanimously.<br>Approve Items A, B, C, D, E, I.<br>Remove Items F, G, H.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| ITEMS REMOVED – Item F<br>Cablecasting Agreement           | Melching noted two typographical corrections in the first paragraph: Amendment No. <u>5</u> , and effective date <u>July 1, 2015</u> .<br>Paras-Caracci stated she received feedback that the sound does not always come through on the cable channel.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| ITEM F – APPROVED                                          | Fasana moved, Finlay seconded to approve Amendment No. 5 to the Services Agreement by and between the City of Duarte and Levon Yotnakhparian for City Council Meeting cablecasting and Internet viewing, and carried unanimously.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Item G – Council Bill 15-R-13                              | Item G– Council Bill 15-R-13 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA RESCINDING RESOLUTION NO. 14-14 AND ESTABLISHING A SALARY SCHEDULE AND COMPENSATION PLAN FOR UNREPRESENTED REGULAR EMPLOYEES<br><br>Petersen presented information about Council Bill 15-R-13, and answered questions from Councilmembers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| ITEM G – APPROVED<br>RESOLUTION NO. 15-13                  | Reilly moved, Finlay seconded to adopt Resolution No. 15-13, and carried unanimously.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Item H–Cost Sharing Agreement                              | Hensley provided a staff report about storm water monitoring and the proposed cost sharing agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| ITEM H – APPROVED                                          | Reilly moved, Finlay seconded to approve the agreement for cost sharing for the installation of monitoring equipment and monitoring pursuant to the Harbor Toxic Pollutants TMDL, and carried unanimously.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| BUSINESS ITEMS<br>Enhanced Watershed<br>Management Program | Craig Hensley introduced Jason Herrera, CWE, who presented a detailed report and overview about the Rio Hondo/San Gabriel River Water Quality Group, background of the Enhanced Watershed Management Program Plan, priorities, control measures, analyses, proposed implementation schedule and cost, process, regional best management practices, adaptive management program, water quality priorities, green streets, and funding strategies, and answered questions from City Councilmembers.<br><br>Fasana moved, Finlay seconded to authorize the City Manager to submit the Enhanced Watershed Management Program Plan on behalf of the Rio Hondo/San Gabriel River Water Quality Group (consisting of the cities of Arcadia, Azusa, Bradbury, Monrovia, Sierra Madre, County of Los Angeles, and Los Angeles County Flood Control District) to the California Regional Water |

League of California Cities  
Voting Delegate – San Jose

Quality Control Board, Los Angeles Region, in accordance with the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit, and carried unanimously.

Reilly moved, Kang seconded to designate City Manager Darrell George as the Voting Delegate for the League of California Cities Annual Conference, September 30-October 2, 2015, San Jose, and carried unanimously.

City/Housing Authority  
2015/16 Budget

George made introductory comments about the proposed budget, thanked City Council and staff, and presented brief highlights.

Kristen Petersen provided the staff report, showed a Powerpoint detailing the proposed 2015/16 proposed budget, discussed the budget preparation philosophy, projected General Fund revenues and expenditures, program expansions, capital improvements, projected reserves, other City funds, and summary.

Finlay moved, Fasana seconded to approve the City of Duarte and Housing Authority Fiscal Year 2015/16 Budget, and carried unanimously.

ITEMS FROM CITY COUNCIL/  
CITY MANAGER

GEORGE: Thanked City Councilmembers for dedicating time to the budget process and working out the details.

KANG: Stated it is a great thing to put more money into capital improvements to make the City look better, he missed the last meeting due to illness, the painted bells make the City look more vibrant, and suggested the possibility of vending machines by the Fitness Center.

REILLY: Stated seniors expressed concerns about Ralphs and the transit stop, inquired if the crossing guards at Royal Oaks and Northview receive training since they take students one at a time across the street instead of in a group, attended volunteer recognition dinner, read a letter from Mary Pat Paddock, attended Elks Lodge ceremony for Flag Day, and announced Coffee and Conversation on June 27 regarding the Angeles National Forest Monument Plan.

FASANA: Stated the senior volunteer dinner was fabulous, and congratulated staff for the very brown medians, as people expect to see the City setting an example.

FINLAY: Announced Neighborhood Watch meeting on July 9 at Encanto Park, the Touch A Truck event was fun, thanked staff for the light on the bike path at Royal Oaks/Mount Olive, announced Councilmember Fasana will be a guest speaker at a patriotic concert at the Mormon Choir event in Arcadia, and wished all a happy 4<sup>th</sup> of July.

PARAS-CARACCI: Congratulated the seniors at the Senior Center for their volunteer service, she had the opportunity to re-

cognize part-time Parks and Recreation staff for their service, thanked staff for the Touch A Truck event, stated her neighbors received email about watering restrictions and she has seen it on our electronic sign, with regard to the Beautification Awards, stated we may recognize residents who have gone to drought tolerant landscaping, stated there is blue and black graffiti on the building at the 210 West freeway on-ramp, and attended a wonderful meeting with City of Hope staff, where future opportunities were discussed.

#### ADJOURNMENT

The meeting was adjourned at 9:31 p.m. in memory of Clementa Pinckey, Myra Thompson, Daniel Simmons, Sr., Depayne Middleton-Doctor, Ethel Lance, Susie Jackson, Sharonda Singleton, Cynthia Hurd, and Tywanza Sanders.

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Mayor Tzeitel Paras-Caracci

ATTEST:

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City Clerk



# MEMORANDUM

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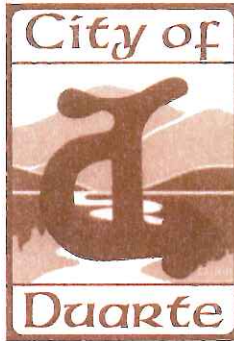
**TO:** MAYOR AND CITY COUNCIL

**FROM:** CESAR MONSALVE, PARKS AND RECREATION DIRECTOR

**SUBJECT:** PARKS MAKE LIFE BETTER IN DUARTE MONTH  
PROCLAMATION

**DATE:** 7/14/15

The Duarte Parks and Recreation Department is proud to support the California Park and Recreation Society's (CPRS) proposal to have local municipalities declare the month of July as "Parks Make Life Better" month. Duarte Parks and Recreation has been a partner and fellow advocate with CPRS for all causes relating to making parks available to all and in encouraging residents and non-residents to visit and enjoy Duarte's beautiful parks. Duarte Parks and Recreation has embraced CPRS's "Parks Make Life Better" slogan as part of the department's goals to provide a wholesome and healthy environment for our residents to enjoy and, as the month of July is celebrated across the nation as Parks and Recreation Month, the Duarte Parks and Recreation Department requests that the City Council proclaim the month of July as Parks Makes Life Better in Duarte Month. A proclamation is attached.



**Parks  
Make  
Life  
Better!**

## Proclamation



July 2015 is Parks Make Life Better in Duarte Month

*WHEREAS, Parks and Recreation makes lives and communities better now and in the future; and*

*WHEREAS, it is established through statewide public opinion research, 98% of California households visit a local park at least once a year; two in three households visit a park once a month; 50% of households participate in an organized recreation program; and most park use is with family and friends; and*

*WHEREAS, residents value recreation as it provides positive alternatives for children and youth to reduce crime and mischief especially during non-school hours, it promotes the arts, it increases social connections, aids in therapy, and promotes lifelong learning; and*

*WHEREAS, residents value their parks for access to outdoor spaces for children and adults to play and be active, to exercise, and to participate in group sports; and*

*WHEREAS, parks provide access to the serenity and the inspiration of nature and outdoor spaces as well as preserve and protect the historic, natural, and cultural resources in our community; and*

*WHEREAS, the residents of the City of Duarte including children, teens, families, adults, seniors, businesses, community organizations, and visitors benefit from the wide range of parks, trails, open space, sports fields, tennis courts, facilities, and programs provided by the Duarte Parks and Recreation Department; and*

*WHEREAS, the City of Duarte urges all its residents to recognize that parks and recreation enriches the lives of its residents and visitors, as well as adding value to the community's homes and neighborhoods; and*

*WHEREAS, July is celebrated across the nation as Parks and Recreation Month,*

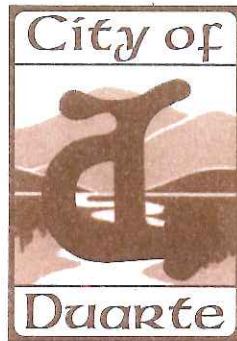
**NOW THEREFORE BE IT RESOLVED**, that the City of Duarte hereby proclaims July 2015 as **PARKS MAKE LIFE BETTER IN DUARTE MONTH**, and in doing so, urges all its citizens to use and enjoy its parks, trails, open space, facilities, and recreation opportunities.

ATTEST:

City Clerk Marla Akana  
Duarte, California  
July 14, 2015



\_\_\_\_\_  
Mayor Tzeitel Paras-Caracci



## Proclamation

### **"DUARTE DAY" HOST TOWN CELEBRATION – JULY 22, 2015 FOR SPECIAL OLYMPICS WORLD GAMES 2015**

**WHEREAS**, the Special Olympics World Games 2015 will be held in Los Angeles, California, from July 25 to August 2, 2015; and

**WHEREAS**, 7,000 athletes from 177 countries will compete in the 2015 Games; and

**WHEREAS**, the City of Duarte is proud to be part of a three-City collaboration including Azusa and Glendora hosting the South African delegation for the 2015 "Host Town" program; and

**WHEREAS**, the Host Town Program takes place prior to the Opening Ceremony of the Games, from July 21-24, 2015, and is an opportunity to make the athletes feel truly celebrated; and

**WHEREAS**, the City of Duarte is displaying a series of festive street banners with both the City and Special Olympics logos along Huntington Drive in front of the Duarte Civic Center in anticipation of the City's Host Town event entitled, "Duarte Day;" and

**WHEREAS**, the City of Duarte and its Special Olympics Host Town Steering Committee, a group comprised of City Councilmembers, City Staff, the City of Hope, Duarte Chamber of Commerce, and community members, have planned a daylong schedule of activities designed to give the delegation a "Day in the life of Duarte" experience; and

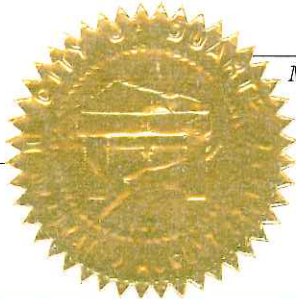
**WHEREAS**, "Duarte Day" will begin at the City of Hope with a welcome parade, followed by a luncheon featuring a special keynote speaker and interactive activities on the City of Hope campus, with the delegation enjoying the remainder of the day at various City facilities including a BBQ at the Duarte Teen Center and a DJ Dance Party at the Duarte Community Center; and

**WHEREAS**, the day's activities could not be possible without generous sponsorships from the City of Hope, 7-Eleven Duarte, Old Town Sign Company, FSP Designs, the Gas Company, and the Volunteer Center of the San Gabriel Valley;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Duarte hereby proclaims July 22, 2015, as **DUARTE DAY** in the City of Duarte, and invites and encourages all residents of Duarte to join in welcoming the athletes, coaches, staff, volunteers, families, and spectators of the Special Olympics World Games Los Angeles 2015 to our City.

ATTEST:

City Clerk Marla Akana  
Duarte, California  
July 14, 2015



Mayor Tzeitel Paras-Caracci



## MEMORANDUM

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**To:** Mayor and City Council

**From:** Rafael Casillas, P.E., Public Works Manager *RC*

**Date:** July 14, 2015

**Subject:** Authorization for the City Manager to Execute Professional Services Agreement – Gold Line Pedestrian and Bicycle Improvements PS&E, PM and CM, City Project # 15-9

### SUMMARY

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On June 16, 2015, the City Clerk's office publicly received four (4) proposals from consultants for the above project. This project is fully funded from the Active Transportation Program (ATP) grant and Proposition A. Staff publicly advertised the request for proposals for professional services for consultants to generate Plans, Specifications and Estimates (PS&E), Project Management (PM) and Construction Management (CM) services for the Gold Line Pedestrian and Bicycle Improvements. Upon public notice and solicitation for professional services; twenty-nine (29) consultants obtained proposal requirements and specifications. Of the twenty-nine consultants; the following four consultants submitted proposals for the project:

1. CNC, Industry CA 91744
2. KOA Corporation, Monterey Park CA 91754
3. Onward Engineering, Anaheim CA 92805
4. RKA Consultant Group, Walnut CA 91789

A staff panel reviewed and evaluated the proposals that were submitted to the City. Staff recommends RKA Consultant Group from Walnut CA as the consultant to perform the Gold Line Pedestrian and Bicycle Improvements project. The consultant RKA Consultant Group has successfully performed several projects in the City of Duarte and the Project Manager assigned to this project has specific experience with the Gold Line construction project.

The total compensation paid to the consultant shall not exceed the base contract amount. The construction management scope of work shall be executed under a separate agreement by the City Manager not to exceed the specified amount. The proposal for the Gold Line Pedestrian and Bicycle Improvements PS&E, PM and CM is as follows:

|                                              |                  |
|----------------------------------------------|------------------|
| Task 1 – Plans, Specifications and Estimates | \$ 94,435        |
| Task 2 – Project Management                  | \$ <u>29,860</u> |

|                                  |                  |
|----------------------------------|------------------|
| <b>Base Contract</b>             | <b>\$124,295</b> |
| Task 3 – Construction Management | \$ 74,280        |
| Geotechnical – Optional Services | \$ 20,400        |

## **RECOMMENDATION**

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Therefore, this office respectfully recommends that the City Council execute the professional service agreement "PS&E, PM and CM for Gold Line Pedestrian and Bicycle Improvements" to RKA Consultant Group from Walnut, for the total compensation not to exceed \$124,295 for the terms of the agreement. Construction management shall be executed under a separate agreement by the City Manager.

**Attachement:**  
**Professional Service Agreement**  
**Fee Schedule**  
**Request for Proposal**

**CITY OF DUARTE  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and effective as of \_\_\_\_\_, 2015 ("Effective Date"), by and between the **CITY OF DUARTE**, ("City") and **RKA Consultant Group**, a California Corporation ("Consultant"). City and Consultant may sometimes herein be referred to individually as a "party" and collectively as the "parties." In consideration of the mutual covenants and conditions set forth herein, and for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

**1. TERM**

This Agreement shall commence on the Effective Date and shall remain and continue in effect until **July 14, 2017**, unless sooner terminated pursuant to the provisions of this Agreement. The term may be extended upon execution of a written amendment between the parties.

**2. SERVICES AND PERFORMANCE**

- A. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. The Scope of Service may also include the Consultant's proposal, which is incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of Consultant's proposal and this Agreement, the terms of this Agreement shall govern.
- B. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that Consultant is experienced in performing the work and services contemplated herein and, in light of such experience, Consultant covenants that it shall perform all services in a manner consistent with standards generally recognized as being employed by like professionals under similar circumstances.
- C. The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for City to enter into this Agreement. Therefore, without the prior written approval of City, which may be given or withheld at City's sole and absolute discretion, Consultant shall not (i) contract with any other entity to perform in whole or in part the services required hereunder, or (ii) transfer, assign, convey, or encumber (voluntarily or by operation of law) this Agreement.
- D. Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services

required by this Agreement.

- E. Consultant shall provide all services rendered hereunder in accordance with all applicable ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered. Each and every provision required by law to be included in this Agreement shall be deemed to be included, and this Agreement shall be read and enforced as though they were included.

### **3. MANAGEMENT**

The City's City Manager shall represent City in all matters pursuant to the administration of this Agreement, review and approval of the services performed by Consultant, including the authority, subject to the limitations set forth in Section 4, to enlarge the Scope of Services or increase the compensation due to Consultant. Consultant's official representative in the administration of this Agreement shall be David G. Gilbertson PE, Principal In Charge who shall have the authority to make all decisions for Consultant and bind Consultant to the terms of this Agreement.

### **4. COMPENSATION**

- A. City agrees to pay Consultant, in accordance with the payment rates and terms contained in its proposal as set forth in Exhibit "A" or as otherwise provided in "Exhibit A." Subject to the City Manager's authority set forth in subparagraph (B) below, the total compensation paid to Consultant hereunder shall not exceed one hundred twenty four thousand two hundred ninety five dollars (\$124,295) for the total term of this Agreement unless otherwise authorized in advance and in writing by the City Manager.
- B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given. The City Manager may approve additional work up to but not exceeding twenty percent (25%) of the amount of this Agreement.
- C. Consultant shall be paid on a monthly basis and shall submit monthly invoices/reports to City, within ten (10) days following the end of each month, showing actual services performed. Consultant shall be paid on the next regular council warrant after all required paperwork is submitted and accepted. If the City disputes whether Consultant has earned its fee or any portion, City shall give written notice to Consultant within thirty (30) days of receipt of Consultant's monthly report stating the basis for such dispute.

## **5. SUSPENSION OR TERMINATION OF AGREEMENT**

- A. City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving written notice upon Consultant. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. In the event this Agreement is suspended or terminated pursuant to this subparagraph (a), Consultant shall submit a final report to the City pursuant to Section 4, and City shall be entitled to receive a return of the fee paid to Consultant, or portion thereof, if the reason for the termination is failure by Consultant to have timely performed the services set forth in Exhibit "A." In City's sole and absolute discretion, prior to effecting a suspension or termination pursuant to this subparagraph (a), the City may first serve upon the Consultant a written notice of the default specifying the default and the amount of time that Consultant shall have to cure, correct, or remedy the default. In the event that the Consultant fails to cure the default within the specified period of time, the City shall have the right to immediately terminate this Agreement pursuant to subparagraph (a). Notwithstanding any other provision of this Agreement to the contrary, City's termination of this Agreement pursuant to this subparagraph (a) shall not preclude or prejudice any other remedy to which City may be entitled in law or in equity.
- B. Consultant may terminate this Agreement only due to a material breach by City, and only upon not less than thirty (30) days' prior written notice to the City which notice shall specify the material default. Upon receipt of such notice, City may, but shall not be obligated to, effect to remedy of such default.

## **6. RECORDS AND OWNERSHIP OF DOCUMENTS**

- A. Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to produce an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment
- B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed

pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. Consultant shall provide such items to City promptly upon completion of the Agreement. Any use of such documents for other projects by the City shall be without liability to Consultant.

- C. Any information gained by Consultant in the performance of this Agreement shall be considered confidential and such information and the reports, records, documents and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly or to any other client of Consultant without the prior written approval of the City Manager.

## **7. INDEMNIFICATION**

Consultant shall defend, indemnify and hold harmless the City from and against all damages and liability caused by the negligent actions or willful misconduct of the Consultant or its employees, agents, or representatives. Consultant shall not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of the City or any of its employees, agents, or representatives acting in an official capacity.

## **8. INSURANCE**

Without limiting Consultant's indemnification obligations as set forth in this Agreement, the Consultant shall procure and maintain, at its sole cost and expense, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

- A. Commercial General Liability insurance written on a per occurrence basis in an amount not less than \$1,000,000 per occurrence.
- B. Business Auto Coverage written on a per accident basis in an amount not less than \$1,000,000 per accident. If Consultant or Consultant's employees use personal autos in connection with the performance of work under this Agreement, Consultant shall provide evidence of personal auto liability coverage for each such person.
- C. Worker's Compensation providing statutory benefits as required by California law.
- D. Professional Liability or Errors and Omissions Insurance designed to protect against acts, errors or omissions of the Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate.
- E. The General Liability and Business Automobile insurance policies required

hereunder, shall comply with the following requirements:

- (1) All insurance shall be written by insurers that are authorized and licensed to do business in the State of California and with A.M. Bests rating of B++ or better and a minimum financial size VII.
  - (2) The policies shall be endorsed to name the City and its officers, officials, employees, agents, and designated volunteers as additional insureds.
  - (3) All of Consultant's insurance: (i) shall contain no special limitations on the scope of protection afforded to the additional insureds; (ii) shall be primary insurance and any insurance or self-insurance maintained by the additional insureds or any of them shall be in excess of the Consultant's insurance and shall not contribute with it; (iii) shall be "occurrence" rather than "claims made" insurance; (iv) shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; (v) shall prohibit Consultant from waiving the right of subrogation prior to a loss except for professional liability; and (vi) shall not contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured.
  - (4) The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change.
- F. Consultant shall renew the required coverage annually as long as City or its employees or agents face an exposure from the Consultant's operations pursuant to this Agreement, provided such coverage remains commercially available at reasonable rates. Termination of this obligation shall survive the termination or expiration of this Agreement and shall not be effective until City executes a written statement to that effect.
- G. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance evidencing the above insurance coverages and said Certificates of Insurance are reasonably approved by the City. Certificates are to reflect that the insurer will provide 30 days written notice to City of any cancellation of coverage. In the event any of said policies of insurance are reduced in limits or cancelled for any reason, the Consultant shall, prior to the cancellation date, submit new evidence of insurance, in conformance with this Paragraph 8.
- H. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

- I. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this Agreement. City assumes no obligation or liability by such notice, but has the right to monitor the handling of any such claim or claims if they are likely to involve City.

## **9. INDEPENDENT CONSULTANT**

- A. Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, officials, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents is in any manner officers, officials, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.
- B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

## **10. NO UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City shall receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement.

## **11. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or has responsibilities with respect to the Agreement during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the services performed under this Agreement.

## **12. COVENANT AGAINST DISCRIMINATION**

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

## **13. NONLIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer, official, employee, agent, representative, or volunteer of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

## **14. NOTICES**

Any notices which either party may desire to give or may be required to give to the other party under this Agreement must be in writing and may be given either by (a) personal service, or (b) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (c) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

If to City:                      City of Duarte  
                                         City Manager's Office  
                                         1600 Huntington Drive  
                                         Duarte, California 91010

If to Consultant:              David G. Gilbertson, P.E.  
                                         RKA Consulting Group  
                                         398 Lemon Creek Dr., Suite E  
                                         Walnut, CA 91789-2649

## **15. GOVERNING LAW; ATTORNEY'S FEES; LITIGATION MATTERS**

The internal laws of the State of California, without regard to principles of conflicts of laws, shall govern the interpretation of this Agreement. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding anything in this Agreement to the contrary, in no event shall City or Consultant be entitled to economic or consequential damages or to punitive damages. In the event of any litigation arising from or related to this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred, including staff time, court costs, reasonable attorney fees,

expert witness fees, and other related expenses. The Municipal and Superior Court of the County of Los Angeles shall have exclusive jurisdiction over any litigation between the parties hereto concerning this Agreement. Service of process on City shall be made in the manner required by law for service on a public entity. Service of process on Consultant shall be made in any manner permitted by law and shall be effective whether served inside or outside of California.

#### **16. RIGHTS AND REMEDIES ARE CUMULATIVE; AND WAIVER**

- A. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.
- B. No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### **17. SEVERABILITY**

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

#### **18. INTERPRETATION; ENTIRE AGREEMENT**

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect.

## **19. EXECUTION OF CONTRACT**

The persons executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

## **20. EFFECTIVE DATE**

The Effective Date of this Agreement shall be the date set next to the signature of the City Manager below, which date shall be inserted into the preamble of this Agreement.

[end –signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Agreement as of the Effective Date.

**CITY OF DUARTE**

By \_\_\_\_\_  
Darrell George

City Manager

Date: \_\_\_\_\_

**Consultant Company**

By \_\_\_\_\_  
David G. Gilbertson, PE

Its: Principal In Charge

Date: \_\_\_\_\_

EXHIBIT "A"

SCOPE OF SERVICES

SEE FOLLOWING PAGES



**City of Duarte**  
**PS&E, PM, and CM for**  
**Gold Line Pedestrian and Bicycle Improvements**  
**July 7, 2015**

|                                                                                                                                                                                                                                                                                    | Project Manager<br>\$140/hr | Project Engineer<br>\$125/hr | Design Engineer<br>\$115/hr | PW Inspection<br>\$105/hr | Survey Kelsae    | Landscape and Irrigation W&S | Lighting Gausman & Moore | Geotechnical Material Testing Converse | ATP Reimbursement /Compliance LAE | Total Fee            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|------------------------------|-----------------------------|---------------------------|------------------|------------------------------|--------------------------|----------------------------------------|-----------------------------------|----------------------|
| <b>Phase A - Plans, Specs, and Estimate</b>                                                                                                                                                                                                                                        |                             |                              |                             |                           |                  |                              |                          |                                        |                                   |                      |
| 1 - Surveying, Aerial and Ground and Right of Way, Aerial surveying deleted on Central and Buena Vista. Surveying along the north side of Duarte Road will be reduced to mainly the lie-ins. Survey will increase where the islands on the north side of Duarte Road are proposed. |                             |                              |                             |                           | \$21,250         |                              |                          |                                        |                                   |                      |
| 2 - Utility Research, Reduced to only sidewalk areas.                                                                                                                                                                                                                              |                             |                              |                             |                           |                  |                              |                          |                                        |                                   |                      |
| 3 - Preliminary Design Reduced due to deletion of Central Ave from scope of work and less utility CAD work                                                                                                                                                                         | 16                          | 32                           | 65                          |                           |                  | \$7,000                      |                          |                                        |                                   |                      |
| 4 - 95% Design Reduced due to deletion of Central Ave from scope of work and less utility CAD work                                                                                                                                                                                 | 16                          | 32                           | 40                          |                           |                  | \$6,000                      |                          |                                        |                                   |                      |
| 5 - Final Design Reduced due to deletion of Central Ave from scope of work and less utility CAD work                                                                                                                                                                               | 10                          | 20                           | 25                          |                           |                  | \$5,300                      | \$17,450                 |                                        |                                   |                      |
| 6 - Meetings                                                                                                                                                                                                                                                                       | 12                          | 12                           |                             |                           |                  |                              |                          |                                        |                                   |                      |
| <b>Phase 1 Subtotal Hours</b>                                                                                                                                                                                                                                                      | <b>64</b>                   | <b>101</b>                   | <b>150</b>                  | <b>0</b>                  |                  |                              |                          |                                        |                                   |                      |
| <b>Phase 1 Subtotal Fee</b>                                                                                                                                                                                                                                                        | <b>\$ 7,560</b>             | <b>\$ 12,625</b>             | <b>\$ 17,250</b>            | <b>\$ -</b>               | <b>\$ 21,250</b> | <b>\$ 18,300</b>             | <b>\$ 17,450</b>         | <b>\$ 0</b>                            | <b>\$ 0</b>                       | <b>\$ 94,435</b>     |
| <b>Task B - Project Management</b>                                                                                                                                                                                                                                                 |                             |                              |                             |                           |                  |                              |                          |                                        |                                   |                      |
| 1 - Project Administration, Scheduling, PMP                                                                                                                                                                                                                                        | 20                          | 20                           |                             |                           |                  |                              | \$7,400                  |                                        | \$8,000                           |                      |
| 2 - Caltrans Authorization                                                                                                                                                                                                                                                         |                             | 24                           |                             |                           |                  |                              |                          |                                        |                                   |                      |
| 3 - Bid Support                                                                                                                                                                                                                                                                    | 4                           | 20                           | 8                           |                           |                  |                              |                          |                                        |                                   |                      |
| 4 - Pre-Condition Survey                                                                                                                                                                                                                                                           |                             |                              |                             |                           |                  |                              |                          |                                        |                                   |                      |
| Inspector increased to \$105/hr for prevailing wage                                                                                                                                                                                                                                |                             | 4                            |                             | 16                        |                  |                              |                          |                                        |                                   |                      |
| <b>Phase 2 Subtotal</b>                                                                                                                                                                                                                                                            | <b>24</b>                   | <b>68</b>                    | <b>8</b>                    | <b>16</b>                 |                  |                              |                          |                                        |                                   |                      |
| <b>Phase 2 Subtotal Fee</b>                                                                                                                                                                                                                                                        | <b>\$ 3,360</b>             | <b>\$ 8,500</b>              | <b>\$ 920</b>               | <b>\$ 1,680</b>           | <b>\$ 0</b>      | <b>\$ 0</b>                  | <b>\$ 7,400</b>          |                                        | <b>\$ 8,000</b>                   | <b>\$ 29,860</b>     |
| <b>Task C - Construction Management and Inspection</b>                                                                                                                                                                                                                             |                             |                              |                             |                           |                  |                              |                          |                                        |                                   |                      |
| 1 - Construction Management                                                                                                                                                                                                                                                        | 24                          | 60                           |                             |                           |                  |                              |                          |                                        |                                   |                      |
| 2 - Construction Support/RFIs and Submittals                                                                                                                                                                                                                                       | 10                          | 40                           | 20                          |                           |                  | \$6,000                      | \$6,250                  |                                        |                                   |                      |
| 3 - Construction Inspection Hourly rate increased to \$105/hr for prevailing wage. Number of inspection hours reduced. Materials testing moved to optional task                                                                                                                    |                             |                              |                             | 300                       |                  |                              |                          |                                        |                                   |                      |
| 4 - Project Closeout and As Builts                                                                                                                                                                                                                                                 | 8                           | 24                           | 20                          |                           |                  | \$1,800                      |                          |                                        | \$2,750                           |                      |
| <b>Phase 3 Subtotal</b>                                                                                                                                                                                                                                                            | <b>42</b>                   | <b>124</b>                   | <b>40</b>                   | <b>300</b>                |                  |                              |                          |                                        | <b>\$ 0</b>                       |                      |
| <b>Phase 3 Subtotal Fee</b>                                                                                                                                                                                                                                                        | <b>\$ 5,860</b>             | <b>\$ 15,500</b>             | <b>\$ 4,600</b>             | <b>\$ 31,500</b>          | <b>\$ -</b>      | <b>\$ 7,800</b>              | <b>\$ 6,250</b>          | <b>\$ -</b>                            | <b>\$ 2,750</b>                   | <b>\$ 74,280</b>     |
| <b>Total Labor Hours</b>                                                                                                                                                                                                                                                           | <b>120</b>                  | <b>293</b>                   | <b>198</b>                  | <b>316</b>                |                  |                              |                          |                                        | <b>0</b>                          | <b>\$ 198,575.00</b> |
| <b>Optional Tasks</b>                                                                                                                                                                                                                                                              |                             |                              |                             |                           |                  |                              |                          |                                        |                                   |                      |
| 1 - Environmental Testing Changed to Optional Task                                                                                                                                                                                                                                 |                             |                              |                             |                           |                  |                              |                          | \$ 8,050                               |                                   |                      |
| 2 - Materials Testing Changed to Optional Task                                                                                                                                                                                                                                     |                             |                              |                             |                           |                  |                              |                          | \$ 12,350                              |                                   |                      |
| <b>Optional Task Subtotal Fee</b>                                                                                                                                                                                                                                                  | <b>\$ -</b>                 | <b>\$ -</b>                  | <b>\$ -</b>                 | <b>\$ -</b>               | <b>\$ -</b>      | <b>\$ -</b>                  | <b>\$ -</b>              | <b>\$ -</b>                            | <b>\$ 20,400</b>                  | <b>\$ 20,400</b>     |
| <b>Optional Task Subtotal</b>                                                                                                                                                                                                                                                      | <b>\$ -</b>                 | <b>\$ -</b>                  | <b>\$ -</b>                 | <b>\$ -</b>               | <b>\$ -</b>      | <b>\$ -</b>                  | <b>\$ -</b>              | <b>\$ -</b>                            | <b>\$ 20,400</b>                  | <b>\$ 20,400</b>     |
| <b>Grand Total w/Optional Tasks</b>                                                                                                                                                                                                                                                | <b>\$ -</b>                 | <b>\$ -</b>                  | <b>\$ -</b>                 | <b>\$ -</b>               | <b>\$ -</b>      | <b>\$ -</b>                  | <b>\$ -</b>              | <b>\$ -</b>                            | <b>\$ 20,400</b>                  | <b>\$ 218,975.00</b> |

# **CITY OF DUARTE**

## **REQUEST FOR PROPOSALS**

### **PS&E, PM AND CM FOR GOLD LINE PEDESTRIAN AND BICYCLE IMPROVEMENTS**

## **PUBLIC WORKS**

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**GOLD LINE PEDESTRIAN AND BICYCLE IMPROVEMENTS**

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**APPENDICES:**

- **Appendix A – Scope of Project (PS&E, PM AND PM)**
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## **REQUEST FOR PROPOSALS (RFP)**

### **PS&E, PM AND CM FOR GOLD LINE PEDESTRIAN AND BICYCLE IMPROVEMENTS**

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The City of Duarte is seeking proposals from qualified professional consultants to generate Plans, Specifications and Estimates (PS&E) and perform Project and Construction Management of Pedestrian and Bicycle Improvements ("Project").

#### **1. BACKGROUND & PROJECT DESCRIPTION**

The Project consists of generating Plans, Specifications and Estimates (PS&E) and performing Project and Construction Management (PM/CM) of pedestrian and bicycle improvements consistent with the Duarte Gold Line Station. The scope of work consists of sidewalk improvements, pedestrian lighting, bikeway pavement markings and signage, curb ramps and landscape. In addition, the project shall incorporate coordination with the installation and citywide way-finding signs, design by other consultant.

#### **2. TIMELINE TO SOLICIT PROPOSALS**

In support of the selection process, the following timeline has been established:

| <b>PROPOSAL EVENT</b>                                                  | <b>DATE/TIME</b>                                     |
|------------------------------------------------------------------------|------------------------------------------------------|
| Request for Proposals Released                                         | Thursday, May 14, 2015                               |
| Pre-Submittal Meeting<br>[Mandatory for Prime Proposers]               | None                                                 |
| Deadline to Submit Questions                                           | Tuesday, June 2, 2015<br>@ 4:00 p.m.                 |
| Deadline to Receive Proposals                                          | Tuesday, June 16, 2015 at 4:00<br>p.m.               |
| Proposals Reviewed by Evaluation<br>Committee / Short List Established | June 16, 2015 – June 18, 2015                        |
| Notification of Top Ranked Consultants<br>for Oral Interview           | Thursday, June 18, 2015                              |
| Evaluation Committee Interviews Top<br>Ranked Consultants              | Monday, June 22, 2015<br>From 9:00 a.m. to 3:00 p.m. |
| Notification to Preferred Consultant                                   | Wednesday, June 24, 2015                             |
| Proposal Negotiation                                                   | Monday, June 29, 2015                                |
| Execution of Professional Services<br>Agreement                        | Tuesday, July 14, 2015                               |

The City of Duarte reserves the right to modify any element of the timeline should that become necessary.

### 3. **PRE-SUBMITTAL MEETING**

**A Pre-Submittal Meeting (Mandatory for Prime Proposers) is not required for this Project.** The City will notify consultants of the Pre-submittal Meeting if the City determines that a meeting is necessary. All prospective Prime Proposers are required to attend the Pre-Submittal Meeting (should a meeting be necessary). Attendance will be documented by the sign-in sheet. Proposers in attendance may be asked to identify the firm that they represent. The agenda, attendance sheets and any handouts provided at the meeting will later be posted on the City's website.

### 4. **SUBMISSION OF PROPOSALS**

**To be considered, the Proposal must be received by the City Clerk, City of Duarte, by 4:00 p.m. on Tuesday, June 16, 2015.** Proposers must submit six (6) copies of their Proposal labeled "Proposal for PS&E, PM and CM for Gold Line Pedestrian and Bicycle Improvements" to:

Marla Akana, City Clerk  
City of Duarte  
1600 Huntington Drive  
Duarte, CA 91010

Proposals, and amendments to proposals, received after the date and time specified above will not be accepted and will be returned to the Proposer unopened. The RFP can be downloaded from the City of Duarte's website.

### 5. **CURRENT PROJECT STATUS**

The following information is provided regarding the status of the Project:

- a. **Active Transportation Program Cycle I (ATP)** – The City of Duarte received notice from Los Angeles Metro that the Duarte Gold Line Station Pedestrian Improvements and Phase II Pedestrian Improvements are on the approved recommended list of project to the California Transportation Commission (CTC). The regional project list were approved by the Regional Council on October 2, 2014 and adopted by the CTC on November 12, 2014. The new state 2014 ATP is to promote walking and biking as created by SB99 and AB 101. The City of Duarte's ATP project consists of design and construction of pedestrian and bicycle improvements around the Duarte Gold Line Station connecting the station with surrounding uses including the City of Hope National Medical Center and Hospital, the civic center, a recently rezoned area for mixed-use TOD development; residential and retail areas to the west, south and northwest of the LRT station; the Class I Duarte Bike Trail and also the Lario-San Gabriel River Trail regional bikeway network; the planned Emerald Necklace regional bikeway network, and schools, shopping, and community facilities that on the north side of the I-210 freeway that is

currently a barrier to travel due to the lack of sidewalks. Improvements include sidewalks and bike paths on Duarte Rd. between Mountain Ave. and the new station improvements (at Highland), and bike paths on Highland Ave. between the station and Royal Oaks Dr. It also fills a block long gap with a new sidewalk on Highland and includes way finding signage and accesses to trails. CTC authorized allocations for the Plans, Specifications and Estimate (PS&E) phase of the project. Public Works is working with the California Department of Transportation (Caltrans) to execute the Master Agreement for the project funding.

- b. Environmental Clearance:** The City of Duarte has prepared a Notice of Exemption (NOE).
- c. Right-of-Way Acquisition:** All permanent and temporary right-of-way needed to complete the Project has been acquired. The proposed improvements are located within the City's right-of-way.
- d. Project Schedule:** City of Duarte has established the following schedule for the PS&E phase of the Project:

|                                  | <u>Milestone Date</u> |
|----------------------------------|-----------------------|
| • Advertise Consultant Agreement | May 14, 2015          |
| • Award Consultant Agreement     | July 14, 2015         |
| • Issue Notice to Proceed        | July 28, 2015         |

## **6. SCOPE OF RESPONSIBILITIES**

A detailed "Scope of Plans, Specifications and Estimates" is described in Appendix "A" of the RFP. The design engineer and PM/CM consultant will be responsible for performing or overseeing all activities needed to ensure the successful development of documents necessary to complete the project. More specifically, the consultant will prepare all PS&E documents and the PM/CM team will be expected to include individuals and subconsultants that possess the knowledge and expertise needed to handle the following:

### **PS&E**

1. Generate Plans, Specifications and Estimates Project Administration
2. Participate in project initiation meeting with City staff to discuss project issues and scheduling.
3. Review record data and conduct necessary field investigations and surveys.
4. Obtain city approval of design concept.
5. Incorporate record right-of-way, utility and improvement and survey data into plan base sheets.
6. Submit preliminary plans to the City of Duarte for review and comments.
7. Prepare plans including title sheet, plan and detail sheet(s) as required.
8. Conduct search of utilities and send out utility notices.
9. Prepare detailed cost estimates.

10. Participate at conferences with City on proposed work at 95% stage of design completion. Each review will require submittal of two sets of plans and an estimate of construction costs.
11. Prepare final plans after receipt of final comments from City. Provide a final estimate of construction cost. Provide one Mylar set of signed and stamped construction plans. The city will make copies of the plans for the bid phase of the project.
12. The design engineer shall attend the pre-construction conference.
13. Provide consultation and advice to City of Duarte upon request, along with direction or sketches as necessary to resolve unforeseen field conditions.
14. Provide one Mylar set of As-Built construction plans from plans submitted by the city inspector. Provide a copy in AutoCAD format on compact disk.
15. Master Project Schedule

### **Project Management**

1. Project Administration
2. Master Project Schedule
3. Construction Administration
4. Project Bidding
5. Document Control
6. Public Affairs & Community Outreach
7. Contract Closeout

### **Construction Management**

1. Meetings and Conferences
2. Monthly Project Status Reports
3. Utility Coordination
4. Pre-Condition Survey
5. Progress Management
6. Project and Progress Schedule Reviews
7. Right-of-Way Management
8. Change Order and Claims Management & Administration
9. Construction Safety
10. Quality Control Inspection Services
11. Scheduling and Schedule Control
12. Photo/Video Documentation
13. Environmental Compliance Oversight
14. Review and Approval of Progress Payments to the Contractor
15. Processing and Tracking of Contractor Submittals and RFIs
16. Conducting Conferences and Meetings
17. Preparation of Reports and Record Keeping
18. Review of Traffic Control Plans
19. Labor Compliance
20. Contract Closeout

## **7. DISSEMINATION OF RFP INFORMATION**

Information will be posted and available for downloading on the City of Duarte website. From time to time, the City of Duarte may issue responses to requests for clarifications, questions, comments, addenda to this RFP, or other material related to this solicitation. It is the responsibility of the Proposer to check the City of Duarte website regularly during the solicitation period for updated information. **By submitting a proposal, Proposers are deemed to have constructive knowledge and notice of all information on the website.**

In the event information cannot be downloaded from the City of Duarte website, Proposers should contact Cecilia Contreras [contrerasc@accessduarte.com](mailto:contrerasc@accessduarte.com) or Nohemi Hernandez [hernandezn@accessduarte.com](mailto:hernandezn@accessduarte.com) at (626) 357-7937 or by email to request copies of the information they are unable to obtain through the City of Duarte website.

## **8. ADDENDA TO THE RFP**

Any change(s) to the requirements of this RFP initiated by City of Duarte will be made by written addenda to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into and made a part of the terms and conditions of any resulting agreement. City of Duarte will not be bound to any modifications to or deviations from the requirements set forth in this RFP unless they have been documented by addenda to this RFP. Proposers will be required to document that they are aware of all addenda issued by City of Duarte in their proposal.

## **9. QUESTIONS AND REQUESTS FOR CLARIFICATIONS**

### **a. Contact Person for the Project**

All questions or contacts regarding this RFP must be directed to Mr. Rafael Casillas PE, Public Works Manager, who can be reached by email at [rcasillas@accessduarte.com](mailto:rcasillas@accessduarte.com).

### **b. Clarifications of the RFP**

Proposers are encouraged to promptly notify the City of Duarte of any apparent errors or inconsistencies in the RFP, inclusive of all attachments, exhibits and appendices. Should a Proposer require clarifications to this RFP, the Proposer shall notify the City of Duarte in writing in accordance with Subsection "a" above. Should it be found that the point in question is not clearly and fully set forth in the RFP, a written addendum clarifying the matter will be issued and posted on the City of Duarte website.

### **c. Submitting Requests**

**All questions, including questions that were not specifically answered at the Pre-Submittal Meeting to the satisfaction of any Proposer, should be submitted to the City of Duarte by 4:00 p.m. on Monday, June 2, 2015.** The City of Duarte is not responsible for failure to respond to a request or question that has not been labeled correctly.

Questions can be submitted via U.S. Mail, Personal Courier, Fax or Email as long as they are received no later than the date and time specified above. The City is not liable for any late arrivals due to courier method or electronic delivery.

**Requests for clarifications, questions and comments received after 4:00 p.m. on Monday, June 2, 2015 will not be responded to.**

**d. City Responses**

City, in its sole discretion, will respond to requests for clarifications, questions and comments. Responses will be posted on the City of Duarte website on or before 4:00 p.m. on Thursday, June 4, 2015.

**10. COST OF PROPOSAL PREPARATION**

Any party responding to this RFP shall do so at their own risk and cost. The City of Duarte shall not, under any circumstances, be liable for any pre-contractual expenses incurred by any Proposer who elects to submit a proposal in response to this RFP or by any Proposer that is selected. Pre-contractual expenses are defined as expenses incurred by Proposers and the selected Proposer, if any, in:

- Preparing a Proposal and related information in response to this RFP;
- Submitting a Proposal to the City of Duarte;
- Negotiations with City of Duarte on any matter related to this RFP;
- Costs associated with interviews, meetings, travel or presentations; or
- Any and all other expenses incurred by a Proposer prior to the date of award, if any, of an agreement, and formal notice to proceed.

The City of Duarte will provide only the staff assistance and documentation specifically referred to herein and will not be responsible for any other cost or obligation of any kind, which may be incurred by the Proposer.

**11. CONFLICT OF INTEREST**

Proposers are advised that the City of Duarte intends to award a contract for PS&E and PM/CM through a process of full and open competition. By responding to this RFP, each Proposer represents to the best of its knowledge that:

- Neither Proposer, nor any of its affiliates, proposed subconsultants, and associated staff, have communicated with any member of the City of Duarte City Council since the release of this RFP on any matter related to this RFP except to the extent specified in this RFP;
- Neither Proposer, nor any of its affiliates, proposed subconsultants and associated staff, has obtained or used any information regarding this RFP

and the proposed PS&E services that has not been generally available to all Proposers, and

- No conflict of interest exists under any applicable statute or regulation or as a result of any past or current contractual relationship with the City of Duarte.
- Neither Proposer, nor any of its affiliates, proposed subconsultants, or associated staff, have any financial interest in any property that will be affected by the Project.
- Neither Proposer, nor any of its affiliates, proposed subconsultants, or associated staff, have a personal relationship with any member of the governing body, officer or employee of the City of Duarte who exercises any functions or responsibilities in connection with the Project.

## **12. KEY PERSONNEL**

It is imperative that key personnel proposed to provide professional services have the background, experience and qualifications to properly manage the Project and to undertake all professional services necessary for the successful oversight and implementation of the Project. The Proposer must identify all proposed key personnel in its Proposal. The key personnel and all members of the consultant team must be well qualified and have sufficient experience in the areas described in the Scope of Responsibilities.

The City of Duarte reserves the right to approve all key personnel individually for any and all Project Phases authorized by the City of Duarte as a result of this solicitation. After an agreement has been executed, the selected consultant may not replace any key staff without written approval from the City of Duarte. The City of Duarte must approve replacement staff before a substitute person is assigned to the Project. The City of Duarte reserves the right to require the key personnel to replace a staff person assigned to the contract should the City of Duarte consider replacement to be for the good of the Project. Replacement staff will be subject to the City of Duarte approval prior to assignment to the consultant team.

## **13. SCOPE OF SERVICES**

A detailed Scope of Project is described in Appendix A of the RFP.

## **14. COMPENSATION FOR SERVICES PROVIDED**

### **a. Contract Type and Compensation**

The consultant will be compensated under a "Specific Rates of Compensation" contract. To that end, compensation for professional services will be based on actual costs using firm fixed hourly rates, which must include all overhead costs and profit. The City of Duarte intends to issue a Limited Notice to Proceed (LNP) for the PS&E and PM tasks of the Project. The City of Duarte will issue a separate Notice to Proceed (NP)

for the CM tasks of the Project. The compensation for the project will be subject to an overall cap with a not-to-exceed total budget based on the scope of work that consultant and City of Duarte agree shall be required to complete the Phase of the Project for which a NP is being issued. The hourly rates for all work performed by the consultant, including work performed in accordance with any contract amendments, shall be fixed for the first twelve (12) months from the effective date of the NP. Should the duration for a Phase of the Project last more than one year, consultant shall be permitted to adjust hourly rates for that Phase of the Project by no more than a 2% for the remaining duration of the Phase. Limitations on hourly rates applicable to consultant shall also apply to subcontractors.

**b. Reimbursements for Goods and Services**

Reimbursements on subcontracts for goods and services shall be limited to the actual amount paid by the consultant to the Subcontractor. Reimbursement costs shall not include any costs arising from the letting, administration or supervision of performance of the subcontract.

**15. PRE-AWARD AUDIT**

The City of Duarte does not anticipate that the proposal for the consultant services will exceed the pre-award limits. A pre-award audit of the Preferred Consultant may need to be conducted prior to contract award (this is a 30 to 60 day process). The audit will include the prime consultant and any subcontracts that are anticipated to exceed \$1,000,000 in compensation over the duration of the contract. Proof of overhead rate, or an accepted provisional rate for the professional services and subconsultants, will be required in addition to compliance with Generally Accepted Accounting Principles (GAAP), all provisions of Federal, State and Local laws, statutes, ordinances, rules, regulations and procedural requirements including Federal Acquisition Regulations (FAR).

**16. BASIS FOR AWARD OF CONTRACT**

The City of Duarte intends to select the consultant on the basis of fair and competitive negotiations, demonstrated competence and professional qualifications in accordance with applicable State and Federal regulations. To that end, the contract is to be awarded to the Proposer whose proposal and interview best meets the technical requirements of the RFP as determined by the City of Duarte.

**17. NEGOTIATIONS AND AWARD OF CONTRACT**

Negotiations regarding a fair and reasonable price will begin after selection of the Preferred Consultant has been approved by the Director of Community Development. Should the City of Duarte be unable to obtain a fair and reasonable price through negotiations with the highest technically qualified consultant, the City of Duarte shall enter into negotiations with the next highest qualified consultant and may award that contract if the parties are able to arrive

at a fair and reasonable price. If that is unattainable, the City of Duarte shall enter into negotiations with the next highest qualified consultant in sequence until an agreement is reached.

## **18. REQUIRED FORMAT FOR PROPOSALS**

The City of Duarte is requiring all proposals submitted in response to this RFP to follow a specific format. The Proposal, including the Appendices, shall not exceed twenty (20) pages in length, utilizing 8.5" x 11" pages with one-inch margins. As an exception, 11" x 17" pages may be used to display organizational charts. Font size shall not be smaller than 12 point for text or eight (8) point for graphics. Dividers used to separate sections will not be counted. Creative use of dividers to portray team qualifications, etc. is discouraged. The proposal format shall be as follows:

### **a. Cover Letter**

The cover letter shall be limited to two (2) pages maximum and will not be counted as part of the total page count for the Proposal. One copy of the Proposal (Cover Letter) shall be signed by a duly authorized official of the prime Proposer's firm. The cover letter shall, at a minimum, contain the following:

- Identification of the person within the Proposer's firm that has the authority to negotiate with the City of Duarte and to execute on behalf of the Proposer any agreement that may result from such negotiations. Identification shall include legal name of the company, corporate address, telephone and fax number. Include name, title, address, telephone number and email address of the individual who will be responsible for any negotiations with the City of Duarte and any contact person for Proposer during the period of proposal evaluation.
- Identification of all proposed subconsultants or subcontractors, including legal name of the company, address and contact person.
- Acknowledgement that Proposer is obligated by all addenda to this RFP.
- A statement that the Proposal submitted shall remain valid for ninety (90) days from the submittal deadline of June 16, 2015.
- Signature of a person authorized to bind Proposer to the terms of the Proposal.
- Signed statement attesting that all information submitted with the Proposal is true and correct.

**b. Qualifications of the Firm**

This section of the Proposal shall explain the ability of the Proposer to satisfactorily perform the required work. More specifically, in this section, the Proposer shall:

- Provide a profile of the Proposer including the types of services offered; the year founded; form of organization (corporate, partnership, sole proprietorship); number, size and location of offices; number of employees.
- Provide a detailed description of Proposer's financial condition, including any conditions (e.g., bankruptcy, pending litigation, outstanding claims in excess of twenty-five thousand dollars (\$25,000) for or against the firm; planned office closures or mergers that may impede Proposer's ability to provide professional services.)
- Describe the Proposer's experience in performing professional services for generating PS&E and performing PM/CM type of projects. Include experience related to Gold Line or similar light rail projects. Highlight the participation in such work by the key personnel proposed for assignment to this project. Include the name and location of each project, the year it was initiated, the year completed or date it is anticipated to be completed, any delay experience and why, and the contract value.
- Describe the Proposer's experience in working with the State and local municipalities.
- Describe the Proposer's experience in providing professional services in accordance with the requirements of the Caltrans Local Assistance Procedures Manual.
- Describe the Proposer's knowledge of the Standard Specifications for Public Works Construction the "Green Book" and Caltrans Standard Specifications the "Gray Book".
- Provide a list of previous projects in which the Proposer and subconsultants have worked together. The list should clearly identify the previous projects and include a summary of the roles and responsibilities of each party.
- Provide information on the strength and stability of the Proposer; current staffing capability and availability; current work load; and proven record of meeting schedules on similar types of projects.

**c. Proposed Staffing and Project Organization**

This section of the Proposal should establish the method that will be used by the Proposer to organize and provide the professional services and manage the Project and construction oversight. In addition, this section should also identify key personnel to be assigned and their qualifications and experience.

The Proposal should include the following information:

- The education, experience and applicable professional credentials of project staff. Include applicable professional credentials of “key” personnel.
- Brief resumes, not more than two (2) pages each, for the individuals proposed to function as key personnel. Key personnel must have extensive knowledge and experience with developing and implementing a City way-finding sign program that identifies destinations, circulation routes (pedestrian, bicycles and pedestrians), develop design concepts, sign placement, shop drawing review, oversight of sign manufacturing, attend stakeholder meetings and present to boards.
- The identity of key personnel proposed to perform the work in the specified tasks, including major areas of the professional services subconsultant’s work. Include the person’s name, current location, and proposed position for this project, current assignment, and level of commitment to that assignment, availability for this assignment and how long each person has been with the firm. Include two (2) references for each key person with contact information for the reference.
- A statement that key personnel will be available to the extent proposed for the duration of the professional services and an acknowledgement that no person designated as key personnel shall be removed or replaced without the prior written concurrence of City of Duarte. Identify any constraints, conflicts or situations that would prevent the Proposer from being able to begin work on this assignment.

**d. Work Approach**

This section of the Proposal shall include a narrative that addresses the Scope of Services and demonstrates that Proposer understands the scope of this project and the construction timeline. More specifically, the Proposal should include the following:

- Proposer’s general approach for completing the activities specified in the Scope of Services. The work approach shall be of sufficient

detail to demonstrate Proposer's ability to accomplish the project tasks.

- An outline of the activities that would be undertaken in completing the Scope of Services and specify who in the firm will perform them.
- The methods Proposer will use to ensure quality control during the construction phase of the Project, manage, control field and other changes for the construction contractor. Identify Proposer's methods for analyzing and responding to claims.
- A description of any special issues or problems that are likely to be encountered in a project of this type and the approach Proposer would use to address them.

**e. Appendices**

This part shall include brief resumes of proposed staff. Proposer information and general marketing materials will not be considered in the ranking of the Proposals.

**19. PROPOSAL EVALUATION PROCESS AND CRITERIA**

All proposals will be evaluated based on the technical information and qualifications presented in the proposal, reference checks, and other information, which may be gathered independently. Criteria for the evaluation of the proposals will include:

- A. Completeness of proposal.
- B. Firm and key project team member's experience in performing similar work.
- C. Firm and key project team member's record in accomplishing work assignments for projects.
- D. Consultant's demonstrated understanding of the scope of work and experience in light-rail improvements, bicycle and pedestrian projects.
- E. Quality of work previously performed by the firm as verified by reference checks.
- F. Relevant project experience.
- G. Verification that Consultant can meet scheduled project dates.

In addition to the written proposal, the City may elect to interview up to the three most qualified firms. The Consultant should have available the project manager and key project personnel to discuss the following:

- A. The major elements of the proposal and be prepared to answer questions clarifying their proposal.

- B. A description of previously related experience for key project team member(s). Work sample exhibits may also be used.
- C. The proposed project schedule.
- D. The proposed personnel resources.

**20. FEE PROPOSAL**

The Consultant's submittal shall comply with the following requirements:

- A. Two copies of a Fee Proposal and Schedule of Performance shall be submitted in a separate sealed envelope, plainly labeled "Fee Proposal" with the name of the company and the Project title.
- B. The "Fee Proposal" should include, but not be limited to, the fee proposed by the consultant for each Phase of the Project and a Total Fee, the name of the designated project manager and a list of subconsultants, if any, to be used on the Project, and the name of the company representative empowered to sign contracts on behalf of the firm. Personnel hourly rates will reflect fully loaded costs for direct labor, indirect costs, overhead and profit. The Fee Proposal shall include a breakdown of the estimated number of hours, by personnel category, needed to complete each Phase of the Project. In addition, the Fee Proposal shall reflect all anticipated fee increases during the contract duration.
- C. The Schedule of Performance shall depict individual Project tasks and basic hourly rates for specific personnel to be used on the Project. The Consultant will be allowed to modify the Schedule of Performance to consolidate, add or revise Milestones and Tasks, and to include sub-tasks needed to clarify the work effort that will be needed to complete each Phase of the Project.
- D. Upon completion of the initial evaluations and interviews, the highest ranked Proposer's Fee Proposal will be opened and negotiations will commence based on the Schedule of Performance and technical proposals.

**21. EXCEPTION OR ADDITIONS**

The Proposal shall include a detailed description of all of the exceptions to the provisions and conditions of this RFP upon which the Proposer's submittal is contingent and which shall take precedence over this RFP.

**22. INSURANCE REQUIREMENTS**

Prior to the start of contract negotiations, the highest qualified Proposer will be required to submit to the City of Duarte the required insurance certificates for the Proposer and its team. Insurance certificates will also be required, in advance,

for any Proposer subsequently identified for negotiations with the City of Duarte. The firm selected to provide professional services will be required to maintain the following levels of insurance coverage for the duration of the Project:

- Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits not less than \$1,000,000 per accident
- Commercial general liability insurance or equivalent form, with a combined single limit of not less than \$2,000,000 per occurrence
- Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles
- Professional liability (errors and omissions) insurance, with a combined single limit of not less than \$1,000,000 per occurrence

### **23. RIGHTS OF THE CITY**

The City of Duarte reserves the right, in its sole discretion and without prior notice, to terminate this RFP; to issue subsequent RFPs; to procure any project-related service by other means; to modify the scope of the Project; to modify the City of Duarte obligations or selection criteria; or take other actions needed to meet the City's goals. In addition, the City of Duarte reserves the following rights:

- The right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in any proposal.
- The right to amend, withdraw or cancel this RFP at any time without prior notice.
- The right to postpone proposal openings for its own convenience.
- The right to omit or add to the pre-defined Project Phases.
- The right to request or obtain additional information about any and all proposals.
- The right to conduct a background check of any Proposer. This may include, but is not limited to, contacting individuals and organizations regarding capabilities and experience of the potential candidate.
- The right to waive minor discrepancies, informalities and/or irregularities in the RFP or in the requirements for submission of a Proposal.
- The right to modify the response requirements for this RFP. This may include a requirement to submit additional information; an extension of the

due date for submittals; and modification of any part of this RFP, including timing of the City of Duarte decisions and the schedule for presentations.

- The right to disqualify any potential candidate on the basis of real or perceived conflict of interest that is disclosed or revealed by information available to the City of Duarte.
- The right at any time, subject only to restrictions imposed by a written contractual agreement, to terminate negotiations with any potential candidate and to negotiate with other potential candidates who are deemed qualified

This RFP is not a contract or commitment of any kind by the City of Duarte, it does not commit the City to enter into negotiations with any firm and the City makes no representations that any contract will be awarded to any firm that responds to this RFP. Proposals received by the City are public information and will be made available to any person upon request after the City has completed the proposal evaluation. Submitted proposals are not to be copyrighted.

#### **Waiver of Proposals**

Proposals may be withdrawn by submitting written notice to the City of Duarte Contact Person at any time prior to the submittal deadline. Upon submission, the Proposal and all collateral material shall become the property of the City of Duarte.

#### **24. CALIFORNIA PUBLIC RECORDS ACT DISCLOSURES**

The Proposer acknowledges that all information submitted in response to this RFP is subject to public inspection under the California Public Records Act unless exempted by law. If the Proposer believes any information submitted should be protected from such disclosure due to its confidential, proprietary nature or other reasons, it must identify such information and the basis for the belief in its disclosure. Notwithstanding that disclaimer, it is the intention of the City to keep all submittals confidential until such time as negotiations are successfully concluded.

#### **25. DISCLAIMERS**

This RFP is not a contract or a commitment of any kind by the City and does not commit the City to enter into negotiations, or to accept any part of any proposal. The contents of this RFP and any and all attachments are not warranted or guaranteed by the City, and respondents are urged to make independent investigations and evaluations as they deem advisable and to reach independent conclusions concerning statements made in this RFP.

## **APPENDIX A**

### **SCOPE OF PROJECT FOR PLANS, SPECIFICATIONS AND ESTIMATES FOR PROJECT AND CONSTRUCTION MANAGEMENT OF PEDESTRIAN AND BICYCLE IMPROVEMENTS**

The Scope of Services consists of generating Plans, Specifications and Estimates (PS&E) and performing Project and Construction Management (PM/CM) of pedestrian and bicycle improvements consistent with the Duarte Gold Line Station (Project). The project scope of work consists of sidewalk improvements, pedestrian lighting, bikeway pavement markings and signage, curb ramps and landscape. The PS&E and PM tasks will be issued a Limited Notice to Proceed (LNP) for the scope of work prior to award of construction phase. The Construction Management (CM) tasks will be issued a separate Notice to Proceed (NP) for the construction phase scope of work. In addition, the project shall incorporate coordination with the installation and to incorporate citywide way-finding signs, design by other consultant.

A specific scope will be negotiated for the Project. Below is a discussion of the general requirements and services that are anticipated by the City that will be applicable to the Project.

#### **Task 1 PS&E**

- 1.1** Generate Plans, Specifications and Estimates Project Administration
- 1.2** Participate in project initiation meeting with City staff to discuss project issues and scheduling.
- 1.3** Review record data and conduct necessary field investigations and surveys.
- 1.4** Obtain city approval of design concept.
- 1.5** Incorporate record right-of-way, utility and improvement and survey data into plan base sheets.
- 1.6** Submit preliminary plans to the City of Duarte for review and comments.
- 1.7** Prepare plans including title sheet, plan and detail sheet(s) as required.
- 1.8** Conduct search of utilities and send out utility notices.
- 1.9** Prepare detailed cost estimates.
- 1.10** Participate at conferences with City on proposed work at 95% stage of design completion. Each review will require submittal of two sets of plans and an estimate of construction costs.

- 1.11 Prepare final plans after receipt of final comments from City. Provide a final estimate of construction cost. Provide one Mylar set of signed and stamped construction plans. The city will make copies of the plans for the bid phase of the project.
- 1.12 The design engineer shall attend the pre-construction conference.
- 1.13 Provide consultation and advice to City of Duarte upon request, along with direction or sketches as necessary to resolve unforeseen field conditions.
- 1.14 Provide one Mylar set of As-Built construction plans from plans submitted by the city inspector. Provide a copy in AutoCAD format on compact disk.
- 1.15 Master Project Schedule

## **Task 2: Project Management Services**

- 2.1 **Project Administration:** The PM will provide and perform all regular and customary Project management services needed to facilitate the successful completion of the Project, and will coordinate and administer the construction contract on behalf of the City.
- 2.2 **Master Project Schedule:** The PM will develop and maintain a Master Project Schedule to track all aspects of the Project and will update the schedule on a monthly frequency, or as needed to reflect significant changes.
- 2.3 **Monthly Project Status Report:** The PM shall prepare a Monthly Project Status Report that documents the overall status of the Project.
- 2.4 **Coordination with Other Consultants and Agencies:** The PM shall coordinate with the design way-finding sign consultants, Caltrans, LA Metro, utility companies and other agencies as needed to resolve Project-related issues.
- 2.5 **Utility Coordination:** The PM shall coordinate with utilities that will be in conflict with the Project and will resolve technical issues related to affected utilities. This is in addition to the Contractor's scope which includes utility coordination and technical issue resolution for all affected utilities as required in the Contract Documents.
- 2.6 **Project Management Plan:** The PM will develop and implement a comprehensive plan for management of project.
- 2.7 **Project Bidding:** The PM/CM will be expected to assist the City with bidding of the Project, including packaging the plans and specifications for bidding, evaluating bids received and the formulation of a recommendation for contract award.

- 2.8 Notice to Contractor:** The PM will be responsible for preparing Notices to Proceed (NTP) for the construction scope of work.
- 2.9 Project Funding and Reimbursement:** The PM will be expected to assist the City in preparing documents needed to request reimbursements from the State to cover the Project costs. During the construction phase reimbursement requests may be necessary to submit on a monthly frequency.
- 2.10 Document Control:** The PM shall maintain hardcopy files for all documents including correspondence, contract drawings, RFIs, submittals, standard forms and reports.
- 2.11 Public Affairs:** As requested, the PM shall provide assistance to the City for community outreach activities related to construction activity.
- 2.12 Contract Closeout:** The PM shall expeditiously complete the Contract Closeout process, which controls the physical and contractual completion of the contract. This shall include:
- a. Orderly and timely transfer of key records and documents.
  - b. Final inspection, testing, and release of the facility or system for operation.
  - c. Resolution of outstanding contractual issues, changes, claims, and deficiency reports.
  - d. Assessment of liquidated damages.
  - e. Final payment processing.
  - f. Preparation and transfer of as-built contract specifications and drawings as well as field records to appropriate agency for centralized storage and protection.
  - g. Preparation and transfer of Project Closeout Exhibits from Chapter 17 of the Caltrans Local Assistance Procedures Manual.
- 2.13 Project Design Review:** The PM will be expected to review all design and construction documents for any discrepancies, deficiencies or omissions that need to be addressed before the Project is advertised for bids. This includes plans, specifications, reports, right-of-way documents, calculations, construction phasing concepts and value engineering.
- 2.14 Pre-Condition Survey:** Before any construction activities begin, the PM will document the existing condition of the Project work site. Documentation shall include a detailed photographic and videographic survey of the work site.
- 2.15 Pre-Bid Meeting (Optional):** Prior to the deadline for the submission of bids, the PM will attend and participate in the Pre-Bid meeting. This meeting is to be held at least fourteen (14) calendar days prior to the date bids for construction are to be submitted.
- 2.16 Pre-Construction Meeting:** Prior to the beginning of construction, the PM will attend and participate in the Pre-Construction meeting with the Contractor and

other interested parties to go over the expectations, responsibilities matrix, change order procedures, document management system, schedules and updates, third party coordination, community outreach, and the emergency response process, etc. In addition, the PM/CM will be responsible for conducting a separate pre-construction meeting with the Contractor and the City.

### **Task 3: Construction Management Services**

**3.1 Progress Management:** The CM will be responsible for ensuring the Contractor follows the Project Schedule and accomplishes the work on time. Some elements of work included in this task are as follows:

- a. Monitoring the status of permits, review and approval of submittals, shop drawings, material procurement and delivery.
- b. Identifying potential schedule slippages, notifying the Contractor, discussing their recovery plans, and making recommendations to the City regarding corrective action plans.
- c. Assisting the Contractor in coordination and issue resolution with agencies, the designer and utilities.
- d. Monitoring corrective action taken by the Contractor to fix work that is not in compliance with the Contract Documents.

**3.2 Progress Schedule:** The CM shall review, comment, and approve the Contractor's construction schedule updates. The CM shall perform Time Impact Analyses, review and approve Recovery Schedules, and review and approve the As-Built Schedules. These schedules shall be reviewed for accuracy including work accomplished, reasonableness of forecasted completion durations based on production rates achieved to date, and compliance with the Contract Documents including milestones. The CM will develop and implement a comprehensive plan for management of the construction project.

**3.3 Change Order and Claims Management and Administration:** The CM shall recommend and implement change order and claim avoidance practices. The CM shall analyze and process changes and claims in accordance with procedures provided by the City.

**3.4 Right of Way Management:** It will be the responsibility of the CM to monitor the Construction Contractor's work to ensure that work is done within the limits of the project.

**3.5 Construction Safety:** The CM shall review the Contractor's Safety Plan, recommend changes, and when complete, recommend approval by the City. The CM shall monitor the Contractor's compliance with the Contractor's safety program, and shall stop the work whenever safety conditions warrant. The CM shall document safety concerns and corrective actions taken. In the event of an

accident, both the CM and the CM's Safety Officer will prepare accident reports as required in the Project Safety and Health Plan. This is in addition to any accident reports required of the Contractor. The CM shall be responsible for ensuring compliance with all safety regulations, and shall ensure that all workers are current on Roadway Worker Safety training.

**3.6 Compliance with Applicable Specifications:** The CM shall ensure that work is done in accordance with the Project specifications. This includes the "Green Book" and Caltrans Standard Specifications.

**3.7 Hazardous Materials:** If the Contractor encounters hazardous substances or contaminated soils, the CM will be responsible for ensuring that the Contractor complies with the appropriate Health and Safety Plans and follows Federal, State and Local laws and regulations regarding the removal, transportation and disposal of the hazardous material. If the City is determined to be the "generator" of these materials, the CM will be responsible for preparing and monitoring any required manifests and supporting the affected agency by ensuring compliance with applicable laws and regulations.

**3.8 Quality Assurance:** The Contractor will be required to provide all surveying needed to complete the Project. The CM shall provide a resident engineering and/or quality assurance inspection services to ensure that the work is performed, constructed and coordinated in accordance with the Contract Documents and applicable permits. The CM shall verify that materials incorporated into the work comply with the specifications.

**3.9 Inspection of Work:** The CM will provide all inspection needed for the duration of construction. Some elements of the work include:

- Reviewing and inspecting the Contractor's daily work for compliance with the Contract Documents.
- Monitoring corrective action taken by the Contractor to address work that is not in compliance with the Contract Documents.
- Maintaining field inspection diaries and daily reports.
- Compiling digital photos of work in progress.
- Reviewing the Contractor's compliance with all regulatory permits and mitigation measures
- Reviewing the Contractor's compliance with workplace safety and health standards and notification to the City of non-compliance.

**3.10 Environmental Compliance Oversight:** The CM shall ensure the Contractor complies with environmental permits, regulatory requirements, construction environmental controls, and mitigation measures. The CM shall enforce sound

environmental management practices (including, but not limited to, dust, noise, vibration, and erosion control).

**3.11 Progress Payments:** The CM shall review the Contractor's monthly progress payment requests in accordance with the General Provisions of the Contract Documents and California statutes. Within three (3) calendar days of receiving a progress payment request from the Contractor, the CM will review and either approve or reject the progress payment request. Should the request be rejected, the CM will return the request to the Contractor for revision. Upon approval of the request, the CM will forward the progress payment request to the City for payment. The CM shall also recommend withholdings or back-charges. The CM shall also maintain a schedule of earnings for the record file.

**3.12 Submittals, Requests for Information (RFIs) and Nonconformance Reports:** The CM shall review all submittals and RFIs for quality, completeness and compliance with Contract Documents prior to forwarding. The CM shall process and track all Contractor submittals and RFIs. The CM shall generate and process Non Conformance Reports for quality completion of the work.

**3.13 Conferences/Meetings:** The CM shall arrange for, coordinate and conduct all meetings and conferences necessary to facilitate the progress the work. This shall include, but will not be limited to, the following:

- Monthly progress report meetings/presentations.
- Weekly progress/issue-resolution meetings
- Readiness Review meetings (as needed)
- Weekly and monthly safety meetings
- Third-party coordination meetings
- Weekly Statement of Working Days report

**3.14 Reports and Records:** The CM shall organize and track project information as required and as needed to accomplish the following:

- The CM shall prepare a Monthly Summary Status Report that documents the progress of construction and the status of the construction cost and budget.
- The CM shall maintain daily job diaries, field change notices, drawing registers/drawing control logs, and other records to document the progress of work. At a minimum, the daily job diaries shall include work accomplished; materials accepted and basis for acceptance; personnel, equipment and subcontractors present on site; and deficiencies noted.
- The CM shall maintain progress and record photographs.
- The CM shall ensure that appropriate documentation is provided for changed conditions, requests for information, request for deviations, non-compliant and non-conforming materials, and potential claims. All such

requests shall be communicated to the City and resolved by the CM expeditiously.

- The CM shall prepare reports, including Submittal Logs, Weekly Progress Meeting Reports, Monthly Manpower Reports, Delay Reports (as occurring), Deficiency Logs, Contract Status Reports, Evaluation of Claims, Evaluation of Requests for Change Orders, and reports covering other project-relevant matters.
- Meeting minutes shall include the documentation of issues discussed, assignment of action items, due dates and solutions to issues.

**3.15 Traffic Control and Traffic Handling Plans:** The CM shall review traffic control and traffic handling plans prepared by the Contractor prior to forwarding them to the City for approval. The CM shall be responsible for coordination with the City to resolve any technical issues delaying review process.

**3.16 Cost Engineering/Estimating:** The CM will provide the City with cost engineering support in the areas of budget control, construction cost forecasting, progress payment processing, change and claim analysis, and trend/variance analysis.

**3.17 As-Built Drawings:** The CM shall ensure that the Contractor maintains as-built drawings in accordance with the contract requirements and that they are complete. The CM shall review and approve all design changes. The CM shall review and approve the Contractor's as-built drawings.

**3.18 Survey Support – Quality Assurance:** The Project specifications require the Contractor to provide all surveying required to construct the Project. The CM shall monitor the Contractor's compliance with surveying requirements in the Project specifications (especially pre-placement surveys) and shall take whatever action is needed to verify the Contractor's layouts and controls, spot check reference points and finished work, and monitor settlement or movement of existing facilities.

**3.20 Materials Testing and Support Services:** The CM shall be responsible for making all arrangements as needed for quality assurance of the work. The CM shall provide assistance to witness such testing, when required. The CM shall ensure that the Contractor complies with the materials testing requirements and reviews the results to confirm acceptability.

**Special Work Assignments:** As directed by the City, the PM/CM will carry out any special work assignment that may include an increase to the level of effort in providing expanded Project and Construction Management services. The parties will use their best effort to minimize any impact to the project schedule. The budget for this task will be used only after the City has issued written authorization to the PM/CM and will be tracked separately with proper identification of the changes in level of effort required. The PM/CM will prepare a scope and associated cost and obtain written approval from the City prior to commencement of any special work assignment.

## PROJECT DETAILS FOR PEDESTRIAN AND BICYCLE IMPROVEMENTS

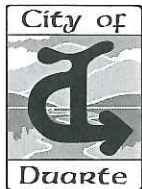
The preliminary estimated Duarte Gold Line Station (Project) pedestrian and bicycle improvements consists of the following types of improvements; sidewalk improvements, pedestrian lighting, bikeway pavement markings and signage, curb ramps and landscape. In addition, the project shall incorporate coordination with the installation and to incorporate citywide way-finding signs, design by other consultant. A sample of the proposed design is included.

| Segment      | From           | To             | Description                                                                     | Qnt.  | Unit |
|--------------|----------------|----------------|---------------------------------------------------------------------------------|-------|------|
| Duarte Rd    | Mountain Ave   | Buena Vista St | Sidewalk - northside                                                            | 2,680 | LF   |
|              |                |                | Sidewalk - southside                                                            | -     | LF   |
|              |                |                | Pedestrian Lights 2680 LF @ 70' spacing                                         | 38    | EA   |
|              |                |                | Bikeway Class II (Bike Lane) - Northside, Striped, No Parking                   | 2,680 | LF   |
|              |                |                | Bikeway Class II (Bikel Lane) - Southside, Striped, Varied Parking Restrictions | 2,680 | LF   |
|              |                |                |                                                                                 |       |      |
| Duarte Rd    | Buena Vista St | Hope Dr        | Sidewalk - northside                                                            | 1,900 | LF   |
|              |                |                | Sidewalk - southside                                                            | -     | LF   |
|              |                |                | Pedestrian Lights 1900 LF @ 70' spacing                                         | 27    | EA   |
|              |                |                | Bikeway Class II (Bike Lane) - Northside, Striped, No Parking                   | 2,060 | LF   |
|              |                |                | Bikeway Class II (Bikel Lane) - Southside, Striped, Varied Parking Restrictions | 2,060 | LF   |
|              |                |                |                                                                                 |       |      |
| Duarte Rd    | Hope Dr        | Highland Ave   | Sidewalk - northside                                                            | -     | LF   |
|              |                |                | Sidewalk - southside                                                            | -     | LF   |
|              |                |                | Pedestrian Lights N/A                                                           | -     | EA   |
|              |                |                | Bikeway Class II (Bike Lane) - Northside, Striped, No Parking                   | 1,250 | LF   |
|              |                |                | Bikeway Class II (Bikel Lane) - Southside, Striped, No Parking                  | 1,250 | LF   |
|              |                |                |                                                                                 |       |      |
| Highland Ave | Duarte Rd      | Central Ave    | Sidewalk - eastside                                                             | -     | LF   |
|              |                |                | Sidewalk - westside, 2'HT. retaining wall, landscape & Irrigation required      | 230   | LF   |
|              |                |                | Pedestrian Lights N/A                                                           | -     | EA   |
|              |                |                | Bikeway Class II (Bike Lane) - Eastside, Striped, No Parking                    | 1,340 | LF   |
|              |                |                | Bikeway Class II (Bikel Lane) - Westside, Striped, No Parking                   | 1,340 | LF   |
|              |                |                | R&R Curb Ramps @ Evergreen St                                                   | 4     | EA   |
| Highland Ave | Central Ave    | Royal Oaks Dr  | Sidewalk - eastside                                                             | -     | LF   |
|              |                |                | Sidewalk - westside                                                             | -     | LF   |
|              |                |                | Pedestrian Lights N/A                                                           | -     | EA   |

2015-09: PROFESSIONAL SERVICES FOR THE ATP 1 PS&E, PM AND CM

|                                          |                |                         |                                                                                    |               |    |
|------------------------------------------|----------------|-------------------------|------------------------------------------------------------------------------------|---------------|----|
|                                          |                |                         | Bikeway Class II (Bike Lane) - Eastside,<br>Striped, Varied Parking Restrictions   | 2,650         | LF |
|                                          |                |                         | Bikeway Class II (Bikel Lane) - Westside,<br>Striped, Varied Parking Restrictions  | 2,650         | LF |
| Royal Oaks Dr                            | Highland Ave   | Royal Oaks Dr<br>(East) | Bikeway Class II (Bike Lane) - Northside,<br>Striped, Varied Parking Restrictions  | 650           | LF |
|                                          |                |                         | Bikeway Class II (Bikel Lane) - Southside,<br>Striped, Varied Parking Restrictions | 650           | LF |
| Buena Vista St                           | Royal Oaks Dr  | Central Ave             | Bikeway Class II (Bike Lane) - Eastside,<br>Striped, Varied Parking Restrictions   | 2,650         | LF |
|                                          |                |                         | Bikeway Class II (Bikel Lane) - Westside,<br>Striped, Varied Parking Restrictions  | 2,650         | LF |
| Buena Vista St                           | Central Ave    | Duarte Rd               | Bikeway Class II (Bike Lane) - Eastside,<br>Striped, Varied Parking Restrictions   | 1,340         | LF |
|                                          |                |                         | Bikeway Class II (Bikel Lane) - Westside,<br>Striped, Varied Parking Restrictions  | 1,340         | LF |
| Buena Vista St                           | Duarte Rd      | South City Limit        | Bikeway Class II (Bike Lane) - Eastside,<br>Striped, Varied Parking Restrictions   | 2,566         | LF |
|                                          |                |                         | Bikeway Class II (Bikel Lane) - Westside,<br>Striped, Varied Parking Restrictions  | 2,566         | LF |
| Central Ave                              | Buena Vista St | Highland Ave            | Bikeway Class II (Bike Lane) - Northside,<br>Striped, Varied Parking Restrictions  | 3,312         | LF |
|                                          |                |                         | Bikeway Class II (Bikel Lane) - Southside,<br>Striped, Varied Parking Restrictions | 3,312         | LF |
| Central Ave                              | Highland Ave   | Crestfield Ave          | Bikeway Class II (Bike Lane) - Northside,<br>Striped, Varied Parking Restrictions  | 4,500         | LF |
|                                          |                |                         | Bikeway Class II (Bikel Lane) - Southside,<br>Striped, Varied Parking Restrictions | 4,500         | LF |
| <b>Overall Project Scope</b>             |                |                         |                                                                                    |               |    |
| <b>Sidewalk Construction</b>             |                |                         |                                                                                    | <b>4,810</b>  | LF |
| <b>Pedestrian Lights</b>                 |                |                         |                                                                                    | <b>65</b>     | EA |
| <b>Bikeway Class II (Bike Lane)</b>      |                |                         |                                                                                    | <b>49,996</b> | LF |
| <b>R&amp;R Curb Ramps @ Evergreen St</b> |                |                         |                                                                                    | <b>4</b>      | EA |
| <b>Landscape/Irrigation</b>              |                |                         |                                                                                    | <b>1</b>      | LS |
| <b>Green Street - Improvement</b>        |                |                         |                                                                                    | <b>1</b>      | LS |





## MEMORANDUM

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**To:** Mayor and City Council

**From:** Rafael Casillas, P.E., Public Works Manager *RC*

**Date:** July 14, 2015

**Subject:** Authorization for the City Manager to Execute Professional Services Agreement – PS&E ATP 1 Gold Line Citywide Way-Finding Signs, City Project # 15-10

### SUMMARY

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On June 16, 2015, the City Clerk's office publicly received one (1) proposal from a consultant for the above project. This project is fully funded from the Active Transportation Program (ATP) grant and Proposition A. Staff publicly advertised the request for proposals for professional services for consultants to generate Plans, Specifications and Estimates for Citywide Way-Finding Signs. Upon public notice and solicitation for professional services; fourteen (14) consultants obtained proposal requirements and specifications. Of the fourteen consultants; Hunt Design Associates Inc. submitted a proposal for the project.

A staff panel reviewed and evaluated the proposal that was submitted to the City. Staff recommends Hunt Design Associates Inc. from Pasadena CA as the consultant to perform the ATP-1 Gold Line Citywide Way-Finding Signs project. The consultant Hunt Design Associates Inc. has successfully performed several similar projects for private sector and municipalities; such as Claremont, Pasadena, Burbank, Brea, Newport Beach and several others.

The total compensation paid to the consultant shall not exceed the base contract amount. The implementation administration scope of work shall be executed under a separate agreement by the City Manager on an as needed services basis and not to exceed amount. The proposal for the Plans, Specifications and Estimates for the ATP 1 Gold Line Citywide Way-Finding Signs is as follows:

|                                                      |                 |
|------------------------------------------------------|-----------------|
| Task 1 – Analysis and Project Plan                   | \$10,530        |
| Task 2 – System Conceptual Design                    | \$23,730        |
| Task 3 – System Design Development and Documentation | <u>\$27,295</u> |
| <b>Base Contract</b>                                 | <b>\$61,555</b> |
| Task 4 – Implementation Administration               | \$ 8,210        |

## RECOMMENDATION

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Therefore, this office respectfully recommends that the City Council authorize the City Manager to execute all tasks of the professional service agreement "PS&E ATP-1 Gold Line Citywide Way-Finding Signs" to Hunt Design Associates Inc. from Pasadena, for the total compensation not to exceed \$61,555 for the terms of the agreement. Implementation administration shall be executed under a separate agreement by the City Manager.

Attachement:  
Professional Service Agreement  
Fee Schedule  
Request for Proposal

**CITY OF DUARTE  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and effective as of \_\_\_\_\_, **2015** ("Effective Date"), by and between the **CITY OF DUARTE**, ("City") and **Hunt Design Associates Inc.**, a California Corporation ("Consultant"). City and Consultant may sometimes herein be referred to individually as a "party" and collectively as the "parties." In consideration of the mutual covenants and conditions set forth herein, and for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

**1. TERM**

This Agreement shall commence on the Effective Date and shall remain and continue in effect until **July 14, 2016**, unless sooner terminated pursuant to the provisions of this Agreement. The term may be extended upon execution of a written amendment between the parties.

**2. SERVICES AND PERFORMANCE**

- A. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. The Scope of Service may also include the Consultant's proposal, which is incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of Consultant's proposal and this Agreement, the terms of this Agreement shall govern.
- B. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that Consultant is experienced in performing the work and services contemplated herein and, in light of such experience, Consultant covenants that it shall perform all services in a manner consistent with standards generally recognized as being employed by like professionals under similar circumstances.
- C. The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for City to enter into this Agreement. Therefore, without the prior written approval of City, which may be given or withheld at City's sole and absolute discretion, Consultant shall not (i) contract with any other entity to perform in whole or in part the services required hereunder, or (ii) transfer, assign, convey, or encumber (voluntarily or by operation of law) this Agreement.
- D. Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services

required by this Agreement.

- E. Consultant shall provide all services rendered hereunder in accordance with all applicable ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered. Each and every provision required by law to be included in this Agreement shall be deemed to be included, and this Agreement shall be read and enforced as though they were included.

### **3. MANAGEMENT**

The City's City Manager shall represent City in all matters pursuant to the administration of this Agreement, review and approval of the services performed by Consultant, including the authority, subject to the limitations set forth in Section 4, to enlarge the Scope of Services or increase the compensation due to Consultant. Consultant's official representative in the administration of this Agreement shall be Wayne Hunt, Principal In Charge who shall have the authority to make all decisions for Consultant and bind Consultant to the terms of this Agreement.

### **4. COMPENSATION**

- A. City agrees to pay Consultant, in accordance with the payment rates and terms contained in its proposal as set forth in Exhibit "A" or as otherwise provided in "Exhibit A." Subject to the City Manager's authority set forth in subparagraph (B) below, the total compensation paid to Consultant hereunder shall not exceed sixty one thousand five hundred fifty five dollars (\$61,555) for the total term of this Agreement unless otherwise authorized in advance and in writing by the City Manager.
- B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given. The City Manager may approve additional work up to but not exceeding twenty percent (25%) of the amount of this Agreement.
- C. Consultant shall be paid on a monthly basis and shall submit monthly invoices/reports to City, within ten (10) days following the end of each month, showing actual services performed. Consultant shall be paid on the next regular council warrant after all required paperwork is submitted and accepted. If the City disputes whether Consultant has earned its fee or any portion, City shall give written notice to Consultant within thirty (30) days of receipt of Consultant's monthly report stating the basis for such dispute.

## **5. SUSPENSION OR TERMINATION OF AGREEMENT**

- A. City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving written notice upon Consultant. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. In the event this Agreement is suspended or terminated pursuant to this subparagraph (a), Consultant shall submit a final report to the City pursuant to Section 4, and City shall be entitled to receive a return of the fee paid to Consultant, or portion thereof, if the reason for the termination is failure by Consultant to have timely performed the services set forth in Exhibit "A." In City's sole and absolute discretion, prior to effecting a suspension or termination pursuant to this subparagraph (a), the City may first serve upon the Consultant a written notice of the default specifying the default and the amount of time that Consultant shall have to cure, correct, or remedy the default. In the event that the Consultant fails to cure the default within the specified period of time, the City shall have the right to immediately terminate this Agreement pursuant to subparagraph (a). Notwithstanding any other provision of this Agreement to the contrary, City's termination of this Agreement pursuant to this subparagraph (a) shall not preclude or prejudice any other remedy to which City may be entitled in law or in equity.
- B. Consultant may terminate this Agreement only due to a material breach by City, and only upon not less than thirty (30) days' prior written notice to the City which notice shall specify the material default. Upon receipt of such notice, City may, but shall not be obligated to, effect to remedy of such default.

## **6. RECORDS AND OWNERSHIP OF DOCUMENTS**

- A. Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to produce an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment
- B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed

pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. Consultant shall provide such items to City promptly upon completion of the Agreement. Any use of such documents for other projects by the City shall be without liability to Consultant.

- C. Any information gained by Consultant in the performance of this Agreement shall be considered confidential and such information and the reports, records, documents and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly or to any other client of Consultant without the prior written approval of the City Manager.

## **7. INDEMNIFICATION**

Consultant shall defend, indemnify and hold harmless the City from and against all damages and liability caused by the negligent actions or willful misconduct of the Consultant or its employees, agents, or representatives. Consultant shall not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of the City or any of its employees, agents, or representatives acting in an official capacity.

## **8. INSURANCE**

Without limiting Consultant's indemnification obligations as set forth in this Agreement, the Consultant shall procure and maintain, at its sole cost and expense, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

- A. Commercial General Liability insurance written on a per occurrence basis in an amount not less than \$1,000,000 per occurrence.
- B. Business Auto Coverage written on a per accident basis in an amount not less than \$1,000,000 per accident. If Consultant or Consultant's employees use personal autos in connection with the performance of work under this Agreement, Consultant shall provide evidence of personal auto liability coverage for each such person.
- C. Worker's Compensation providing statutory benefits as required by California law.
- D. Professional Liability or Errors and Omissions Insurance designed to protect against acts, errors or omissions of the Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate.
- E. The General Liability and Business Automobile insurance policies required

hereunder, shall comply with the following requirements:

- (1) All insurance shall be written by insurers that are authorized and licensed to do business in the State of California and with A.M. Best's rating of B++ or better and a minimum financial size VII.
  - (2) The policies shall be endorsed to name the City and its officers, officials, employees, agents, and designated volunteers as additional insureds.
  - (3) All of Consultant's insurance: (i) shall contain no special limitations on the scope of protection afforded to the additional insureds; (ii) shall be primary insurance and any insurance or self-insurance maintained by the additional insureds or any of them shall be in excess of the Consultant's insurance and shall not contribute with it; (iii) shall be "occurrence" rather than "claims made" insurance; (iv) shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; (v) shall prohibit Consultant from waiving the right of subrogation prior to a loss except for professional liability; and (vi) shall not contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured.
  - (4) The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change.
- F. Consultant shall renew the required coverage annually as long as City or its employees or agents face an exposure from the Consultant's operations pursuant to this Agreement, provided such coverage remains commercially available at reasonable rates. Termination of this obligation shall survive the termination or expiration of this Agreement and shall not be effective until City executes a written statement to that effect.
- G. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance evidencing the above insurance coverages and said Certificates of Insurance are reasonably approved by the City. Certificates are to reflect that the insurer will provide 30 days written notice to City of any cancellation of coverage. In the event any of said policies of insurance are reduced in limits or cancelled for any reason, the Consultant shall, prior to the cancellation date, submit new evidence of insurance, in conformance with this Paragraph 8.
- H. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

- I. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this Agreement. City assumes no obligation or liability by such notice, but has the right to monitor the handling of any such claim or claims if they are likely to involve City.

## **9. INDEPENDENT CONSULTANT**

- A. Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, officials, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents is in any manner officers, officials, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.
- B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

## **10. NO UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City shall receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement.

## **11. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or has responsibilities with respect to the Agreement during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the services performed under this Agreement.

## **12. COVENANT AGAINST DISCRIMINATION**

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

## **13. NONLIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer, official, employee, agent, representative, or volunteer of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

## **14. NOTICES**

Any notices which either party may desire to give or may be required to give to the other party under this Agreement must be in writing and may be given either by (a) personal service, or (b) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (c) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

If to City:                      City of Duarte  
                                         City Manager's Office  
                                         1600 Huntington Drive  
                                         Duarte, California 91010

If to Consultant:              Wayne Hunt  
                                         Hunt Design Associates, Inc.  
                                         25 N. Mentor Avenue  
                                         Pasadena, CA 91106

## **15. GOVERNING LAW; ATTORNEY'S FEES; LITIGATION MATTERS**

The internal laws of the State of California, without regard to principles of conflicts of laws, shall govern the interpretation of this Agreement. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding anything in this Agreement to the contrary, in no event shall City or Consultant be entitled to economic or consequential damages or to punitive damages. In the event of any litigation arising from or related to this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred, including staff time, court costs, reasonable attorney fees,

expert witness fees, and other related expenses. The Municipal and Superior Court of the County of Los Angeles shall have exclusive jurisdiction over any litigation between the parties hereto concerning this Agreement. Service of process on City shall be made in the manner required by law for service on a public entity. Service of process on Consultant shall be made in any manner permitted by law and shall be effective whether served inside or outside of California.

#### **16. RIGHTS AND REMEDIES ARE CUMULATIVE; AND WAIVER**

- A. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.
- B. No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### **17. SEVERABILITY**

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

#### **18. INTERPRETATION; ENTIRE AGREEMENT**

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect.

## **19. EXECUTION OF CONTRACT**

The persons executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

## **20. EFFECTIVE DATE**

The Effective Date of this Agreement shall be the date set next to the signature of the City Manager below, which date shall be inserted into the preamble of this Agreement.

[end –signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Agreement as of the Effective Date.

**CITY OF DUARTE**

By \_\_\_\_\_  
Darrell George

City Manager

Date: \_\_\_\_\_

**Consultant Company**

By \_\_\_\_\_  
Wayne Hunt

Its: Principal In Charge

Date: \_\_\_\_\_

EXHIBIT "A"

SCOPE OF SERVICES

SEE FOLLOWING PAGES

# HUNT DESIGN

CITY OF DUARTE  
PUBLIC WORKS - ESTIMATE

7/1/2015

PROJECT ATP-1 GOLD LINE CITYWIDE WAY-FINDING SIGNS  
07-LA-O-DRT / ATPL-5346(010) / #15-10

## TASK NO. TASK DESCRIPTION ANALYSIS & PROJECT PLAN

- 1.1 Kick-off meeting
- 1.2 Develop a knowledge of community
- 1.3 Identify right-of-way agencies
- 1.4 Preliminary list of destinations
- 1.5 Informal review of existing signage

| Principal/<br>Project Mgr | Designer<br>RATE | Sign<br>Programmer<br>RATE | CAD/Tech<br>RATE | TASK<br>HOURS | AVERAGE<br>RATE         |
|---------------------------|------------------|----------------------------|------------------|---------------|-------------------------|
| \$ 150.00                 | \$ 130.00        | \$ 125.00                  | \$ 90.00         |               |                         |
| 3.0                       | 3.0              | 0.0                        | 0.0              | 6.0           |                         |
| 2.0                       | 2.0              | 2.0                        | 0.0              | 6.0           |                         |
| 1.0                       | 1.0              | 0.0                        | 1.0              | 3.0           |                         |
| 5.0                       | 8.0              | 12.0                       | 2.0              | 27.0          |                         |
| 4.0                       | 16.0             | 16.0                       | 4.0              | 40.0          |                         |
| 15.0                      | 30.0             | 30.0                       | 7.0              | 82.0          |                         |
| \$ 2,250.00               | \$ 3,900.00      | \$ 3,750.00                | \$ 630.00        |               |                         |
| TOTAL HOURS=              |                  |                            |                  |               | 2.5 Weeks               |
|                           |                  |                            |                  |               | \$ 10,530.00 TASK TOTAL |

## SYSTEM CONCEPTUAL DESIGN

- 2.1 Identify circulation routes and decision points
- 2.2 Refine list of destinations
- 2.3 Evolve wayfinding strategy
- 2.4 Develop design concepts
- 2.5 Develop best of conceptual designs
- 2.6 Prepare cost estimate
- 2.7 Agency presentation

|               |             |             |             |       |                         |
|---------------|-------------|-------------|-------------|-------|-------------------------|
| 4.0           | 4.0         | 16.0        | 8.0         | 32.0  |                         |
| 4.0           | 4.0         | 4.0         | 0.0         | 12.0  |                         |
| 8.0           | 4.0         | 8.0         | 8.0         | 28.0  |                         |
| 12.0          | 40.0        | 8.0         | 8.0         | 68.0  |                         |
| 8.0           | 16.0        | 4.0         | 12.0        | 40.0  |                         |
| 1.0           | 2.0         | 0.0         | 6.0         | 9.0   |                         |
| 2.0           | 0.0         | 0.0         | 0.0         | 2.0   |                         |
| 39.0          | 70.0        | 40.0        | 42.0        | 191.0 |                         |
| \$ 5,850.00   | \$ 9,100.00 | \$ 5,000.00 | \$ 3,780.00 |       |                         |
| TOTAL HOURS = |             |             |             |       | 5.0 Weeks               |
|               |             |             |             |       | \$ 23,730.00 TASK TOTAL |

## SYSTEM DESIGN DEVELOPMENT & DOCUMENTATION

- 3.1 Final detailed designs
- 3.2 Finalize destinations
- 3.3 Prepare design-intent drawings
- 3.4 Final sign location plans and messages
- 3.5 Technical specifications
- 3.6 Revise cost estimate
- 3.7 Combine design documents with City

|               |             |             |              |       |                         |
|---------------|-------------|-------------|--------------|-------|-------------------------|
| 8.0           | 16.0        | 8.0         | 24.0         | 56.0  |                         |
| 2.0           | 2.0         | 6.0         | 2.0          | 12.0  |                         |
| 4.0           | 20.0        | 8.0         | 72.0         | 104.0 |                         |
| 4.0           | 4.0         | 16.0        | 40.0         | 64.0  |                         |
| 1.0           | 1.0         | 1.0         | 8.0          | 11.0  |                         |
| 1.0           | 0.0         | 0.0         | 2.0          | 3.0   |                         |
| 1.0           | 0.0         | 0.0         | 4.0          | 5.0   |                         |
| 21.0          | 43.0        | 39.0        | 152.0        | 255.0 |                         |
| \$ 3,150.00   | \$ 5,590.00 | \$ 4,875.00 | \$ 13,680.00 |       |                         |
| TOTAL HOURS = |             |             |              |       | 3.0 Weeks               |
|               |             |             |              |       | \$ 27,295.00 TASK TOTAL |

## IMPLEMENTATION ADMINISTRATION

- 4.1 Respond to RFI's
- 4.2 Assist in review of bids
- 4.3 Review submittals
- 4.4 Conduct shop visits
- 4.5 Inspect installation
- 4.6 Prepare "punch list"

|               |             |           |             |      |                        |
|---------------|-------------|-----------|-------------|------|------------------------|
| 0.0           | 2.0         | 2.0       | 8.0         | 12.0 |                        |
| 4.0           | 0.0         | 0.0       | 4.0         | 8.0  |                        |
| 2.0           | 8.0         | 4.0       | 8.0         | 22.0 |                        |
| 0.0           | 4.0         | 0.0       | 4.0         | 8.0  |                        |
| 0.0           | 4.0         | 0.0       | 16.0        | 20.0 |                        |
| 0.0           | 2.0         | 0.0       | 4.0         | 6.0  |                        |
| 6.0           | 20.0        | 6.0       | 44.0        | 76.0 |                        |
| \$ 900.00     | \$ 2,600.00 | \$ 750.00 | \$ 3,960.00 |      |                        |
| TOTAL HOURS = |             |           |             |      | 1.7 Weeks              |
|               |             |           |             |      | \$ 8,210.00 TASK TOTAL |

\$61,555.00 BASE CONTRACT  
12.2 TOTAL WEEKS  
\$ 69,765.00 TOTAL COSTS

# **CITY OF DUARTE**

## **REQUEST FOR PROPOSALS**

### **PLANS, SPECIFICATIONS AND ESTIMATES**

#### **ATP-1 GOLD LINE CITYWIDE WAY-FINDING SIGNS**

## **PUBLIC WORKS**

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### **REQUEST FOR PROPOSALS PLANS, SPECIFICATIONS AND ESTIMATES ATP-1 CITYWIDE WAY-FINDING SIGNS**

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#### **Appendix A – Scope of Project & Construction Management Services**

## **REQUEST FOR PROPOSALS (RFP)**

### **PLANS, SPECIFICATIONS AND ESTIMATES ATP-1 GOLD LINE CITYWIDE WAY-FINDING SIGNS**

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The City of Duarte is seeking proposals from qualified professional consultants to generate Plans, Specifications and Estimates for ATP-1 Citywide Way-finding Signs ("Project").

#### **1. BACKGROUND & PROJECT DESCRIPTION**

The Project consists of developing and implementing a City way-finding sign program that identifies destinations, circulation routes (pedestrian, bicycles and pedestrians), develop design concepts, sign placement, shop drawing review, oversight of sign manufacturing, attend stakeholder meetings and present to boards. The way-finding sign Project shall incorporate elements of Duarte's Gold Line Station into design.

#### **2. TIMELINE TO SOLICIT PROPOSALS**

In support of the selection process, the following timeline has been established:

| <b>PROPOSAL EVENT</b>                                                  | <b>DATE/TIME</b>                                     |
|------------------------------------------------------------------------|------------------------------------------------------|
| Request for Proposals Released                                         | Tuesday, May 14, 2015                                |
| Pre-Submittal Meeting<br>[Mandatory for Prime Proposers]               | None                                                 |
| Deadline to Submit Questions                                           | Tuesday, June 2, 2015<br>@ 4:00 p.m.                 |
| Deadline to Receive Proposals                                          | Tuesday, June 16, 2015 at 4:00<br>p.m.               |
| Proposals Reviewed by Evaluation<br>Committee / Short List Established | June 16, 2015 – June 18, 2015                        |
| Notification of Top Ranked Consultants<br>for Oral Interview           | Wednesday, June 18, 2015                             |
| Evaluation Committee Interviews Top<br>Ranked Consultants              | Monday, June 22, 2015<br>From 9:00 a.m. to 3:00 p.m. |
| Notification to Preferred Consultant                                   | Thursday, June 24, 2015                              |
| Proposal Negotiation                                                   | Monday, June 29, 2015                                |
| Execution of Professional Services<br>Agreement                        | Tuesday, July 14, 2015                               |

The City of Duarte reserves the right to modify any element of the timeline should that become necessary.

### 3. **PRE-SUBMITTAL MEETING**

**A Pre-Submittal Meeting (Mandatory for Prime Proposers) is not required for this Project.** The City will notify consultants of the Pre-submittal Meeting if the City determines that a meeting is necessary. All prospective Prime Proposers are required to attend the Pre-Submittal Meeting (should a meeting be necessary). Attendance will be documented by the sign-in sheet. Proposers in attendance may be asked to identify the firm that they represent. The agenda, attendance sheets and any handouts provided at the meeting will later be posted on the City's website.

### 4. **SUBMISSION OF PROPOSALS**

**To be considered, the Proposal must be received by the City Clerk, City of Duarte, by 4:00 p.m. on Tuesday, June 16, 2015.** Proposers must submit six (6) copies of their Proposal labeled "Proposal for Plans, Specifications and Estimates for ATP-1 Citywide Way-finding Signs" to:

Marla Akana, City Clerk  
City of Duarte  
1600 Huntington Drive  
Duarte, CA 91010

Proposals, and amendments to proposals, received after the date and time specified above will not be accepted and will be returned to the Proposer unopened. The RFP can be downloaded from the City of Duarte's website.

### 5. **CURRENT PROJECT STATUS**

The following information is the current status of the Project:

- a. **Plans, Specifications and Estimates: Active Transportation Program (ATP)** – The City of Duarte received notice from Los Angeles Metro that the Duarte Gold Line Station Pedestrian Improvements and Phase II Pedestrian Improvements are on the approved recommended list of project to the California Transportation Commission (CTC). The regional project list were approved by the Regional Council on October 2, 2014 and adopted by the CTC on November 12, 2014. The new state 2014 ATP is to promote walking and biking as created by SB99 and AB 101. The City of Duarte's ATP project consists of design and construction of pedestrian and bicycle improvements around the Duarte Gold Line Station connecting the station with surrounding uses including the City of Hope National Medical Center and Hospital, the civic center, a recently rezoned area for mixed-use TOD development; residential and retail areas to the west, south and northwest of the LRT station; the Class I Duarte Bike Trail and also the Lario-San Gabriel River Trail regional bikeway network; the planned Emerald Necklace regional bikeway network, and schools, shopping, and community facilities that on the north side of the I-210 freeway that is currently a barrier to travel due to the lack of sidewalks.

Improvements include sidewalks and bike paths on Duarte Rd. between Mountain Avenue and the new station improvements (at Highland), and bike paths on Highland Avenue between the station and Royal Oaks Drive. It also fills a block long gap with a new sidewalk on Highland and includes way finding signage and accesses to trails. CTC authorized allocations for the Plans, Specifications and Estimate (PS&E) phase of the project. Public Works is working with the California Department of Transportation (Caltrans) to execute the Master Agreement for the project funding.

- b. **Environmental Clearance:** The City of Duarte has prepared a Notice of Exemption (NOE) .
- c. **Right-of-Way Acquisition:** All permanent and temporary right-of-way needed to complete the Project has been acquired. The proposed improvements are located within the City's right-of-way.
- d. **Project Schedule:** City of Duarte has established the following schedule for the PS&E phase of the Project:

|                                  | <u>Milestone Date</u> |
|----------------------------------|-----------------------|
| • Advertise Consultant Agreement | May 14, 2015          |
| • Award Consultant Agreement     | July 14, 2015         |
| • Issue Notice to Proceed        | July 28, 2015         |

## 6. SCOPE OF RESPONSIBILITIES

A detailed "Scope of Plans, Specifications and Estimates" is described in Appendix "A" of the RFP. In general, the consultant will be responsible for performing or overseeing all activities needed to ensure the successful development of documents to complete the project.

## 7. DISSEMINATION OF RFP INFORMATION

Information will be posted and available for downloading on the City of Duarte website. From time to time, the City of Duarte may issue responses to requests for clarifications, questions, comments, addenda to this RFP, or other material related to this solicitation. It is the responsibility of the Proposer to check the City of Duarte website regularly during the solicitation period for updated information. **By submitting a proposal, Proposers are deemed to have constructive knowledge and notice of all information on the website.**

In the event information cannot be downloaded from the City of Duarte website, Proposers should contact Cecilia Contreras [contrerasc@accessduarte.com](mailto:contrerasc@accessduarte.com) or Nohemi Hernandez [hernandezn@accessduarte.com](mailto:hernandezn@accessduarte.com) at (626) 357-7937 or by email to request copies of the information they are unable to obtain through the City of Duarte website.

**8. ADDENDA TO THE RFP**

Any change(s) to the requirements of this RFP initiated by City of Duarte will be made by written addenda to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into and made a part of the terms and conditions of any resulting agreement. City of Duarte will not be bound to any modifications to or deviations from the requirements set forth in this RFP unless they have been documented by addenda to this RFP. Proposers will be required to document that they are aware of all addenda issued by City of Duarte in their proposal.

**9. QUESTIONS AND REQUESTS FOR CLARIFICATIONS**

**a. Contact Person for the Project**

All questions or contacts regarding this RFP must be directed to Mr. Rafael Casillas PE, Public Works Manager, who can be reached by email at [rcasillas@accessduarte.com](mailto:rcasillas@accessduarte.com).

**b. Clarifications of the RFP**

Proposers are encouraged to promptly notify the City of Duarte of any apparent errors or inconsistencies in the RFP, inclusive of all attachments, exhibits and appendices. Should a Proposer require clarifications to this RFP, the Proposer shall notify the City of Duarte in writing in accordance with Subsection "a" above. Should it be found that the point in question is not clearly and fully set forth in the RFP, a written addendum clarifying the matter will be issued and posted on the City of Duarte website.

**c. Submitting Requests**

**All questions, including questions that were not specifically answered at the Pre-Submittal Meeting to the satisfaction of any Proposer, should be submitted to the City of Duarte by 4:00 p.m. on Monday, June 2, 2015.** The City of Duarte is not responsible for failure to respond to a request or question that has not been labeled correctly. Questions can be submitted via U.S. Mail, Personal Courier, Fax or Email as long as they are received no later than the date and time specified above. The City is not liable for any late arrivals due to courier method or electronic delivery.

**Requests for clarifications, questions and comments received after 4:00 p.m. on Monday, June 2, 2015 will not be responded to.**

**d. City Responses**

City, in its sole discretion, will respond to requests for clarifications, questions and comments. Responses will be posted on the City of Duarte website on or before 4:00 p.m. on Thursday, June 4, 2015.

**10. COST OF PROPOSAL PREPARATION**

Any party responding to this RFP shall do so at their own risk and cost. The City of Duarte shall not, under any circumstances, be liable for any pre-contractual expenses incurred by any Proposer who elects to submit a proposal in response to this RFP or by any Proposer that is selected. Pre-contractual expenses are defined as expenses incurred by Proposers and the selected Proposer, if any, in:

- Preparing a Proposal and related information in response to this RFP;
- Submitting a Proposal to the City of Duarte;
- Negotiations with City of Duarte on any matter related to this RFP;
- Costs associated with interviews, meetings, travel or presentations; or
- Any and all other expenses incurred by a Proposer prior to the date of award, if any, of an agreement, and formal notice to proceed.

The City of Duarte will provide only the staff assistance and documentation specifically referred to herein and will not be responsible for any other cost or obligation of any kind, which may be incurred by the Proposer.

**11. CONFLICT OF INTEREST**

Proposers are advised that the City of Duarte intends to award a contract for PS&E through a process of full and open competition. By responding to this RFP, each Proposer represents to the best of its knowledge that:

- Neither Proposer, nor any of its affiliates, proposed subconsultants, and associated staff, have communicated with any member of the City of Duarte City Council since the release of this RFP on any matter related to this RFP except to the extent specified in this RFP;
- Neither Proposer, nor any of its affiliates, proposed subconsultants and associated staff, has obtained or used any information regarding this RFP and the proposed PS&E services that has not been generally available to all Proposers, and
- No conflict of interest exists under any applicable statute or regulation or as a result of any past or current contractual relationship with the City of Duarte.

- Neither Proposer, nor any of its affiliates, proposed subconsultants, or associated staff, have any financial interest in any property that will be affected by the Project.
- Neither Proposer, nor any of its affiliates, proposed subconsultants, or associated staff, have a personal relationship with any member of the governing body, officer or employee of the City of Duarte who exercises any functions or responsibilities in connection with the Project.

## **12. KEY PERSONNEL**

It is imperative that key personnel proposed to provide professional services have the background, experience and qualifications to properly manage the Project and to undertake all professional services necessary for the successful oversight and implementation of the Project. The Proposer must identify all proposed key personnel in its Proposal. The key personnel and all members of the consultant team must be well qualified and have sufficient experience in the areas described in the Scope of Responsibilities.

The City of Duarte reserves the right to approve all key personnel individually for any and all Project Phases authorized by the City of Duarte as a result of this solicitation. After an agreement has been executed, the selected consultant may not replace any key staff without written approval from the City of Duarte. The City of Duarte must approve replacement staff before a substitute person is assigned to the Project. The City of Duarte reserves the right to require the key personnel to replace a staff person assigned to the contract should the City of Duarte consider replacement to be for the good of the Project. Replacement staff will be subject to the City of Duarte approval prior to assignment to the consultant team.

## **13. SCOPE OF SERVICES**

A detailed Scope of Project is described in Appendix A of the RFP.

The City of Duarte is seeking professional services for qualified graphic design and sign company with extensive experience in citywide way-finding sign development to submit Request For Proposals (RFP) to complete a new way-finding sign plan for the city. The goal is provide a sign design that is unique to Duarte that directs residents, commuters and visitors to destinations within the city.

The current system of directional signs in the city is unorganized; signs are out dated, require maintenance and lack a comprehensive design approach to way-finding information. In 2016, Duarte's Gold Line station will open as part of the Gold Line extension from Pasadena to Azusa. It is anticipated that this will bring additional commuters and visitors to the city and those clients will benefit from an improved directional sign program.

**14. COMPENSATION FOR SERVICES PROVIDED**

**a. Contract Type and Compensation**

The consultant will be compensated under a "Specific Rates of Compensation" contract. To that end, compensation for professional services will be based on actual costs using firm fixed hourly rates, which must include all overhead costs and profit. The City of Duarte intends to issue a Notice to Proceed (NP) for the Project. The compensation for the project will be subject to an overall cap with a not-to-exceed total budget based on the scope of work that consultant and City of Duarte agree shall be required to complete the Phase of the Project for which a NP is being issued. The hourly rates for all work performed by the consultant, including work performed in accordance with any contract amendments, shall be fixed for the first twelve (12) months from the effective date of the NP. Should the duration for a Phase of the Project last more than one year, consultant shall be permitted to adjust hourly rates for that Phase of the Project by no more than a 2% for the remaining duration of the Phase. Limitations on hourly rates applicable to consultant shall also apply to subcontractors.

**b. Reimbursements for Goods and Services**

Reimbursements on subcontracts for goods and services shall be limited to the actual amount paid by the consultant to the Subcontractor. Reimbursement costs shall not include any costs arising from the letting, administration or supervision of performance of the subcontract.

**15. PRE-AWARD AUDIT**

The City of Duarte does not anticipate that the proposal for the consultant services will exceed the pre-award limits. A pre-award audit of the Preferred Consultant may need to be conducted prior to contract award (this is a 30 to 60 day process). The audit will include the prime consultant and any subcontracts that are anticipated to exceed \$1,000,000 in compensation over the duration of the contract. Proof of overhead rate, or an accepted provisional rate for the professional services and subconsultants, will be required in addition to compliance with Generally Accepted Accounting Principles (GAAP), all provisions of Federal, State and Local laws, statutes, ordinances, rules, regulations and procedural requirements including Federal Acquisition Regulations (FAR).

**16. BASIS FOR AWARD OF CONTRACT**

The City of Duarte intends to select the consultant on the basis of fair and competitive negotiations, demonstrated competence and professional qualifications in accordance with applicable State and Federal regulations. To

that end, the contract is to be awarded to the Proposer whose proposal and interview best meets the technical requirements of the RFP as determined by the City of Duarte.

**17. NEGOTIATIONS AND AWARD OF CONTRACT**

Negotiations regarding a fair and reasonable price will begin after selection of the Preferred Consultant has been approved by the Director of Community Development. Should the City of Duarte be unable to obtain a fair and reasonable price through negotiations with the highest technically qualified consultant, the City of Duarte shall enter into negotiations with the next highest qualified consultant and may award that contract if the parties are able to arrive at a fair and reasonable price. If that is unattainable, the City of Duarte shall enter into negotiations with the next highest qualified consultant in sequence until an agreement is reached.

**18. REQUIRED FORMAT FOR PROPOSALS**

The City of Duarte is requiring all proposals submitted in response to this RFP to follow a specific format. The Proposal, including the Appendices, shall not exceed twenty (20) pages in length, utilizing 8.5" x 11" pages with one-inch margins. As an exception, 11" x 17" pages may be used to display organizational charts. Font size shall not be smaller than 12 point for text or eight (8) point for graphics. Dividers used to separate sections will not be counted. Creative use of dividers to portray team qualifications, etc. is discouraged. The proposal format shall be as follows:

**a. Cover Letter**

The cover letter shall be limited to two (2) pages maximum and will not be counted as part of the total page count for the Proposal. One copy of the Proposal (Cover Letter) shall be signed by a duly authorized official of the prime Proposer's firm. The cover letter shall, at a minimum, contain the following:

- Identification of the person within the Proposer's firm that has the authority to negotiate with the City of Duarte and to execute on behalf of the Proposer any agreement that may result from such negotiations. Identification shall include legal name of the company, corporate address, telephone and fax number. Include name, title, address, telephone number and email address of the individual who will be responsible for any negotiations with the City of Duarte and any contact person for Proposer during the period of proposal evaluation.
- Identification of all proposed subconsultants or subcontractors, including legal name of the company, address and contact person.

- Acknowledgement that Proposer is obligated by all addenda to this RFP.
- A statement that the Proposal submitted shall remain valid for ninety (90) days from the submittal deadline of June 16, 2015.
- Signature of a person authorized to bind Proposer to the terms of the Proposal.
- Signed statement attesting that all information submitted with the Proposal is true and correct.

**b. Qualifications of the Firm**

This section of the Proposal shall explain the ability of the Proposer to satisfactorily perform the required work. More specifically, in this section, the Proposer shall:

- Provide a profile of the Proposer including the types of services offered; the year founded; form of organization (corporate, partnership, sole proprietorship); number, size and location of offices; number of employees.
- Provide a detailed description of Proposer's financial condition, including any conditions (e.g., bankruptcy, pending litigation, outstanding claims in excess of twenty-five thousand dollars (\$25,000) for or against the firm; planned office closures or mergers that may impede Proposer's ability to provide professional services.)
- Describe the Proposer's experience in performing professional services on Citywide Way-Finding Signs type projects. Highlight the participation in such work by the key personnel proposed for assignment to this project. Include the name and location of each project, the year it was initiated, the year completed or date it is anticipated to be completed, any delay experience and why, and the contract value.
- Describe the Proposer's experience in working with the State and local municipalities.
- Describe the Proposer's experience in providing professional services in accordance with the requirements of the Caltrans Local Assistance Procedures Manual.
- Describe the Proposer's knowledge of the Standard Specifications for Public Works Construction the "Green Book" and Caltrans Standard Specifications the "Gray Book".

- Provide a list of previous projects in which the Proposer and subconsultants have worked together. The list should clearly identify the previous projects and include a summary of the roles and responsibilities of each party.
- Provide information on the strength and stability of the Proposer; current staffing capability and availability; current work load; and proven record of meeting schedules on similar types of projects.

**c. Proposed Staffing and Project Organization**

This section of the Proposal should establish the method that will be used by the Proposer to organize and provide the professional services and manage the Project and construction oversight. In addition, this section should also identify key personnel to be assigned and their qualifications and experience.

The Proposal should include the following information:

- The education, experience and applicable professional credentials of project staff. Include applicable professional credentials of “key” personnel.
- Brief resumes, not more than two (2) pages each, for the individuals proposed to function as key personnel. Key personnel must have extensive knowledge and experience with developing and implementing a City way-finding sign program that identifies destinations, circulation routes (pedestrian, bicycles and pedestrians), develop design concepts, sign placement, shop drawing review, oversight of sign manufacturing, attend stakeholder meetings and present to boards.
- The identity of key personnel proposed to perform the work in the specified tasks, including major areas of the professional services subconsultant’s work. Include the person’s name, current location, and proposed position for this project, current assignment, and level of commitment to that assignment, availability for this assignment and how long each person has been with the firm. Include two (2) references for each key person with contact information for the reference.
- A statement that key personnel will be available to the extent proposed for the duration of the professional services and an acknowledgement that no person designated as key personnel shall be removed or replaced without the prior written concurrence of City of Duarte. Identify any constraints, conflicts or situations that

would prevent the Proposer from being able to begin work on this assignment.

**d. Work Approach**

This section of the Proposal shall include a narrative that addresses the Scope of Services and demonstrates that Proposer understands the scope of this project and the construction timeline. More specifically, the Proposal should include the following:

- Proposer's general approach for completing the activities specified in the Scope of Services. The work approach shall be of sufficient detail to demonstrate Proposer's ability to accomplish the project tasks.
- An outline of the activities that would be undertaken in completing the Scope of Services and specify who in the firm will perform them.
- The methods Proposer will use to ensure quality control during the construction phase of the Project, manage, control field and other changes for the construction contractor. Identify Proposer's methods for analyzing and responding to claims.
- A description of any special issues or problems that are likely to be encountered in a project of this type and the approach Proposer would use to address them.

**e. Appendices**

This part shall include brief resumes of proposed staff. Proposer information and general marketing materials will not be considered in the ranking of the Proposals.

**19. PROPOSAL EVALUATION PROCESS AND CRITERIA**

All proposals will be evaluated based on the technical information and qualifications presented in the proposal, reference checks, and other information, which may be gathered independently. Criteria for the evaluation of the proposals will include:

- A. Completeness of proposal.
- B. Firm and key project team member's experience in performing similar work.
- C. Firm and key project team member's record in accomplishing work assignments for projects. Relevant project experience.

- D. Consultant's demonstrated understanding of the scope of work.
- E. Quality of work previously performed by the firm as verified by reference checks.
- F. Verification that Consultant can meet scheduled project dates.
- G. Consultant's experience with similar completed projects in the region.

In addition to the written proposal, the City may elect to interview the most qualified firms. The Consultant should have available the project manager and key project personnel to discuss the following:

- A. The major elements of the proposal and be prepared to answer questions clarifying their proposal.
- B. A description of previously related experience for key project team member(s). Work sample exhibits may also be used.
- C. The proposed project schedule.
- D. The proposed personnel resources.

## **20. FEE PROPOSAL**

The Consultant's submittal shall comply with the following requirements:

- A. Two copies of a Fee Proposal and Schedule of Performance shall be submitted in a separate sealed envelope, plainly labeled "Fee Proposal" with the name of the company and the Project title.
- B. The "Fee Proposal" should include, but not be limited to, the fee proposed by the consultant for each task of the Project and a not-to-exceed Total Fee, the name of the designated project manager and a list of subconsultants, if any, to be used on the Project, and the name of the company representative empowered to sign contracts on behalf of the firm. Personnel hourly rates will reflect fully loaded costs for direct labor, indirect costs, overhead and profit. The Fee Proposal shall include a breakdown of the estimated number of hours, by personnel category, needed to complete each task of the Project. In addition, the Fee Proposal shall reflect all anticipated fee increases during the contract duration.
- C. The Schedule of Performance shall depict individual Project tasks and basic hourly rates for specific personnel to be used on the Project. The Consultant will be allowed to modify the Schedule of Performance to consolidate, add or revise Milestones and Tasks, and to include sub-tasks needed to clarify the work effort that will be needed to complete each task of the Project.

- D. Upon completion of the initial evaluations and interviews, the highest ranked Proposer's Fee Proposal will be opened and negotiations will commence based on the Schedule of Performance and technical proposals.

**21. EXCEPTION OR ADDITIONS**

The Proposal shall include a detailed description of all of the exceptions to the provisions and conditions of this RFP upon which the Proposer's submittal is contingent and which shall take precedence over this RFP.

**22. INSURANCE REQUIREMENTS**

Prior to the start of contract negotiations, the highest qualified Proposer will be required to submit to the City of Duarte the required insurance certificates for the Proposer and its team. Insurance certificates will also be required, in advance, for any Proposer subsequently identified for negotiations with the City of Duarte. The firm selected to provide professional services will be required to maintain the following levels of insurance coverage for the duration of the Project:

- Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits not less than \$1,000,000 per accident
- Commercial general liability insurance or equivalent form, with a combined single limit of not less than \$2,000,000 per occurrence
- Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles
- Professional liability (errors and omissions) insurance, with a combined single limit of not less than \$1,000,000 per occurrence

**23. RIGHTS OF THE CITY**

The City of Duarte reserves the right, in its sole discretion and without prior notice, to terminate this RFP; to issue subsequent RFPs; to procure any project-related service by other means; to modify the scope of the Project; to modify the City of Duarte obligations or selection criteria; or take other actions needed to meet the City's goals. In addition, the City of Duarte reserves the following rights:

- The right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in any proposal.

- The right to amend, withdraw or cancel this RFP at any time without prior notice.
- The right to postpone proposal openings for its own convenience.
- The right to omit or add to the pre-defined Project Phases.
- The right to request or obtain additional information about any and all proposals.
- The right to conduct a background check of any Proposer. This may include, but is not limited to, contacting individuals and organizations regarding capabilities and experience of the potential candidate.
- The right to waive minor discrepancies, informalities and/or irregularities in the RFP or in the requirements for submission of a Proposal.
- The right to modify the response requirements for this RFP. This may include a requirement to submit additional information; an extension of the due date for submittals; and modification of any part of this RFP, including timing of the City of Duarte decisions and the schedule for presentations.
- The right to disqualify any potential candidate on the basis of real or perceived conflict of interest that is disclosed or revealed by information available to the City of Duarte.
- The right at any time, subject only to restrictions imposed by a written contractual agreement, to terminate negotiations with any potential candidate and to negotiate with other potential candidates who are deemed qualified

This RFP is not a contract or commitment of any kind by the City of Duarte, it does not commit the City to enter into negotiations with any firm and the City makes no representations that any contract will be awarded to any firm that responds to this RFP. Proposals received by the City are public information and will be made available to any person upon request after the City has completed the proposal evaluation. Submitted proposals are not to be copyrighted.

### **Waiver of Proposals**

Proposals may be withdrawn by submitting written notice to the City of Duarte Contact Person at any time prior to the submittal deadline. Upon submission, the Proposal and all collateral material shall become the property of the City of Duarte.

**24. CALIFORNIA PUBLIC RECORDS ACT DISCLOSURES**

The Proposer acknowledges that all information submitted in response to this RFP is subject to public inspection under the California Public Records Act unless exempted by law. If the Proposer believes any information submitted should be protected from such disclosure due to its confidential, proprietary nature or other reasons, it must identify such information and the basis for the belief in its disclosure. Notwithstanding that disclaimer, it is the intention of the City to keep all submittals confidential until such time as negotiations are successfully concluded.

**25. DISCLAIMERS**

This RFP is not a contract or a commitment of any kind by the City and does not commit the City to enter into negotiations, or to accept any part of any proposal. The contents of this RFP and any and all attachments are not warranted or guaranteed by the City, and respondents are urged to make independent investigations and evaluations as they deem advisable and to reach independent conclusions concerning statements made in this RFP.

**APPENDIX A**

**SCOPE OF PROJECT FOR  
PLANS, SPECIFICATIONS & ESTIMATES  
CITYWIDE WAY-FINDING SIGNS**

**Overview and Scope**

The City of Duarte is a community of 21,193 residents located in the San Gabriel Valley and is seeking professional services for qualified graphic design and sign company with extensive experience in citywide way-finding sign development to submit Request For Proposals (RFP) to complete a new way-finding sign plan for the city. The goal is generate a sign design that is unique to Duarte that directs residents, commuters and visitors to destinations within the city.

The current system of directional signs in the city is unorganized; signs are out dated, require maintenance and lack a comprehensive design approach to way-finding information. In 2016, Duarte's Gold Line station will open as part of the Gold Line extension from Pasadena to Azusa. It is anticipated that this will bring additional commuters and visitors to the city and those clients will benefit from an improved directional sign program.

Duarte has received an Active Transportation Program (ATP) grant and part of that grant was set to fund design and construction of a citywide way-finding sign program to identify local transit locations, destinations and points of interest.

The selected consultant will oversee the development and design of the Duarte way-finding project and be responsible for all work surrounding the implementation, including but not limited to:

1. Perform a detailed assessment of the city, traffic flow and key destinations to develop a plan for way-finding.
2. Conduct a study to determine where each sign may be placed so as to ensure compliance with generally accepted traffic standards.
3. Develop detailed way-finding sign location map both in presentation form and a format that is compatible with the City's GIS system.
4. Develop way-finding sign design theme. The design should consist of a minimum of two design concepts for consideration. Consideration should be given to creating the ability to have a primary and secondary level of directional signs that have a unified design theme.
5. Develop design standards for signs that will allow consistent fabrication and installation over time. Also, create construction documents, shop drawings or engineering plans.

## **Task 1: Project Assessment, Analysis and Plan**

- 1.1 Project Administration:** The consultant will prepare plans, specifications and estimates for way-finding signs plan design and implementation oversight. The consultant will provide and perform kick-off and milestone meetings to facilitate the successful completion of the Project. The way-finding sign project will incorporate gateway elements, directional signage for vehicles, bicyclist and pedestrians, bicycle route signage and other appropriate sign elements.
- 1.2 Assessment/Analysis:** Perform a detail assessment of the City, traffic flow and key destinations to develop a plan for way-finding. Conduct an informal review of existing vehicular way-finding signage. The assessment shall incorporate elements of the proposed new Duarte Gold Line Station.
- 1.3 Master Project Schedule:** The consultant will develop and maintain a Master Project Schedule to track all aspects of the Project and will update the schedule as needed to reflect significant changes.
- 1.4 Way-finding Program:** The consultant will review and develop a working knowledge of the City's historical identity, residential and business community. The consultant will ascertain the agency's right-of-way and design jurisdiction.
- 1.5 Preliminary Program:** The consultant will create a preliminary list of likely destinations that might be feature on signs, drawing from the City's historical identity, residential and business community. Present to stakeholders the proposed way-finding sign program, two meetings (optional).
- 1.6 Utility Coordination:** The consultant shall coordinate with utility companies to minimize the potential of utility conflicts with the Project and will resolve technical issues related to the utilities.

Deliverables: Project start up (kick-off), preliminary destinations list and existing signage review, two stakeholder presentations (optional).

## **Task 2: Way-finding Program Concept Design**

- 2.1 Project Design:** Conduct a study to determine where each sign may be placed to ensure compliance with accepted traffic standards (California MUTCD and Los Angeles Metro). Evaluate proposed circulation routes and points of interest to fine-tune the destinations list.
- 2.2 Way-finding Sign Criteria:** Develop a way-finding sign criteria methodology for destination selection process, point(s) of interest categories, types of sign designs and way-finding strategy. Coordinate sign placement and locations within the existing City right-of-way.
- 2.3 Sign Design:** Develop sign design concepts and way-finding strategy. Develop a way-finding sign design theme. Elements shall included sign typeface, color,

material, reflectivity, service-life and sign scale. Present three signage system concept options for consideration. Develop conceptual sign design into a final design. Consideration should be given to creating the ability to have a primary and secondary level of directional signs that have a unified design theme.

- 2.4 Preliminary Cost Estimate:** Generate a preliminary project cost estimate per sign types and preliminary locations. Cost estimate shall include all manufacturing, material, installation and labor cost to complete the project.
- 2.5 Formal Presentation (Optional):** Present to City Council the proposed way-finding sign program.

Deliverables: Concept designs, final concept design, preliminary cost estimate and City Council presentation (optional).

### **Task 3: Way-finding Development and Documentation**

- 3.1 Detail Way-finding Plan:** Develop detail way-finding sign location map both in presentation form and a format compatible with the City's GIS (ArcView). The plan shall incorporate the final sign locations and messages to be displayed.
- 3.2 Project Specifications:** The consultant shall prepare detail plans and specifications of the final way-finding sign concepts. The designs shall incorporate information for the primary and secondary level way-finding signs. The plans shall provide sign dimensions, elevations, cross-sections, connection details, material callouts, color specifications, font type and scale, lettering placement, hardware requirements and miscellaneous details to adequately fabricate the signs.
- 3.3 Technical Specifications:** The consultant shall generate comprehensive technical specifications to complement the way-finding signs. The technical specifications shall provide detail-manufacturing instruction, materials to be utilize for fabrication, paint/powder-coating instruction, film specification, reflectivity application, construction installation instruction, inspection and testing requirements and quality assurance/quality control measures. Wind load and foundation calculations shall be provided for sing installation onto poles. The consultant shall develop design standards for signs that will allow consistent fabrication and installation over time.
- 3.4 Vendor Approval:** The consultant shall review and approve a list of sign manufactures vendors qualified to manufacture signs to specifications. The vendors shall provide documentation that demonstrates the manufacture's ability meet or exceed the sign specifications. The vendor documentation shall include a list of references, list of type manufacturing equipment and location of fabrication shop.

- 3.5 Final Cost Estimate:** Generate a final project cost estimate per sign types and final locations. Cost estimate shall include all manufacturing, material, installation and labor cost to complete the project.

Deliverables: Visual Project Presentation, Specifications and Construction Plans, Technical Specifications, Sign Location and Message Plans and Final Cost Estimate.

#### **Task 4: Way-finding Sign Program Implementation**

- 4.1 Response to Request for Information (RFI):** The consultant shall provide support services to the City to respond on RFIs. RFIs may be submitted during the solicitation process and during construction. The consultant shall reply to the City within five business days.
- 4.2 Submittal Reviews and Alternatives:** The consultant shall review all sign submittals from the contractor to assure compliance with technical specifications. Submittal review shall include shop drawings, color, materials, and sign mock ups. The consultant shall review and approve suggested alternatives from the contract that comply and exceed the consultants specifications.
- 4.3 Project Oversight and Inspection:** The consultant shall provide supplemental project oversight and inspections of typical signage elements. The project oversight and inspection shall include establishment of a punch lists for final acceptance of signs.
- 4.4 Fabricator Shop Inspection (Optional):** The consultant shall conduct periodic shop inspection of sign fabrication. Shop inspections shall occur at twenty-percent, sixty-percent and eight-five-percent stages of fabrication.

Deliverables: Response to RFIs, submittals and alternative. Generate inspection reports with corrective measures. Development of final punch list. Fabrication shop inspection (optional).

# **MEMORANDUM**



**TO: MAYOR AND COUNCILMEMBERS**  
**FROM: ALEX TACHIKI, COMMUNITY DEVELOPMENT**  
**TECHNICIAN**  
**DATE: JULY 14, 2015**  
**SUBJECT: REQUEST FROM ARCADIA ASSOCIATION OF REALTORS FOR CITY OF**  
**DUARTE CO-SPONSORSHIP OF FREE HOME BUYERS FAIR ON OCTOBER**  
**24, 2015**

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**Recommendation:** Staff recommends that the City Council approve a request to co-sponsor the Free Home Buyer's Fair, scheduled for Saturday, October 24, 2015 and waive the associated city fees.

**Summary:** The applicant, Arcadia Association of Realtors (AAR) is requesting the City of Duarte co-sponsor the Free Home Buyers Fair scheduled for Saturday, October 24, 2015 at the Duarte Community Center. The event is scheduled to start at 10:00 am and is expected to conclude by 2:00 pm. The event will have a series of speakers on various aspects of home ownership as well as information and educational sessions in the breakout room. All revenue generated will go towards the cost associated with hosting the event including lunch/refreshments. Raffles prizes will be given away throughout the event; prizes will be donated from the exhibitors or the Arcadia Association of Realtors. Community Development staff will help coordinate the outreach of the event and coordinate with other City Departments.

**Discussion:** The City hosted a similar program in April 2013. The free community event will provide valuable information and opportunities to discuss with industry professionals about the home buying process, mortgage financing, speak with lenders, realtors and counseling agencies and learn further about homeownership.

The applicant is requesting that the City of Duarte co-sponsor the event; waive the Facility Rental fee of \$960, City Staff time and use the Duarte Logo for advertisement of the event.

Community Development Staff will coordinate with the City Manager's Office on outreach efforts through social media platforms (Twitter, Instagram and Facebook), city website, community event announcements at public meetings, advertisement on the City's electronic message board and the Duarte community newsletter. Community Development Staff will also coordinate with the Arcadia Association of Realtors on the approval and distribution of outreach materials, identifying key community gathering hubs to distribute flyers, communicating with the Duarte ROP program for event catering, attend monthly event coordination meetings and attend the event. Staff will also reach out to the school district for distribution of flyers through the schools and be a point of contact for information on the event should any residents or interested parties have any questions or concerns regarding the event.

The Arcadia Association of Realtors will be responsible for event logistics, garnering commitments from various speakers for the event as well as exhibitors to participate in the event. The previous event had a mixture of exhibitors ranging from realtors, financial institutions, LA County Tax Assessors Office, Insurance agencies and Inspection services. Arcadia Association of Realtors will also be responsible for

the set up and break down of the event and ensure that the facility is properly cleaned and maintained after the conclusion of the event.

The Housing Fair's target audience will primarily focus on first-time homebuyers, renters and residents who are in need of housing services. The event will seek to educate those on the benefits of homeownership, navigating the process of purchasing a home and what resources are available to you as a potential homeowner. As a co-sponsored event by the City, the event will have a direct benefit to Duarte residents who are interested in home-ownership and will help educate them on the process behind purchasing a home and important resources available to them.

Staff recommends that the Duarte City Council approve the request for co-sponsorship of the Home Buyer's Fair On October 24<sup>th</sup>, 2015 and waive the associated fees.

## Agenda Memo City Manager's Office

To: Mayor and Members of the Duarte City Council

From: Karen Herrera, Deputy City Manager

Date: July 14, 2015

Re: Approval of FY 2015-16 Contract with Townsend Public Affairs (TPA)  
for Grant Writing and Advocacy Services

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**Recommendation:** That the Duarte City Council, by motion, authorize the City Manager to execute a contract for grant and advocacy services for FY 2015-16 with Townsend Public Affairs (TPA) in the amount of \$60,000.

**Background:** In spring of 2014, the City Council expressed an interest in contracting for professional grant writing services to help staff obtain supplementary funds for a variety of priority City projects. The City Manager's office released a request for proposals (RFP) for the provision of grant writing services in April, and interviews were conducted in June with the six firms that submitted proposals.

During the interview process, one firm, Townsend Public Affairs (TPA) emerged as the top candidate on numerous levels. Specifically, TPA provided grant writing and advocacy services including:

- **Grant Funding:** Local/regional, state and federal grant management, writing, and advocacy services.
- **State and Federal Legislative Advocacy:** Full engagement on City issues with State and Federal officials.
- **Government Consulting:** Strategic consulting, strategy development, coordination on project development, and execution.

The City entered into a one-year contract with the firm in August of 2014 with the contract expiring June 30, 2015.

**Discussion:** Staff is recommending that the Townsend Public Affairs contract be renewed for an additional year. As before, the scope of work for the firm will be the following:

1. Funding Needs Analysis; TPA will work with City staff to facilitate meetings with City departments to assess the validity of current funding priority areas, identify changes in funding priority areas, and identify new priority areas for funding.
2. Grant Funding Research; TPA will conduct research to identify grant resources including, but not limited to, Federal, State, foundation, agencies and organizations that support the City's funding needs and priorities (emphasizing grants which require no "matching" funds) including, but not limited to the following areas:

- Economic development
  - Criminal justice technology programs
  - Housing and housing programs
  - Infrastructure development and maintenance
  - Public safety
  - Technology
  - Parks and recreation programs
  - Multimodal transportation
  - Workforce development
  - Records management
  - Senior, family, and youth programs
  - Energy efficiency and sustainability
3. On-Call Grant Research; TPA will also assist the City identify additional areas through both a funding needs analysis process as well as throughout the duration of the contract.
  4. Grant Proposal Development; TPA will provide general grant proposal writing services associated with the completion of grant applications on behalf of the City including the preparation of funding abstracts and production, and submittal of applications to funding sources. TPA will further guide the City regarding submissions of State and Federal grant requests, lead in preparing submissions, collect letters of support and other supporting materials, and advocate for submitted grants.
  5. Monthly/Annual Reports; TPA will submit monthly reports summarizing the amount of time expended and describe activities undertaken during the previous month as one mean to monitor the performance of the consultant. On an annual basis, they will also submit a year end report summarizing annual activity.

To date, TPA has helped the City secure \$975,513 in funding, ie: Awarded CALGRIP Gang Reduction & Intervention Program grant monies on Nov. 13, 2014. The group also has several pending grants in process for the City, including the Robert Wood Johnson Foundation SCALE grant, the Smart Policing Initiative, the Aetna Foundation Cultivating Healthy Communities grant, and the City of Hope Healthy Living Grant Program.

Additionally, TPA will continue to engage in the State and the Federal legislative process to advance issues of interest on behalf of the City. TPA will also work with the City Council and City Manager's office to identify potential issues/agencies for inclusion in the City's annual legislative platform including the California Public Utilities Commission, Caltrans, U.S. Army Corps of Engineers and the California Department of Finance. TPA also has the ability to draft proposed legislation and amendments as necessary to further the City's goals, priorities, and interests.

TPA will also, per the request of the City, organize trips for staff and Council in Washington DC and Sacramento including scheduling meetings with legislators and key staff and preparing briefing materials on critical issues.

Lastly, the consultant will continue to provide monthly status reports and an annual report giving an overview of the work completed and a forecast of important issues in the upcoming year.

**Fiscal Impact:** None. The full contract amount of \$60,000 was approved as part of the FY 2015-16 City of Duarte budget in account #1010-7980.

**Attachment: Townsend Public Affairs Professional Services Agreement**

## **CITY OF DUARTE**

### **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and effective as of July 15, 2015 ("Effective Date"), by and between the CITY OF DUARTE, a municipal corporation ("City") and TOWNSEND PUBLIC AFFAIRS ("Consultant"). City and Consultant may sometimes herein be referred to individually as a "party" and collectively as the "parties."

#### **AGREEMENT:**

In consideration of the mutual covenants and conditions set forth herein the foregoing Recitals which are incorporated herein and made a part hereof, and for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

#### **1. TERM**

This Agreement shall commence on the Effective Date and shall remain and continue in effect until July 30, 2016 year unless sooner terminated pursuant to the provisions of this Agreement. The term may be extended upon execution of a written amendment between the parties.

#### **2. SERVICES AND PERFORMANCE**

A. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder.

B. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and services and Consultant is experienced in performing the work and services contemplated herein and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder.

C. The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for City to enter into this Agreement. Therefore, without the prior written approval of City, which may be given or withheld at City's sole and absolute discretion, Consultant shall not (i) contract with any other entity to perform in whole or in part the services required hereunder, or (ii) transfer, assign, convey, or encumber (voluntarily or by operation of law) this Agreement.

D. Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement.

E. Consultant shall provide all services rendered hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered. Each and every provision required by law to be included in this Agreement shall be deemed to be included, and this Agreement shall be read and enforced as though they were included.

### **3. MANAGEMENT**

A. The City's Deputy City Manager shall represent City in all matters pursuant to the administration of this Agreement, review and approval of the services performed by Consultant. The City Manager, subject to the limitations set forth in Section 4, shall have the authority to enlarge the Scope of Services or increase the compensation due to Consultant.

B. Consultant communications with the City shall be routed through the Deputy City Manager.

### **4. COMPENSATION**

A. City agrees to pay Consultant, in accordance with the payment rates and terms set forth in Exhibit "B" and incorporated herein by this reference; provided, however, that in the event of any inconsistency between the terms of Exhibit "B" and the main text of this Agreement, the main text of this Agreement shall apply. Subject to the City Manager's authority set forth in subparagraph (B) below, the total compensation paid to Consultant hereunder shall not exceed SIXTY THOUSAND DOLLARS (\$60,000 ("Total Compensation")) for the total term of this Agreement, which shall be payable in TWELVE (12) installments of FIVE THOUSAND (\$5,000.00) as set forth in Paragraph 4.C below. Consultant's Total Compensation shall be based on the Scope of Work Provided in Exhibit A and shall not include out-of-pocket expenses necessary for the performance of the services, such as those listed in Exhibit "B", subject to the reasonable approval of the City. Such out-of-pocket expenses shall not, however, include (a) costs associated with the operation of Consultant's business, including but not limited to administrative costs, employee costs, overhead, insurance costs (including but not limited to the cost to provide the insurance required by this Agreement), cost of benefits, rent, and costs to procure required permits or licenses, or (b) extraordinary expenses unless Consultant, prior to incurring such extraordinary expenses notified City in writing and City determines such expenses are extraordinary and authorizes Consultant to incur such expenses, in which case City shall be responsible to reimburse Consultant for such extraordinary expenses. Consultant shall perform all or some services in a given month as assigned by City. If the time required to perform the assigned services would otherwise cause the compensation, if calculated on an hourly rate basis to exceed the total monthly compensation, Consultant must notify City in writing prior to incurring those expenses. The City will approve or disapprove the request in the City's sole discretion.

B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's authorization is given. The City Manager may approve additional work up to but not exceeding ten percent (10%) of the amount of this Agreement.

C. Consultant shall be paid in TWELVE (12) equal installments of FIVE THOUSAND DOLLARS (\$5,000.00) each, provided that Consultant submits invoices as set forth in Paragraph A of Exhibit B hereto and submits reports to City showing actual services performed. Consultant shall be paid on the next regular council warrant after all required paperwork is submitted. If the City disputes whether Consultant has earned its fee or any portion, City shall give written notice to Consultant within thirty (30) days of receipt of Consultant's monthly report stating the basis for such dispute.

## **5. SUSPENSION OR TERMINATION OF AGREEMENT**

A. City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving written notice upon Consultant. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. In the event this Agreement is suspended or terminated pursuant to this subparagraph (a), Consultant shall submit a final report to the City pursuant to Section 4, and Consultant shall be entitled to the pro rata portion of the fee earned to the date of termination, or if the reason for the termination is failure by Consultant to have timely performed the services set forth in Exhibit "A", City shall be entitled to receive a return of the fee paid to Consultant, or applicable portion thereof. In City's sole and absolute discretion, prior to effecting a suspension or termination pursuant to this subparagraph (a), the City may first serve upon the Consultant a written notice of the default specifying the default and the amount of time that Consultant shall have to cure, correct, or remedy the default. In the event that the Consultant fails to cure the default within the specified period of time, the City shall have the right to immediately terminate this Agreement pursuant to subparagraph (a). Notwithstanding any other provision of this Agreement to the contrary, City's termination of this Agreement pursuant to this subparagraph (a) shall not preclude or prejudice any other remedy to which City may be entitled in law or in equity.

B. Consultant may terminate this Agreement upon not less than thirty (30) days' prior written notice to the City.

## **6. RECORDS AND OWNERSHIP OF DOCUMENTS**

A. Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to produce an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to examine and audit such books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of six (6) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. Consultant shall provide such items to City promptly upon completion of the Agreement. Any use of such documents for other projects by the City shall be without liability to Consultant.

C. Any information gained by Consultant in the performance of this Agreement shall be considered confidential and such information and the reports, records, documents and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly or to any other client of Consultant without the prior written approval of the Deputy City Manager.

## **7. INDEMNIFICATION**

Consultant shall defend, indemnify and hold harmless the City from and against all damages and liability caused by the negligent actions or willful misconduct of the Consultant or its employees, agents, or representatives. Consultant shall not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of the City or any of its employees, agents, or representatives acting in an official capacity.

## **8. INSURANCE**

Without limiting Consultant's indemnification obligations as set forth in this Agreement, the Consultant shall procure and maintain, at its sole cost and expense, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

A. Commercial General Liability insurance written on a per occurrence basis in an amount not less than \$1,000,000 per occurrence.

B. Business Auto Coverage written on a per accident basis in an amount not less than \$1,000,000 per accident. If Consultant or Consultant's employees use personal autos in connection with the performance of work under this Agreement, Consultant shall provide evidence of personal auto liability coverage for each such person.

C. If applicable, Worker's Compensation insurance providing statutory benefits as required by California law.

D. All of the insurance policies required hereunder, except the worker's compensation insurance, shall comply with the following requirements:

- (i) All insurance shall be written by insurers that are admitted and licensed to do business in the State of California and with A.M. Bests rating of B++ or better and a minimum financial size VII.
- (ii) The policies shall be endorsed to name the City and its officers, officials, employees, agents, and volunteers as additional insureds.
- (iii) All of Consultant's insurance: (i) shall contain no special limitations on the scope of protection afforded to the additional insureds; (ii) shall be primary insurance and any insurance or self-insurance maintained by the additional insureds or any of them shall be in excess of the Consultant's insurance and shall not contribute with it; (iii) shall be "occurrence" rather than "claims made" insurance except for professional liability; (iv) shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; (v) shall prohibit Consultant from waiving the right of subrogation prior to a loss except for professional liability; and (vi) shall not contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured.
- (iv) The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change.

E. Consultant shall renew the required coverage annually as long as City or its employees or agents face an exposure from the Consultant's operations pursuant to this Agreement. This obligation shall survive the termination or expiration of this Agreement and shall not be effective until City executes a written statement to that effect.

F. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance evidencing the above insurance coverages and said Certificates of Insurance are reasonably approved by the City. Certificates are to reflect that the insurer will provide 30 days written notice to City of any cancellation of coverage. In the event any of said policies of insurance are reduced in limits or cancelled for any reason, the Consultant shall, prior to the cancellation date, submit new evidence of insurance, in conformance with this Paragraph 8.

G. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

H. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this Agreement. City assumes no obligation or liability by such notice, but has the right to monitor the handling of any such claim or claims if they are likely to involve City.

## **9. INDEPENDENT CONSULTANT**

A. Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, officials, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents is in any manner officers, officials, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

## **10. NO UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City shall receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement.

#### **11. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or has responsibilities with respect to the Agreement during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the services performed under this Agreement.

#### **12. COVENANT AGAINST DISCRIMINATION**

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

#### **13. NONLIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer, official, employee, agent, representative, or volunteer of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

#### **14. NOTICES**

Any notices which either party may desire to give or may be required to give to the other party under this Agreement must be in writing and may be given either by (a) personal service, or (b) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (c) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

|                   |                                                                                                            |
|-------------------|------------------------------------------------------------------------------------------------------------|
| If to City:       | City of Duarte<br>City Manager's Office<br>1600 Huntington Drive<br>Duarte, CA 91010                       |
| If to Consultant: | Christopher Townsend<br>Townsend, Public Affairs<br>1401 Dove Street, Suite 330<br>Newport Beach, CA 92660 |

#### **15. GOVERNING LAW; ATTORNEY'S FEES; LITIGATION MATTERS**

The internal laws of the State of California, without regard to principles of conflicts of laws, shall govern the interpretation of this Agreement. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding anything in this Agreement to the contrary, in no event shall Consultant be entitled to economic or consequential damages or to punitive damages. In the event of any litigation

arising from or related to this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred, including staff time, court costs, attorney fees, expert witness fees, and other related expenses. The Municipal and Superior Court of the County of Los Angeles shall have exclusive jurisdiction over any litigation between the parties hereto concerning this Agreement. Service of process on City shall be made in the manner required by law for service on a public entity. Service of process on Consultant shall be made in any manner permitted by law and shall be effective whether served inside or outside of California.

#### **16. RIGHTS AND REMEDIES ARE CUMULATIVE; AND WAIVER**

A. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

B. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### **17. SEVERABILITY**

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

#### **18. INTERPRETATION; ENTIRE AGREEMENT**

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect.

#### **19. EXECUTION OF CONTRACT**

The persons executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

**20. EFFECTIVE DATE**

The Effective Date of this Agreement shall be the date set next to the signature of the City Manager below, which date shall be inserted into the preamble of this Agreement.

[end –signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Agreement as of the Effective Date.

|                                                                                      |                                                |
|--------------------------------------------------------------------------------------|------------------------------------------------|
| <b>CITY OF DUARTE</b>                                                                | <b>CONSULTANT:<br/>TOWNSEND PUBLIC AFFAIRS</b> |
| By: _____<br>Darrell George, City Manager                                            | By: _____<br>Christopher Townsend, President   |
| Date: _____                                                                          | Date: _____                                    |
| ATTEST:<br>_____<br>Marla Akana, City Clerk                                          |                                                |
| APPROVED AS TO FORM:<br>RUTAN & TUCKER, LLP<br>_____<br>Jeff Melching, City Attorney |                                                |

## EXHIBIT "A"

### SCOPE OF SERVICES

#### **Professional Grant Writing and Advocacy Services**

- TPA will also conduct an extensive funding needs analysis and engage with select City staff to develop a strategic grant-funding plan. TPA staff, in turn, will utilize this information to conduct further research and analysis to generate opportunities for the City's strategic advocacy plan. The strategic advocacy plan includes a project funding agenda outlining multiple funding options for projects and programs and a comprehensive timeline for individual projects and grant submissions. TPA will further guide the City regarding submissions of State and Federal grant requests, lead in preparing submissions, collect letters of support and other supporting materials, and advocate for submitted grants.
- Additionally, TPA will engage in the State and the Federal legislative process to advance on behalf of the City's interests. TPA will work with the City Council and City Manager's office to identify potential issues/agencies for inclusion in the City's annual legislative platform including the California Public Utilities Commission, Caltrans, U.S. Army Corps of Engineers and the California Department of Finance. TPA also has the ability to draft proposed legislation and amendments as necessary to further the City's goals, priorities, and interests.
- TPA will also, per the request of the City, organize trips for staff and Council in Washington DC and Sacramento including scheduling meetings with legislators and key staff and preparing briefing materials on critical issues.
- TPA will provide monthly status reports and an annual report giving an overview of the work completed and a forecast of important issues in the upcoming year. The monthly report will included but not be limited to providing a legislative and grant-funding matrix.
- TPA will prepare and file all applicable Fair Political Practices Commission and the US Senate Lobbying Disclosure Act lobbying documents and reports within all applicable timeframes.
- TPA will respond to all City inquiries and/or requests within 24 hours or less unless otherwise noted by the City.
- TPA will also provide the additional deliverables i.e.: Legislative letters related to the City's position as needed; Legislative Analysis papers; verbal and written reports to the City Council.
- TPA will participate in regular planning and coordination meetings as requested by the City.

EXHIBIT B

PAYMENT RATE & TERMS

The City of Duarte shall pay TWELVE equal installments of FIVE THOUSAND DOLLARS (\$5,000.00) toward the Total Compensation of SIXTY THOUSAND DOLLARS. (\$60,000.00). TPA will be paid monthly within 30 days of the delivery of each monthly invoice and monthly activity summary report to the City

[End of Exhibit B]



## CALIFORNIA CONTRACT CITIES ASSOCIATION



June 24, 2015

### U.S. Conference of Mayors Congressional Letter - Costs of Stormwater Compliance - Legislative Proposal

The following is sent on behalf of Ken Farsing

You have received the following request from the U.S. Conference of Mayors regarding proposed federal legislation addressing the high cost of compliance for water regulations, including stormwater.

The conference is requesting the Mayor's consider signing the joint letter, by sending a PDF signature. The U.S. Conference will then prepare a joint letter from the cities.

Our cities have been working with the U.S. Conference of Mayors on proposed federal legislation that would codify EPA's Integrated Planning Process when cities are confronted with prioritizing the needs and high costs of water, wastewater and stormwater compliance. Most recently a number of our cities participated in a cost of compliance survey conducted by the U.S. Conference, which illustrates the growing problem of affordability of water regulations impacting our communities.

The proposed federal legislation would establish "triggers" and would codify a relief test that cities could use to establish rates that are affordable for its citizens. The proposed legislation would also assist cities in determining whether water quality standards are technically achievable, affordable and sustainable for a community.

The U.S. Conference of Mayors met in San Francisco over the weekend and is proposing a letter to the California Congressional delegation requesting support for the proposed "Water Quality Improvement Act of 2015" legislation. The Conference would like all of the Mayors throughout the State to consider signing on to the letter.

The U.S. Conference is requesting that a signed copy of the signature page be sent to Judy Sheahan at [jsheahan@usmayor.org](mailto:jsheahan@usmayor.org)

#### Stay Connected



[www.contractcities.org](http://www.contractcities.org)

#### Attachments

[Water Quality Improvement Act 2015](#)

[USCMWater Quality Improvement Act](#)

[Letter to California Congressional Delegation](#)

## **Letter to California Congressional Delegation**

Dear Senators and Representatives:

The undersigned are writing to register our deep concern about the disproportionate financial impact on behalf of our resident households from current EPA established or approved total maximum daily loadings (TMDLs) in many California cities and counties.

The costs to our communities and our citizens are extraordinarily high. Estimated costs for bacteria TMDLs for the San Diego region are \$ 2.8-5.1 billion over a 16-year period and that is for just one pollutant. In the Los Angeles region, the County has estimated TMDL implementation costs as high as \$6.7 billion annually for the next 20 years. These costs will be disproportionately borne by our most vulnerable citizens who can least afford it. We are concerned also that we will need to divert our limited resources away from our core public services, including maintaining and rebuilding our existing infrastructure that supplies safe and clean drinking water and provides for the proper disposal of wastewater.

The legislative proposal advanced by The U.S. Conference of Mayors (see attached) would codify a local government's ability to sustain and renew public water systems while working to achieve water quality standards in ways that are affordable for all citizens, not just the above-median income households. This legislation does not roll back all that we have achieved so far in the Clean Water Act and we are committed to go forward with the objectives of the Clean Water Act but to do so in a cost-efficient manner. This legislation is necessary if we are to create a sustainable, holistic approach where we balance environmental priorities, public health, and economic justice.

We are asking you to consider and support the Conference of Mayors' approach, and we would welcome further dialogue on this extremely important issue. If you have any questions, please contact Judy Sheahan of the Conference of Mayors staff at [jsheahan@usmayors.org](mailto:jsheahan@usmayors.org) or at 202-861-6775.

Thank you for your consideration.  
Sincerely,



## **WATER QUALITY IMPROVEMENT ACT OF 2015**

Attached you will find The U.S. Conference of Mayors legislative proposal to reestablish the federal-state-and city partnership necessary to achieve the nation's Clean Water goals. For too long, communities have been told to achieve Clean Water Act mandates without any consideration of whether those requirements were feasible or economically affordable, or even whether they provided significant environmental benefit.

The nation's Mayors believe that a more beneficial approach is one where the full array of wastewater needs are taken into account and approached in a comprehensive fashion. This approach seeks to achieve the greatest public health and environmentally beneficial goals first, while other, less beneficial needs, are evaluated to determine if the cost justifies the expenditures. Also, for the first time, this approach establishes a relief trigger and a required evaluation for the cost of these solutions to poor and middle-income residents.

The Water Quality Improvement Act of 2015 would do the following:

### **1) Codify EPA's Integrated Planning Process:**

EPA has already started implementing Integrated Planning as an alternative, or in addition, to costly consent decrees. The Water Quality Improvement Act would codify EPA's Integrated Planning process as an option to be chosen by local governments who are facing costly water and sewer mandates in order to prioritize those investments.

### **2) Establishes Affordability Criteria Triggers:**

EPA has recently allowed cities to submit additional information that establishes what a community can or can not afford as it relates to establishing consent decree and integrated planning frameworks. The Water Quality Improvement Act would codify the relief test that local governments could use to establish sewer rates that are affordable for their citizens.

### **3) Define Attainable Water Quality Standards:**

The Water Quality Improvement Act would determine whether water quality standards are technically achievable and economically affordable by evaluating whether the controls are achievable, affordable and sustainable for a community.

Attached please find our legislative proposal for your consideration. If you have any questions, please contact Judy Sheahan of The U.S. Conference of Mayors at [jsheahan@usmayors.org](mailto:jsheahan@usmayors.org) or at 202-861-6775.

## Section 1. Short title.

This Act may be cited as the Water Quality Improvement Act of 2015.

## SEC. 2 FINDINGS.

Congress finds the following:

- (1) The capital costs that cities bear to address combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), treatment plant upgrades, and stormwater controls are unfunded federal mandates and are among the most costly burdens faced by local governments.
- (2) Since 1987 many unanticipated and extremely costly new Clean Water Act and Safe Drinking Water Act mandates have been imposed on local governments and more are to be imposed on local governments in coming months and years, but federal grant money is no longer provided to help meet these mandates.
- (3) The many mandates imposed by the Clean Water Act and the Safe Drinking Water Act have created cumulative financial burdens that cannot be borne by municipalities, their low and moderate income families, and their business enterprises, forcing municipalities to forego investment in competing municipal priorities.
- (4) In explicit recognition of the burden of these costs the United States Environmental Protection Agency (U.S. EPA) has recently developed a policy allowing local governments to create Integrated Plans through which a local government can coordinate competing and sometimes conflicting actions, prioritize actions that will provide the greatest environmental and public health benefits for the funds expended, and evaluate progress and the need for further actions to meet water quality standards through adaptive management processes.
- (5) Plans implemented by local governments to address water quality should be based on economically achievable and sustainable control measures to meet attainable water quality standards.

## SEC. 3. INTEGRATED PLANNING PROCESS.

### 1. Integrated Planning Permits.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

“(r) Implementing Integrated Plans Through Permits.--

(1) Permit flexibility.—Upon the request of the permittee, the Administrator or, in the case of an authorized State, the Director shall issue a permit for municipal discharges that integrates multiple effluent standards and limitations under this Act. In such a permit-

(A) the water quality based effluent limitations shall be based on attainable water quality standards;

(B) the control measures shall be economically achievable and sustainable; and

(C) the authorized discharges need not immediately meet water quality based effluent limitations as long as the discharger continues to make reasonable progress towards meeting such limitations.

(2) Permit compliance.-- A discharge that is in compliance with a permit under this subsection is deemed to be in compliance with effluent standards and limitations under this Act.

(3) Attainable Water Quality Standards. – Attainable water quality standards under paragraph (1) are standards that the Administrator or, in the case of an authorized State, the Director has reviewed and found to be technically achievable and economically affordable.

(A) A determination of technical achievability shall consider -

(i) Naturally occurring pollutant concentrations;

(ii) Natural, ephemeral, intermittent or low flow conditions or water levels;

(iii) Human caused conditions or sources of pollution that cannot be remedied or would cause more environmental damage to correct than to leave in place;

(iv) Dams, diversions or other types of hydrologic modifications where it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of water quality standards; and

(v) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, that may preclude attainment of water quality standards.

(B) A determination of economic affordability shall consider whether meeting water quality standards would result in substantial and widespread social and economic impact.

(i) the economic and social impact on a person in the service area of the permittee is substantial if the costs paid by such person to any entity for all federally mandated infrastructure improvements, operation and maintenance, and compliance measures, including costs incurred as a result of this Act, the Safe Drinking Water Act, the Solid Waste Disposal Act, and the National Flood Insurance Act, and similar mandates under state law, and the cost of servicing any debt incurred or to be incurred to finance such costs exceeds 2 percent of the person's household income.

(ii) an economic and social impact is widespread if twenty percent or more of persons in the service area of the permittee face the substantial impact described in clause (i).

(C) In determining whether the economic and social impacts of existing and potential additional costs, including debt service, on persons living within the service area of the permittee are substantial and widespread, the Administrator or, in the case of an authorized State, the Director also shall consider:

(i) impacts on low income households and the ability of such households to pay basic shelter costs;

(ii) whether or not there is a failing local industry or if a local industry might fail if higher taxes or fees are imposed on it;

(iii) the population trends in the service area of the permittee;

(iv) a municipality's capital improvement plan and whether a municipality would have to forego projects in its plan in order to finance improvements to comply with existing water quality standards;

(v) the ability of a municipality to incur more debt, including its ability to issue and find a market for additional municipal bonds;

(vi) whether the debt incurred to implement controls has or will result in a lowering of the municipality's bond rating;

(vii) whether the municipality has limited legal authority to pass increased costs through to ratepayers and increased costs of water quality programs must be paid from their general fund; and

(vii) any other financial factor brought to the Administrator's or, in the case of an authorized State, the Director's attention by a municipality.

(D) A determination of economic affordability shall not be based on median household income and shall not establish a minimum level of expenditure by a municipality.

(E) A determination of economic affordability shall be based on the legally adopted rates in effect at the time that the determination is made.

(4) Economically achievable controls. -- Economically achievable controls under paragraph (1) means -

(A) controls that will not result in substantial and widespread social and economic impacts as determined in accordance with paragraph (3)(B) or

(B) in any case in which a discharger is a municipality or other subdivision of a state organized for the purpose of providing services to the public, the annual cost to implement such controls, including debt service on bonds issued to fund such implementation, will not exceed fifty percent of the annual operating budget of the operating utility, unless

(i) the Administrator provides the discharger with a grant covering at least 75 percent of the total capital cost of the control measures, or

(ii) the permit allows at least 40 years for the implementation of controls, and, if requested by the discharger, the permit relies on green infrastructure.

(5) Sustainable controls.—The Administrator, or in the case of an authorized state program, the Director, shall determine whether control measures are

sustainable under paragraph (1) by evaluating relevant environmental impacts associated with implementation of the controls over the life of such controls.

(6) Reasonable progress.—The Administrator, or in the case of an authorized state program, the Director, shall determine whether a discharger is making reasonable progress towards meeting attainable water quality standards by implementing economically affordable and sustainable control measures under paragraph (1) based on -

(A) the availability and effectiveness of controls,

(B) the cost of controls and the impact of such costs on ratepayers, and

(C) all environmental impacts of the control measures.

(7) Permit Term – At the discretion of the Administrator, or in the case of an authorized state, the Director, a permit described in paragraph (1) may be issued for a term of greater than five years, but not more than ten years.

(8) Adaptive management for the attainment of water quality standards.—

At the time of renewal of a permit described in paragraph (1), the Administrator, or in the case of an authorized state, the Director, shall evaluate the effectiveness of the controls identified in the permit, including whether attainable water quality standards are being met or are expected to be met through the controls implemented during the permit term and shall evaluate whether the controls continue to be affordable and sustainable.

(A) If attainable water quality standards are not being met, the permit may

(i) be renewed to continue implementation of affordable and sustainable controls identified in the permit that are expected to result in the attainment of water quality standards in the future,

(ii) be renewed to replace the controls identified in the permit with alternative affordable and sustainable controls designed to meet attainable water quality standards based on information developed by the discharger, or,

(iii) if controls identified in the permit are fully implemented but water quality standards are not yet met, require the implementation of additional affordable and sustainable controls.

(B) If attainable water quality standards are being met, no additional controls on the discharge shall be required under this section.

(C) If the controls identified in the permit are no longer affordable and sustainable, the permit may be modified to replace the controls identified in the permit with alternative affordable and sustainable controls.

(9) Prioritization and sequencing of controls.—

(A) Prioritization.-- A permit described in this subsection shall allow the permittee to identify priority controls that will achieve cost-effective water quality benefits and to implement and assess the effectiveness of such controls before requiring implementation of other regulatory controls.

(B) Controls identified in the permit.- If the permit provides for prioritization and sequencing of controls, any regulatory obligations that are planned to be addressed after the term of the permit shall be identified generally in the permit fact sheet but shall not be mandatory elements of the permit.

(s) Unavoidable Discharges.—

(1) Permits.- A permit under this section may authorize an unavoidable discharge from a sanitary sewer.

(2) Unavoidable discharges.—A discharge from a sanitary sewer overflow is unavoidable if it is --

(A) a discharge that is necessary to prevent loss of life, personal injury, or severe property damage; or

(B) a discharge that is a temporary, exceptional incident that could not be prevented by proper operation and maintenance of the system, such as exceptional acts of nature, wet weather conditions beyond the capacity of the system, and unforeseen sudden structural, mechanical, or electrical failure that is beyond the control of the operator.

(3) Controls on unavoidable discharges to protect water quality.-- A permit may require controls to prevent the violation of water quality standards from unavoidable discharges from sanitary sewers.”

#### SEC 4. DEFINITIONS

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362 is amended by adding at the end the following—

“(25) BYPASS.—The term “bypass” means an intentional diversion of a waste stream from any portion of a treatment system. Treatment of a waste stream in accordance with the design of the treatment system shall not constitute a “bypass” if the treatment system was approved or permitted by the Administrator, or in the case of an authorized state program, the Director, or if the discharge achieves technology and water quality based effluent limitations at the point of discharge.<sup>1</sup>

(26) MUNICIPAL DISCHARGES.—The term “municipal discharges” means discharges from a treatment works as defined in section 212(2) or discharges from a municipal storm sewer under section 402(p). This term includes discharges of wastewater or storm water collected from multiple municipalities if such discharges are covered by the same permit issued under section 402.”



# MEMORANDUM

**TO:** Mayor and City Council  
**FROM:** Craig Hensley, Community Development Director *CH*  
**DATE:** July 14, 2015  
**SUBJECT:** Appointment to Town Center Ad Hoc Committee

---

Recently, Robert Herrera resigned his position as a Town Center Ad Hoc Committee member. Mr. Herrera was appointed by Mayor Paras-Caracci.

As a replacement, Mayor Paras-Caracci has selected Sean Lawrence.



## MEMORANDUM

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**To:** City Council

**From:** Teresa Renteria, Assistant Civil Engineer

**CC:** Craig Hensley, Community Development Director  
Marla Akana, City Clerk

**Date:** July 7, 2015

**Subject:** City Council Acceptance – Concrete Repair Program FY 2014-15  
Project # 15-7

---

### RECOMMENDED ACTION

Staff recommends that the City Council accept the "Concrete Repair Program FY 2014-15" and authorize the City Clerk to initiate the Notice of Completion.

---

### BACKGROUND

On April 21, 2015 the City Clerk publicly opened bids for the above project. This project consisted of the removal and replacement of concrete sidewalks, curbs, and gutters that were damaged by tree roots and other factors. These improvements allow for safer sidewalks and reduce the number of trip and fall claims in the City of Duarte, therefore has become an integral part of the City's Risk Management Plan.

FS Construction at 14838 Bledsoe Street, Sylmar CA 91342, has completed the above project. The cost of the project is \$47,993 and is funded by Measure R and the Bicycle/Pedestrian Safety Funds.

## **MEMORANDUM**

**TO:** Mayor and Councilmembers

**FROM:** Darrell J. George, City Manager

**DATE:** July 9, 2015

**SUBJECT:** Conference Attendance – City Council Meeting of July 14, 2015

Los Angeles County Business Federation  
BizFed Freshman Policymakers Inaugural Event  
August 5, 2015 – 5:00pm – 8:00pm  
Rockwell Table & Stage, Los Angeles  
\$100 per ticket

**BizFed Invites You to a Special Inaugural Event:**

## **BizFed Freshman Policymakers: 2014-15**

**Meet the Freshman Class of Law Makers Shaping the  
Future of Business in LA County**

**Wednesday August 5, 2015**

**5pm-8pm**

**Rockwell Table & Stage**

**1714 N. Vermont Avenue, Los Angeles 90027**

**BizFed is taking Government Affairs outreach to a new level by hosting the first annual summer policymaker event to directly connect your business to newly elected leaders. Join a historic incoming class of more than 100 federal, state, city and county officials from throughout LA County.**

**BizFed is the bridge between government and business in Los Angeles County. We represent 268,000 businesses employing nearly 3 million people in LA County and advocate for policies and projects that are good for our regional economy.**



Strengthening the Voice of Business

**To RSVP or for sponsorship information:  
<https://goo.gl/7i2dPM>**

**or email Heidi Nietert at [heidi.nietert@gmail.com](mailto:heidi.nietert@gmail.com)**



Mobilizing the Voice of Business

# BizFed Freshman Policymakers: 2014-15

## Federal Officeholders

Congressmember Steve Knight, CD 25    Congressman Ted Liu, CD 33    Congressmember Norma Torres, CD 35

## State Officeholders

### Senate

Sen. Ben Allen, SD 20  
Sen. Bob Hertzberg, SD 32  
Sen. Connie Leyva, SD 30  
Sen. Tony Mendoza, SD 28  
Sen. Holly Mitchell, SD 21  
Sen. Jeff Stone, SD 28  
Sen. Sharon Runner, SD 21

### Assembly

Asm. Autumn Burke, AD 62  
Asm. Matt Dababneh, AD 45  
Asm. David Hadley, AD 66  
Asm. Tom Lackey, AD 36  
Asm. Patty Lopez, AD 39  
Asm. Sebastian Ridley-Thomas, AD 54  
Asm. Freddie Rodriguez, AD 52  
Asm. Miguel Santiago, AD 53

### Constitutional

Controller Betty Yee  
Secretary of State Alex Padilla  
Treasurer John Chiang

## County Officeholders

Assessor Jeffrey Prang  
Sheriff Jim McDonnell  
Supervisor Hilda Solis, District 1  
Supervisor Sheila Kuehl, District 3

### Mayors

Thomas Adams, City of Monrovia  
Robert Garcia, City of Long Beach

Ann Marshall, City of Avalon  
Terry Tornek, City of Pasadena

## City Council

Sho Tay, City of Arcadia  
Tom Beck, City of Arcadia  
Cinde MacGugan-Cassidy, City of Avalon  
Joe Sampson, City of Avalon  
Fidencio Joel Gallardo, City of Bell  
Maria Pulido, City of Bell Gardens  
Will Rogers, City of Burbank  
Jawane Hilton, City of Carson  
Jim Edwards, City of Cerritos  
Naresh Solanki, City of Cerritos  
Oralia Rebollo, City of Commerce  
Emma Sharif, City of Compton  
Christian Hernandez, City of Cudahy  
Jimmy Lin, City of Diamond Bar  
Sean Ashton, City of Downey  
Mike Dugan, City of El Segundo  
Mark Henderson, City of Gardena  
Paula Devine, City of Glendale  
Vartan Gharpetian, City of Glendale  
Mendell Thompson, City of Glendora  
Gary Boyer, City of Glendora  
Marilyn Sanabria, City of Huntington Park  
Graciela Ortiz, City of Huntington Park  
Jhonny Pineda, City of Huntington Park  
Newell Ruggles, City of Industry  
Cory Moss, City of Industry

Mark Radecki, City of Industry  
Teresa Walker, City of  
La Canada Flintridge  
Leonard Pieroni, City of  
La Canada Flintridge  
Edward Eng, City of La Mirada  
Valarie Muñoz, City of La Puente  
Tim Hepburn, City of La Verne  
Dan Reid, City of Lawndale  
Lena Gonzalez, City of Long Beach  
Suzie Price, City of Long Beach  
Stacey Mungo, City of Long Beach  
Roberto Uranga, City of Long Beach  
Rex Richardson, City of Long Beach  
Daryl Supernaw, City of Long Beach  
David Ryu, City of Los Angeles  
Marquece Harris-Dawson, City of LA  
Gloria Crudgington, City of Monrovia  
Stephen Lam, City of Monterey Park  
Jennifer King, City of PV Estates  
Betty Lin Peterson, City of PV Estates  
James Vandever, City of PV Estates  
Tyron Hampton, City of Pasadena  
Ann Marshall, City of Pasadena  
Adriana Robledo, City of Pomona  
Diane Lawson, City of Pomona  
Christian Horvath, City of Redondo Beach

Leah Mirsch, City of Rolling Hills  
Patrick Wilson, City of Rolling Hills  
Jaime Soto, City of San Fernando  
Juli Costanzo, City of San Gabriel  
Dante Acosta, City of Santa Clarita  
Sue Himmelrich, City of Santa Monica  
Rachelle Arizmendi, City of  
Sierra Madre  
Denise Delmar, City of Sierra Madre  
Gene Goss, City of Sierra Madre  
Belen Bernal, City of South Gate  
Nanette Fish, City of Temple City  
William Man, City of Temple City  
Heidi Ann Ashcraft, City of Torrance  
Kurt Weideman, City of Torrance  
Tim Goodrich, City of Torrance  
Geoff Rizzo, City of Torrance  
Mike Griffiths, City of Torrance  
Melissa Ybarra, City of Vernon  
Yvette Woodruff-Perez, City of Vernon  
Robert Pacheco, City of Walnut  
Ben Wong, City of West Covina  
Lauren Meister, City of West Hollywood  
Lindsey Horvath, City of  
West Hollywood  
John Heilman, City of West Hollywood

# **BizFed Freshman Policymakers: 2014-15**

## **\$10,000 sponsorship level**

- Top logo branding on invitations and marketing materials distributed to all attendees
- Top logo branding at event scrolling on television screens throughout venue
- Digital attendee list
- One year of BizFed Bronze Level Membership for new members
- Back cover 4-color add in printed BizFed "Freshman Facebook" distributed to all attendees
- Opportunity to introduce a group of elected officials during event program
- 20 tickets to the event
- Opportunity to provide promotional items and literature in gift bag distributed to all attendees

## **\$7,500 sponsorship level**

- Premium logo branding on invitations and marketing materials distributed to all attendees
- Premium logo branding at event scrolling on television screens throughout venue
- One year of BizFed Bronze Level Membership for new members
- Full page color add in printed BizFed "Freshman Facebook" distributed to all attendees
- Opportunity to introduce a group of elected officials during event program
- 15 tickets to the event
- Opportunity to provide promotional items and literature in gift bag distributed to all attendees

## **\$3,500 sponsorship level**

- High level logo branding on invitations and marketing materials distributed to all attendees
- High level logo branding at event scrolling on television screens throughout venue
- Half page color add in printed BizFed "Freshman Facebook" distributed to all attendees
- 10 tickets to the event
- Opportunity to provide promotional items and literature in gift bag distributed to all attendees

## **\$1,500 sponsorship level**

- Logo branding on invitations and marketing materials distributed to all attendees
- Logo branding at event scrolling on television screens throughout venue
- Listing in printed BizFed "Freshman Facebook" distributed to all attendees
- 5 tickets to the event
- Opportunity to provide promotional items and literature in gift bag distributed to all attendees

## **\$100 ticket**

- Two drink tickets
- Copy of BizFed "Freshman Facebook"

# BizFed Freshman Policymakers: 2014-15

## Donor Information

Please RSVP and purchase tickets on our website: <https://goo.gl/7i2dPM>

OR to pay by check, please fill out this form and mail Attn to: BizFed 1000 North Alameda Street, Suite 240 Los Angeles, 90012. Make checks payable to Los Angeles County Business Federation.

Please circle your sponsorship level:

\$10,000    \$7,500    \$3,500    \$1,500    \$100 ticket

Street Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Please All out if you are:

### An Individual

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Employer: \_\_\_\_\_

### A Business

Business Name: \_\_\_\_\_

### A Political Action Committee

PAC Name: \_\_\_\_\_

### A Non-Profit Organization

Non-Profit Name: \_\_\_\_\_

Please Circle: 501(c)(3)    501(c)(4)    501(c)(5)    501(c)(6)    other: \_\_\_\_\_

Proceeds of this event will be split 80 percent for the Los Angeles County Business Federation and 20 percent for BizFed PAC. 20 Percent of each ticket purchased is a donation to BizFed PAC and is not tax deductible.

Optional: Please check here if you would like 100% of your contribution to go to:

☐ BizFed

☐ BizFed PAC

## BizFed Freshman Rush / Class of 2014-15

BizFed / BizFedPAC Organizing Committee

Wednesday, August 5, 2015 from 5:00 PM to 8:00 PM (PDT)

Los Angeles, CA

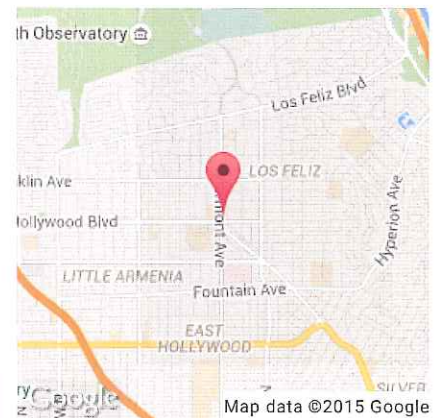


### Ticket Information

| TICKET TYPE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | SALES END   | PRICE       | FEE    | QUANTITY |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|--------|----------|
| <b>Elected Official</b><br>This ticket is for the registration of Freshman Elected Officials designated by BizFed only. Each elected official is allowed to identify one guest during the registration process.                                                                                                                                                                                                                                                                                                                                                                                         | Aug 4, 2015 | Free        | \$0.00 | 0        |
| <b>Single Ticket</b><br>Two drink tickets. Copy of BizFed "Freshman Facebook"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Aug 5, 2015 | \$100.00    | \$0.00 | 0        |
| <b>\$10,000 Sponsorship Level</b><br>• Top Logo branding on invitations and marketing materials distributed to all attendees • Top Logo branding at event scrolling on television screens throughout venue • Digital attendee list • One year of BizFed Bronze Level Membership for new members • Back cover 4-color add in printed BizFed "Freshman Facebook" distributed to all attendees. • Opportunity to introduce a group of elected officials during event program • 20 tickets to the event • Opportunity to provide promotional items and literature in gift bags distributed to all attendees | Aug 4, 2015 | \$10,000.00 | \$0.00 | 0        |
| <b>\$7,500 Sponsorship Level</b><br>• Premium Logo branding on invitations and marketing materials distributed to all attendees • Premium Logo branding at event scrolling on television screens throughout venue • One year of BizFed Bronze Level Membership for new members • Full page color add in printed BizFed "Freshman Facebook" distributed to all attendees. • Opportunity to introduce a group of elected officials during event program • 15 tickets to the event • Opportunity to provide promotional items and literature in gift bags distributed to all attendees                     | Aug 4, 2015 | \$7,500.00  | \$0.00 | 0        |
| <b>\$3,500 Sponsorship Level</b><br>• High level logo branding on invitations and marketing materials distributed to all attendees • High level logo branding at event scrolling on television screens throughout venue • Half page color add in printed BizFed "Freshman Facebook" distributed to all attendees. • 10 tickets to the event • Opportunity to provide promotional items and literature in gift bags distributed to all attendees                                                                                                                                                         | Aug 4, 2015 | \$3,500.00  | \$0.00 | 0        |
| <b>\$1,500 Sponsorship Level</b><br>• Logo branding on invitations and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Aug 4, 2015 | \$1,500.00  | \$0.00 | 0        |

Save This Event

### When & Where



**Rockwell Table & Stage**  
 1714 North Vermont Avenue  
 Los Angeles, CA 90027

Wednesday, August 5, 2015 from 5:00 PM to 8:00 PM (PDT)

[Add to my calendar](#)

### Organizer

**BizFed / BizFedPAC Organizing Committee**

Please contact the following individuals:

#### SPONSORSHIPS

**Elizabeth Shapiro - BizFed Director of Development**

[elizabeth.shapiro@bizfed.org](mailto:elizabeth.shapiro@bizfed.org)

310-401-4549

#### SINGLE TICKET

marketing materials distributed to all attendees • Logo branding at event scrolling on television screens throughout venue • Listing in printed BizFed Freshman Facebook distributed to all attendees • 5 tickets to the event • Opportunity to provide promotional items and literature in gift bags distributed to all attendees



Order Now

Share BizFed Freshman Rush / Class of 2014-15

Email

Share

Tweet

## PURCHASES/

## ELECTED REGISTRATIONS

Joseph Nelson - BizFed Office Manager

[admin@bizfed.org](mailto:admin@bizfed.org)

213-346-3282

Contact the Organizer

View organizer profile

1 upcoming event on Eventbrite

## Event Details



Strengthening the Voice of Business



Mobilizing the Voice of Business

## BizFed Invites You to a Special Inaugural Event

### BizFed Freshman Policymakers: 2014-15

Wednesday, August 5, 2015

5pm to 8pm

Rockwell Table & Stage

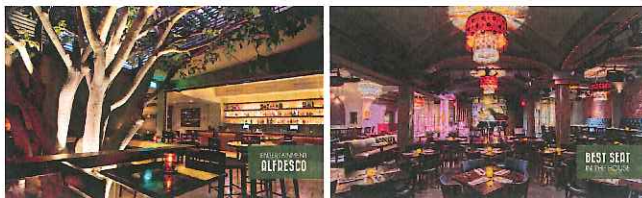
1714 N Vermont Ave

Los Angeles, CA 90027

\*\*\*\*\*

BizFed is taking Government Affairs outreach to a new level by hosting the first annual summer Rush party to directly connect your business to newly elected leaders. Join a historic incoming class of more than 100 federal, state, city and county officials from throughout Los Angeles County.

BizFed is the bridge between government and business in Los Angeles County. We represent 268,000 businesses employing nearly 3 million people in LA County and advocate for policies and projects that are good for our regional economy.



\*\*\*\*\*

## SPONSORSHIPS AVAILABLE

### \$10,000 Sponsorship Level

- Top Logo branding on invitations and marketing materials distributed to

BizFed Freshman Rush / Class of 2014-15

Los Angeles, CA Events Gala

Government

all attendees

- Top Logo branding at event scrolling on television screens throughout venue
- Digital attendee list
- One year of BizFed Bronze Level Membership for new members
- Back cover 4-color add in printed BizFed "Freshman Facebook" distributed to all attendees.
- Opportunity to introduce a group of elected officials during event program
- 20 tickets to the event
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- 15 tickets to the event
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### **\$3,500 Sponsorship Level**

- High level logo branding on invitations and marketing materials distributed to all attendees
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- Half page color add in printed BizFed "Freshman Facebook" distributed to all attendees.
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### **\$1,500 Sponsorship Level**

- Logo branding on invitations and marketing materials distributed to all attendees
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- 5 tickets to the event
- Opportunity to provide promotional items and literature in gift bags distributed to all attendees

### **\$100 (Single Ticket)**

- Two drink tickets
- Copy of BizFed "Freshman Facebook"

### **SPONSORSHIPS:**

Please contact Elizabeth Shapiro at: [elizabeth.shapiro@bizfed.org](mailto:elizabeth.shapiro@bizfed.org) or 310-401-4549

### **SINGLE TICKET/ELECTED OFFICIAL:**

Please contact Joseph Nelson at: [admin@bizfed.org](mailto:admin@bizfed.org) or 213-346-3282

Have questions about BizFed Freshman Rush / Class of 2014-15?

Contact BizFed / BizFedPAC Organizing Committee

Legal Notice

Legal Notice

Legal Notice

Legal Notice

Legal Notice

Legal Notice

Legal Notice

Legal Notice

Legal Notice

Legal Notice

## RESOLUTION NO. 15-08

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR FISCAL YEAR 2015-2016 WITHIN THE CITYWIDE LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT, PURSUANT TO THE LANDSCAPE AND LIGHTING ACT OF 1972; AND FIXING A TIME AND PLACE FOR THE PUBLIC HEARING TO HEAR OBJECTIONS THERETO**

The City Council of the City of Duarte, pursuant to the provisions of the Landscape and Lighting Act of 1972, Division 15 of the Streets and Highways Code of the State of California, does resolve as follows:

DESCRIPTION OF WORK

SECTION 1. That the public interest and convenience requires and it is the intention of the City Council of the City of Duarte, California, to levy and collect assessments within the Citywide Landscape and Lighting Maintenance District for Fiscal Year 2015-2016 within which the following work is to be done:

1. Maintenance and servicing of street landscaping and street trees.
2. Maintenance and servicing of street lighting facilities.
3. Maintenance and servicing of traffic signals.
4. The cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti within street right-of-way.
5. Funding for the construction of the Senior Center.
6. Maintenance and servicing of Parks.
7. Any and all work and materials appurtenant thereto.

LOCATION OF WORK

SECTION 2. The foregoing described work is to be located within streets, easements and City-owned property within the City of Duarte particularly described on a map on file in the City Clerk's office entitled "Landscape and Lighting Maintenance District, Assessment Diagram," said district boundary being the same as the City boundary.

DESCRIPTION OF ASSESSMENT DISTRICT

SECTION 3. That the contemplated work, in the opinion of said City Council, is of benefit to and the said City Council hereby makes the expense of the said work chargeable upon a district, which said district is assessed to pay the costs and expenses thereof and which district is described as follows:

The City Council has determined that pursuant to Section 22595 of the Streets and Highways Code of the State of California that the public utility property is to be assessed.

All that certain property within the City of Duarte, exclusive of public streets.

REPORT OF THE ENGINEER

SECTION 4. The City Council of said City does hereby tentatively approve the report of the Engineer, which indicates the amount of the proposed assessments, the district boundary, assessment zones, detailed description of improvements, and the method of assessment. The report entitled "Engineer's Report, Landscape and Lighting Maintenance District" is on file in the Office of the City Clerk and reference to said report is hereby made for all particulars.

ASSESSMENTSSECTION 5.

(a) Pursuant to Section 5 of Article XIID of the California Constitution an assessment existing on November 5, 1996 imposed exclusively to finance capital costs of maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control is exempt from the procedures and approved process set forth in Section 5 of Article XIID of the California Constitution.

(b) The proposed assessments relating to Zones 1 through 15 were existing on the effective date of Article XIID of the California Constitution and were previously imposed and are proposed for fiscal year 2015-2016 to be imposed exclusively to finance the capital costs of maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control.

(c) The proposed assessments relating to Zones 16 through 18 were voted upon and approved by a majority of property owners in accordance with the requirements of Article XIID of the California Constitution.

(d) The assessments are proposed to increase by 0.73% in Zones 4, 7 and 8 as previously approved by the property owners, and also by 0.73% in Zones 14, 15, 16, 17, and 18 as allowed for in the formation of the zones, and in the Citywide assessment, which is subject to the notice, protest, and hearing requirements of Section 53753 of the Government Code.

TIME AND PLACE OF PUBLIC HEARING

SECTION 6. Notice is hereby given that on the 14th day of July 2015, at the hour of 7:00 p.m., in the Council Chambers of City Hall, 1600 Huntington Drive, Duarte, California, any and all persons having any objections to the work or intent of the assessment district may appear and show cause why said work should not be done or carried out, or why said assessments should not be levied in accordance with this Resolution of Intention. The City Council will consider all oral and written protests.

LANDSCAPING AND LIGHTING ACT OF 1972

SECTION 7. All work herein proposed shall be done in accordance with the Landscape and Lighting Act of 1972, Division 15 of the Streets and Highways Code of the State of California.

NOTICE

SECTION 8. The City Clerk is hereby ordered to give notice in accordance with Section 22626 of the Streets and Highways Code of the State of California.

PASSED, APPROVED and ADOPTED this 9th day of June, 2015.

Mayor Tzeitel Paras-Caracci  
City of Duarte

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.  
CITY OF DUARTE )

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 15-08 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 9th day of June, 2015, by the following vote:

AYES: Councilmembers: Fasana, Finlay, Reilly, Paras-Caracci  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Kang

City Clerk Marla Akana  
City of Duarte, California

Published: Duartean June 20, 2015 AD#680253



# MEMORANDUM

**TO:** Mayor and City Council  
**FROM:** Community Development Department   
**DATE:** July 14, 2015  
**SUBJECT:** Establish property assessments to pay for the Lighting and Landscape Assessment District.

---

Each year, the City Council is required to hold a Public Hearing to establish property assessments to pay for the Lighting and Landscape Assessment District.

At its June 9 meeting, the City Council adopted Resolution 15-08 that declared the City Council's intention to levy and collect assessments for fiscal year 2015-2016; (2) approved the Engineer's Report indicating the amounts of the proposed assessment, district boundaries, assessment zones, descriptions of improvements, and method of assessment; and (3) set this date for the evening's Public Hearing.

This year, the assessments are proposed to increase by CPI (0.73%) in special Zones 4, 7, 8, 14, 15, 16, 17 and 18 as allowed for in their formation or by previous approval.

Staff recommends that the City Council adopt Resolution 15-R-15 providing for the annual levy for fiscal year 2015-2016.

## **RESOLUTION NO. 15-R-15**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2015-2016 WITHIN THE LANDSCAPE AND LIGHTING DISTRICT PURSUANT TO THE LANDSCAPE AND LIGHTING ACT OF 1972**

The City Council of the City of Duarte, pursuant to the provisions of the Landscape and Lighting Act of 1972, Division 15 of the Streets and Highways Code of the State of California, does resolve as follows:

**SECTION 1. RECITALS.** The City Council of the City of Duarte does hereby find, determine and declare as follows:

- A. On the 9<sup>th</sup> day of June, 2015, the City Council adopted Resolution No. 15-08 (the "Resolution of Intention") which declared its intent to levy and collect assessments for Fiscal Year 2015-2016 within the District and Zones and set a time and place for a public hearing. The Resolution of Intention was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of the Resolution of Intention on file in the office of the City Clerk; and
- B. At the time and place for which notice was given, the City Council conducted a public hearing and gave every interested person an opportunity to object to the proposed boundary, work or assessment; and
- C. The City Council, having duly received and considered oral and documentary evidence concerning the jurisdictional facts in this proceeding and concerning the necessity for the contemplated work and benefits to be derived therefrom, has acquired jurisdiction to order the proposed assessment.

**SECTION 2.** That the proposed assessments relating to the District and Zones 1-15 were existing on the effective date of Article XIID of the California Constitution. Zones 16, 17 & 18 were approved per the requirements of Article XIID of the California Constitution. All zones were previously imposed, and for Fiscal Year 2015-2016 Zones 4, 7, 8, 14, 15, 16, 17, and 18 are proposed to be increased by a CPI of 0.73%, all of which are allowed in the formation of the zones or previously voter approved, and all other zones are contemplated to be imposed without increase. Funds are to be used exclusively to finance the capital costs or maintenance and operation expenses for landscaping sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Pursuant to Section 5 (a) of Article XIID of the California Constitution, the proposed assessments to be levied and collected in the District and Zones 1-18 are, therefore, exempt from the procedures and approval process set forth in Section 4 of Article XIID of the California Constitution.

**SECTION 3.** That the proposed assessments relating to Zones 1-18 were existing on the effective date of Article XIID of the California Constitution or were voter approved and all such assessments were imposed pursuant to a petition signed by the persons owning all of the parcels, subject to the assessment at the time the assessment was initially imposed. Pursuant to Section 5 (b) of Article XIID of the California Constitution, the proposed assessments to be levied and collected in Zones 1-18 are, therefore, exempt from the procedures and approval process set forth in Section 4 of Article XIID of the California Constitution.

**SECTION 4.** The Engineer's Report on file with the City Clerk, and each component part of it, including each exhibit incorporated by reference, as amended, if applicable, is hereby finally approved and adopted.

**SECTION 5.** The diagram and assessment prepared in connection with the District are hereby confirmed.

**SECTION 6.** The public interest and convenience requires the ordering the levy and collection of assessment for Fiscal Year 2015-2016 and the City Council hereby orders the levy and collection of assessments within the district and the zones, as set forth and described in the Resolution of Intention and in the Engineer's Report.

**SECTION 7.** The adoption of this Resolution constitutes the levy of the assessments as set forth in the Engineer's Report for Fiscal Year 2015-2016.

**SECTION 8.** The City Clerk is authorized and directed to file a certified copy of the diagram and assessment with the County Auditor of the County of Los Angeles no later than the 7<sup>th</sup> day of August 2015.

**SECTION 9.** The City Clerk is hereby authorized and directed to certify as to the adoption of this Resolution.

PASSED AND ADOPTED this 14<sup>th</sup> day of July 2015.

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Tzeitel Paras-Caracci, Mayor  
City of Duarte

STATE OF CALIFORNIA                     )  
COUNTY OF LOS ANGELES             ) ss.  
CITY OF DUARTE                             )

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 15-R-15 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 14<sup>th</sup> day of July, 2015, by the following vote:

AYES:             Council Members:  
NOES:            Council Members:  
ABSENT:          Council Members:

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City Clerk Marla Akana  
City of Duarte, California

## Staff Report

Date of Council Appeal Hearing: July 14, 2015

Case Number: CE15-185

Code Compliance Officer: Breceda

Property in Violation: 1740 Huntington Drive, Unit 102, Bellagio Fountain of Youth  
Wellness Center

Parcel Number: 8530-023-043

Property Owner on Record: Robert & Bertha Yoohana

Property Owner Address: 3701 Ocean View Blvd., Montrose, CA 91020

Tenant: Roxana Ponce De Leon

Violator/Appellant: Roxana Ponce De Leon

Case Start Date: April 8th, 2015

Business License Hearing Date: May 13th, 2015

### Applicable Duarte Municipal Code Violations:

#### **5.04.030 - Permits as prerequisite.**

No license shall be issued to engage in any business when the provisions of this title, or other ordinance of this city, require a permit to be obtained as a prerequisite to engaging in such business, until such permit is first obtained. Any license issued in violation of this section shall be void.

#### **5.04.230 - Misrepresentation prohibited.**

No person shall knowingly or intentionally misrepresent to any officer or employee of the city any material fact in procuring the licenses or permits provided for in this title.

**5.04.240 - Grounds for revocation or suspension. (relevant section):**

(a) Any license or permit granted or issued under the provisions of this title may be revoked or suspended by the finance director if the finance director or his or her designee determines, after a hearing pursuant to Section 5.04.250 of this code, that:

- (1) The holder of the license or permit has obtained the license or permit by misrepresentation;
- (2) The holder of the license or permit has failed to comply with one or more of the specific provisions of this code or any other resolution or ordinance of this city;
- (7) The license or permit is being used for a purpose different from that for which it was issued.

**Background: Moratorium on Massage Establishments**

At the time Bellagio Fountain of Youth Wellness Center operated, the City had a moratorium on Massage Establishments. On July 8, 2014, the Duarte City Council enacted Urgency Ordinance No. 850 placing a moratorium on Massage Establishments in the City. (Attachment A.) A Massage Establishment is defined by Durante Municipal Code (“DMC”) section 19.160.140 as, “[a]n establishment where massage services are provided. Massages are defined as the application of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client.” (Attachment B.)

The moratorium adopted on July 8, 2014, was extended when the City Council enacted Urgency Ordinance No. 851 on August 12, 2014. (Attachment C.) The moratorium expired on June 26, 2015, when the City’s new massage ordinance went into effect permitting and regulating Massage Establishments in the City.

**The Business License**

On August 5, 2014, the City received a Business License Application from Roxana Ponce De Leon for a proposed Massage Establishment located at 1740 Huntington Drive, Unit 102. (Attachment D.) The name of the business was Bellagio Fountain of Youth Wellness Center. On August 7, 2014, the City sent a letter to Ms. De Leon denying her application for a Business License. The denial letter stated the proposed services to be offered at the business included massage-type services that were prohibited by Ordinance No. 850. (Attachment E.)

After issuing the denial letter, City staff had several interactions with Ms. De Leon explaining the moratorium and the prohibited act of conducting massage services at 1740 Huntington Drive, Unit 102.

City staff explained to Ms. De Leon that it was not advisable to obtain a lease at 1740 Huntington Drive, Unit 102 for massage services until the moratorium was over and a new ordinance went into effect. The City was concerned that Ms. De Leon would be prohibited from obtaining a Business License for a Massage Establishment at the same location as prohibited by the new ordinance.

On September 25, 2014, Ms. De Leon applied to the City for a Business License purportedly for office and retail space relating to her weight loss business. (Attachment F.) The Business License Application stated that the proposed business activities included “coaching nutrition lost weight control.” The City issued Ms. De Leon a Business License for the proposed business activities only. The name of the business is the same name as her proposed Massage Establishment - Bellagio Fountain of Youth Wellness Center (“Bellagio”).

#### City’s Investigation

On April 6, 2015, the City’s Public Safety Department received a complaint that Bellagio was conducting massages at 1740 Huntington Drive, Unit 102, without proper permits or City approvals in violation of the moratorium. That same day, Public Safety Officer Larry Breceda inspected Bellagio from the front window and observed a front desk/reception station, clipboard with records, a couch and a hallway with rooms. No visible merchandise was located in the front area of the business. The inspection revealed that Bellagio resembled a massage establishment rather than a retail/office space as indicated on the Business License issued to Ms. De Leon. Officer Breceda researched Bellagio on websites such as Yelp.com and Localsaver.com. On these websites, Bellagio specially advertised massage therapy services and offered discounts on certain types of massages. On Yelp.com, customers described receiving massages at Bellagio. (Attachment G.)

The advertisement on Localsaver.com for the discounted one hour hot stone massage offered at Bellagio specifically stated, “Seize this deal from Bellagio Fountain of Youth Wellness Center and work with a skilled therapist to embrace the many benefits of massage. You’ll emerge feeling refreshed and renewed. Ease aches, pains, and tension. Address an injury or chronic ailment. Warm stones send soothing heat into muscles. Improve mood and sleep quality.” (Attachment G.) Massage is defined in DMC section 19.160.140 as “the application of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client.” (Emphasis added.) Through this advertisement, Ms. De Leon intended to enhance or restore health and well-being of any client who received massage services at Bellagio.

Between April 6, 2015 and April 16, 2015, Officer Breceda inspected the premises to determine the business activity occurring at Bellagio. Officer Breceda observed that the business was occupied, mail was removed and picked up, and alterations were being made to the front desk area confirming it was open for business. On April 16, 2015, City employee Susie Ledesma posed undercover as a potential client. Ms. Ledesma contacted the owner of Bellagio, later confirmed as Ms. De Leon, to schedule a massage appointment for April 21, 2015, at Bellagio. (Attachment H.) Ms. Ledesma's appointment was confirmed for April 21, 2015, at 2:00 p.m. and the price for a one hour deep tissue massage was confirmed to be \$60.

On April 21, 2015, the day of the appointment, Officer Breceda provided Ms. Ledesma with three marked \$20 bills. When Ms. Ledesma arrived at Bellagio at approximate 1:50 p.m., the front door of the business was locked. Ms. Ledesma knocked and was greeted by Ms. De Leon, who let her in and proceeded to lock the door behind them both. Ms. Ledesma filled out paperwork indicating which areas of her body she wanted massaged. Ms. Ledesma asked Ms. De Leon how long she had been performing massages at that particular location and Ms. De Leon replied, "one year." Ms. Ledesma did not observe any evidence of nutrition or weight loss coaching nor did Ms. De Leon offer any of these services.

Once inside an interior room and undressed underneath a blanket, Ms. De Leon proceeded to massage Ms. Ledesma's neck, back and shoulder areas. During the massage, Ms. Ledesma asked Ms. De Leon if she provided weight management programs to which she replied, "no." Ms. De Leon then proceeded to massage Ms. Ledesma's lower back, legs and feet. At the conclusion of the massage, Ms. Ledesma paid Ms. De Leon with the three marked \$20 bills and requested a receipt. Ms. De Leon said she could not provide one at that time, but that she would provide one if Ms. Ledesma returned to Bellagio again. Ms. De Leon then unlocked the front door to allow Ms. Ledesma to exit the business.

Once Ms. Ledesma exited Bellagio, Officer Breceda made contact with Ms. De Leon who admitted she had just completed a massage. When Officer Breceda informed Ms. De Leon it was against the DMC to conduct massages without permits and approvals she replied, "I know. I have been doing this for over a year. I keep records." Ms. De Leon showed her patient records to Officer Breceda and stated she serves the patients at Bellagio. **When asked why she was providing massages even though she had been told by Officer Breceda and other City staff that she had to wait until the end of the City's moratorium, she informed Officer Breceda that her massage business was how she made a living and that she had no intent to sell merchandise at Bellagio as indicated on her Business License Application regarding retail operations.**

Ms. De Leon walked Officer Breceda through the business premises. Officer Breceda observed three massage rooms. One of the rooms was converted into a large shower room. Officer Breceda also

observed one bathroom and one patient assessment room. When asked where the closed cabinets were located with labels indicating receptacles for "clean" and "soiled" linens as required by DMC section 5.56.130, Ms. De Leon stated she had no such cabinets or labeling. (Attachment B.) Officer Breceda asked her where the lockers were for each patron as required by DMC section 5.56.150 and the list of services as required by DMC section 5.56.200. (Attachment B.) Ms. De Leon explained she had taken the list down the week before and that she never had lockers. At no time did Officer Breceda observe any merchandise or retail items. Officer Breceda did observe the three marked \$20 bills he provided to Ms. Ledesma in the cash drawer located behind the front desk.

Based upon his observations and the statements made by Ms. De Leon, Officer Breceda issued multiple Administrative Citations to Ms. Leon for the following violations of the DMC:

- DMC § 5.04.230: failure to obtain permits to perform massage.
- DMC § 5.04.030: misrepresentation on business license application.
- DMC § 5.56.100: failure to keep business doors unlocked during business hours.
- DMC § 5.56.130: cleanliness – failure to provide closed and labeled cabinets for linens.
- DMC § 5.56.150: failure to provide adequate bathing, dressing, and locker facilities.
- DMC § 5.56.200: failure to display list of services with prices.

True and correct copies of these DMC sections are attached hereto as Attachment B.

#### Revocation & Appeal

On April 22, 2015, the City provided notice to Ms. De Leon that the Business License for Bellagio was revoked and that she had 10 days to request an appeal of that decision to the Finance Director. Ms. De Leon timely appealed. On May 5, 2015, the City mailed a letter to Ms. De Leon informing her that a hearing would be held on May 13, 2015. (Attachment I.) On May 11, 2015, the hearing notice was posted at the business location for Bellagio and on the property manager's unit at 1740 Huntington Drive.

On May 13, 2015, the City conducted a Business License Revocation Hearing pursuant to DMC section 5.04.250. (Attachment B.) Despite receiving notice from the City of the hearing date and time, Ms. De Leon did not appear at the hearing. Based on the evidence presented, Finance Director Kristen Petersen determined Bellagio was operating in violation of DMC section 5.04.230 for knowingly misrepresenting to the City that the business would only be providing nutrition and weight loss counseling and selling products. (Attachment J.) Finance Director Petersen also determined that Ms. De Leon was performing massage services without proper permits or licenses as required by DMC section 5.04.030.

(Attachment B.) Based upon these violations of law, the Business License was revoked and Ms. De Leon was informed she had 15 days to appeal the decision to the City Council. (Attachment J.)

On June 1, 2015, Ms. De Leon, through her attorney Victor S. Korechoff, appealed the decision to revoke the Business License for Bellagio. The hearing before the City Council for the appeal was originally scheduled for June 23, 2015, but was continued after Ms. De Leon and her counsel agreed to have the matter heard on July 14, 2015.

Ms. De Leon's appeal claims she was lawfully conducting massages as an ancillary permitted use prior to the enactment of the City's Urgency Ordinance No. 850 and Ms. De Leon should be "grandfathered" in and not subject to the moratorium. (Attachment K.) This allegation is completely baseless. The moratorium was adopted on June 8, 2015. Ms. De Leon did not even apply for her first Business License for a massage business until August 5, 2015. The City denied that application notifying Ms. De Leon massage establishments were not currently permitted in the City due to the moratorium enacted under Ordinance No. 850. The Business License Ms. De Leon was subsequently granted was for business services and retail operations unrelated to massage. She cannot be "grandfathered" in because she did not apply for a Business License, nor was she approved to operate as a massage establishment prior to the moratorium taking effect.

#### Analysis

DMC section 5.04.240 provides the grounds for revoking a Business License in the City. (Attachment B.) In pertinent part, it reads as follows:

(a) Any license or permit granted or issued under the provisions of this title may be revoked or suspended by the finance director if the finance director or his or her designee determines, after a hearing pursuant to Section 5.04.250 of this code, that:

- (1) The holder of the license or permit has obtained the license or permit by misrepresentation;
- (2) The holder of the license or permit has failed to comply with one or more of the specific provisions of this code or any other resolution or ordinance of this city;
- (7) The license or permit is being used for a purpose different from that for which it was issued.

Here, Ms. De Leon's Business License was properly revoked by the Finance Director because it was obtained through Ms. De Leon's misrepresentation of Bellagio as a "wellness center"; Ms. De Leon failed to comply with other provisions of the DMC (see below); she failed to comply with the City's ordinance placing a moratorium on Massage Establishments; and the Business License was used for a different purpose (massage) than the purpose for which it was issued (weight loss coaching and nutrition

counseling). Ms. De Leon lied on the Business License Application for Bellagio. She stated she would providing coaching for nutrition and weight loss control, but instead, only provided massages.

While Ms. De Leon was issued Administrative Citations for multiple violations of the DMC, the Finance Director based the revocation of the Business License for Bellagio upon only two of those violations: DMC section 5.04.230 for knowingly or intentionally misrepresenting to the City that the business would not be performing massages services and DMC section 5.04.030 for performing massages with proper permits to perform massage in the City.

DMC section 5.04.230 states, “[no person shall knowingly or intentionally misrepresent to any officer or employee of the city any material fact in procuring the licenses or permits provided for in this title.” (Attachment B.) Here, the Business License application submitted by Ms. Leon on September 25, 2014, specifically stated that the business activities of Bellagio were for a wellness center and included nutrition and weight loss counseling/coaching. The application did not references massage services and even if it had, it would have been denied due to the moratorium in place at the time against Massage Establishments. Ms. Leon knowingly or intentionally misrepresented her business to the City. She was denied a permit for massage services and then, a month later, under the guise of operating a “wellness center,” she obtained a Business License.

However, it is clear from the facts that she never intended to operate a wellness center. She told Officer Breceda she never intended to sell merchandise at Bellagio, but rather, she made a living providing massages and intended to operate a massage business. She told Ms. Ledesma that she did not provide weight loss program services. Ms. De Leon violated DMC section 5.04.230 by misrepresenting a material fact about her intended business activities and misleading City staff in order to obtain a Business License.

In addition, DMC section 5.04.030 provides, “[no license shall be issued to engage in any business when the provisions of this title, or other ordinance of this city, require a permit to be obtained as a prerequisite to engaging in such business, until such permit is first obtained. Any license issued in violation of this section shall be void.” (Attachment B.) Ms. De Leon was providing massage services in the City without first obtaining a proper permit to perform such massages or a Business License to provide massages.

**The evidence presented by the City proves that Ms. De Leon was operating a massage establishment without proper permits in violation of DMC section 5.04.030 and misrepresented her business to the City to obtain a Business License in violation of DMC section 5.04.230. Accordingly, the Business License issued for Bellagio was properly revoked by the Finance Director pursuant to DMC**

section 5.04.240. (Attachment B.) It would be proper for the City Council to uphold the revocation of the Business License issued to Ms. De Leon for Bellagio.

Staff's Recommendation

Based on the evidence presented by City staff and the statements made by Roxana Ponce De Leon that she intended to conduct massages at Bellagio and not comply with her current Business License, City staff recommends that the City Council deny Ms. De Leon's appeal and uphold the Finance Director's decision to revoke the Business License issued to Ms. De Leon for Bellagio Fountain of Youth Wellness Center.

Pursuant to DMC section 5.04.260, the findings and determination of the City Council at the appeal hearing are final and conclusive. Within five days after the City Council renders its decision, the City Clerk shall give notice thereof to Ms. De Leon.

**ATTACHMENT A**

**URGENCY ORDINANCE NO. 850**

**URGENCY ORDINANCE NO. 850**  
**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF**  
**DUARTE, CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA**  
**GOVERNMENT CODE SECTIONS 36934, 36937, AND 65858, ADOPTING A**  
**MORATORIUM ON ESTABLISHING, LOCATING, OR OPERATING NEW**  
**MASSAGE ESTABLISHMENTS IN THE CITY AND THE GRANTING OR**  
**ISSUING OF ANY ZONING CLEARANCE, LICENSE OR PERMIT BY**  
**THE CITY WITH RESPECT THERETO**

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

**SECTION 1. Findings.** The City Council finds and determines as follows:

- A. Title 5 of the Duarte Municipal Code sets forth Business Licenses and Regulations for Massage Establishments. Title 5, Chapter 5.56 sets forth licensing requirements and regulations pursuant to Business and Professions Code section 4600 et seq. relating to the regulation of massage or massage services, which shall include but are not limited to services referred to as "bodywork and acupuncture."
- B. Title 19, Chapter 19.128 of the Duarte Development Code sets forth a procedure used by the City to verify that a proposed land use complies with the list of uses allowed in the zone and the development standards. A zoning clearance is required before the initiation or commencement of any land use not requiring construction of a structure.
- C. In 2008, Senate Bill 731 ("SB 731") was adopted by the Legislature and signed into law by the Governor and became effective on January 1, 2009. SB 731 shifted the regulation of massage therapists from local jurisdictions to statewide voluntary certification. Current State law significantly limits local land use control of massage uses which has led to the proliferation of massage establishments throughout the State, some which have been known to offer illicit services and/or engaging in human trafficking.
- D. The State is currently considering proposed legislation (AB 1147) which would give local governments greater authority to regulate massage establishments while creating a more robust regulatory system for massage professionals and establishments.
- E. On June 23, 2014, the Senate Business, Professions and Economic Development Committee heard AB 1147 (Bonilla), the California Massage Therapy Reform Act and passed it on an 8-0 vote. The bill now moves to the Senate Appropriations Committee, which will likely hear it in August following the Legislature's summer recess.
- F. SB 731 sunsets on January 1, 2015, and the League of California Cities, individual cities and other stakeholders have been working to craft new regulations that return a local government's authority to regulate massage therapists and massage businesses. AB 1147, authored by Assembly Member Susan Bonilla (D-Concord), Assembly Member Jimmy Gomez (D-Los Angeles) and Assembly Member Chris Holden (D-Pasadena), was amended in committee to authorize cities and counties to enforce any ordinance or zoning requirements relating to massage establishments, even if the same requirements do not apply to similar professional service providers.
- G. While following the status of proposed legislation (AB 1147) and the potential expiration of current legislation SB 731, it came to staff's attention that the Duarte Municipal Code Chapter 5 requires physical facility and operational requirements for massage establishments that may not be uniformly applicable to other professional or personal service business in the City, which is potentially inconsistent with current State law. During the moratorium, City staff will compare existing municipal code language against current State law with greater scrutiny and will consider the potential effects of proposed AB 1147. The adoption of the moratorium is necessary to ensure that any new massage establishments do not become subject to regulations that may be in conflict with current State law.
- H. According to the Duarte Public Safety Department, massage establishments require a higher level of scrutiny and enforcement, including inspections, to ensure compliance with state and local laws. Staff will consider both existing and proposed legislation for massage uses and consider the effects on current monitoring practices.

I. Based on the foregoing, the City Council finds and declares there is a current and immediate threat to the public health, safety, or welfare, and to ensure that the Duarte Municipal Code is consistent with State law. During the moratorium period, staff intends to: (1) study current permit requirements that may be in conflict with SB 731; and (2) study potential effects of AB 1147 or continuation of SB 731 to ensure that the City had adequate code language to legally regulate or license massage establishments starting January 1, 2015.

J. A city, pursuant to Government Code Sections 36934, 36937, and 65858, may adopt an urgency ordinance to impose a moratorium as an interim measure for the immediate preservation of the public health, safety, and welfare, to prohibit any uses that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or city planning department is considering or intends to study within a reasonable time.

K. Adoption of this urgency Ordinance will allow the City Community Development Department and its Planning Division to effectively study, and the Planning Division intends to study in the near future and within a reasonable time, the City's Municipal and Development Codes and issues raised with respect to (1) existing permit requirements that may be in conflict with SB 731; (2) potential effects of AB 1147 or continuation of SB 731; and (3) whether the City's Municipal and Development Codes should be amended with different or additional provisions or regulations with respect to massage establishments.

SECTION 2. CEQA. The City Council finds and determines, for the reasons set forth in Section 1 hereof, that the adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under State CEQA Guidelines Section 15060(c)(2), in that the adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and is further and independently exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty there is no possibility the adoption of this Ordinance will have a significant effect on the environment.

SECTION 3. Imposition of Moratorium; Term of Moratorium. From the effective date of this Ordinance and continuing for a period of the earlier of (A) forty-five (45) days (unless extended pursuant to Government Code Section 65858), or (B) until such time as the City Council adopts an ordinance amending the Municipal and/or Development Codes to address massage establishments:

- (1) No new massage establishments, as that term is defined herein below, may be established, located, or operated within the City;
- (2) No business license, building permit, zoning clearance, or any other license or permit issued by the City shall be issued or granted for any: (a) new massage establishment, (b) expansion of an existing massage establishment; or (c) accessory massage use in a new or existing establishment.

As used herein, the term "massage establishment" shall have the same meaning as Duarte Development Code Section 19.160.140 (Definitions) and shall include professionals certified by the Massage Therapy Organization as defined by the Business and Professions Code section 4600 et seq. relating to the regulation of massage or massage services.

SECTION 4. Effective Date. This Ordinance is declared to be an urgency ordinance by authority conferred on the City Council of the City of Duarte by Government Code Sections 36934, 36937, and 65858, and shall be in full force and effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 6. Posting Of Ordinance. The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

PASSED, APPROVED, AND ADOPTED this 8<sup>th</sup> day of July, 2014.

/s/ Elizabeth Nowak Reilly  
Mayor Elizabeth Nowak Reilly

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss  
CITY OF DUARTE                )

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Urgency Ordinance No. 850 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 8<sup>th</sup> day of July, 2014, by the following vote:

AYES:           Councilmembers: Fasana, Kang, Paras-Caracci, Reilly

NOES:           Councilmembers: None

ABSENT:        Councilmembers: Finlay

/s/ Marla Akana  
City Clerk Marla Akana  
City of Duarte, California

**ATTACHMENT B**

**DUARTE MUNICIPAL CODE SECTIONS**

## Chapter 5.04 - LICENSES AND PERMITS GENERALLY

### Sections:

#### 5.04.030 - Permits as prerequisite.

No license shall be issued to engage in any business when the provisions of this title, or other ordinance of this city, require a permit to be obtained as a prerequisite to engaging in such business, until such permit is first obtained. Any license issued in violation of this section shall be void.

(Ord. 71 § 3, 1960)

#### 5.04.230 - Misrepresentation prohibited.

No person shall knowingly or intentionally misrepresent to any officer or employee of the city any material fact in procuring the licenses or permits provided for in this title.

(Ord. 71 § 13, 1960)

#### 5.04.240 - Grounds for revocation or suspension.

- (a) Any license or permit granted or issued under the provisions of this title may be revoked or suspended by the finance director if the finance director or his or her designee determines, after a hearing pursuant to Section 5.04.250 of this code, that:
- (1) The holder of the license or permit has obtained the license or permit by misrepresentation;
  - (2) The holder of the license or permit has failed to comply with one or more of the specific provisions of this code or any other resolution or ordinance of this city;
  - (3) The license or permit is being used in contravention of any state or federal law or regulation;
  - (4) The holder of the license or permit has not obtained or does not currently hold each and every one of the additional governmental approvals or entitlements required in order to lawfully operate the business, or alternatively, that the holder of the license or permit did not identify, on the application, certain required government approvals or entitlements that the licensee does not have;
  - (5) The premises wherein any business described in this title is conducted are not in good and sanitary condition, or have become dangerous to or adversely affect the public health, safety, welfare, morals or peace;
  - (6) The business of the person to whom such license or permit was issued has been conducted in a manner that is dangerous to or adversely affects the public health, safety, welfare, morals or peace; or
  - (7) The license or permit is being used for a purpose different from that for which it was issued.
- (b) **SALE OF SYNTHETIC DRUGS PROHIBITED.** No person owning or operating a business in the city, and no business holding a business license may sell or offer to sell "synthetic drugs" as that term is defined under Section 6.21.020(1) of this code or engage in any other conduct that is prohibited under Sections 6.21.030, 6.21.040, or 6.21.050 of this code.
- (c) **REVOCATION OF BUSINESS LICENSE FOR SYNTHETIC DRUG SALES.** In addition to any other penalty authorized by law or this code, the penalty for selling, or offering to sell "synthetic drugs" as that term is defined under section 6.21.020(1) of this code or engaging in any other conduct that is prohibited under sections 6.21.030, 6.21.040, or 6.21.050 of this code shall be as follows:

- (1) **FIRST VIOLATION.** When a person or business is found to violate this section, that person or business shall be issued a formal, written warning from a city code enforcement officer to cease the prohibited activity.
- (2) **SECOND VIOLATION.** When a person or business is found to violate this section after being issued a formal, written warning for a previous violation, that person or relevant agent for the business shall be given a written notice of violation directing that a management level representative must attend an education course of not less than one hour, on the topic of (and taught by a person reasonably knowledgeable in) the identification and consequences of using synthetic drugs, along with information on how to register for such a course. Formal documentation of the completion of this course shall be provided to the city's code enforcement officer within four weeks of a second violation, and failure to provide such documentation shall result in the code enforcement officer moving forward with summary revocation of the relevant business license as set forth in the following subsection (c)(3).
- (3) **THIRD VIOLATION.** When a person or business is found to violate this section or Chapter 6.2I of this code for a third time, or if a person or business that has violated this section twice fails to timely complete the required education course pursuant to subsection (c)(2) above, that person or business shall be given written notice by the code enforcement officer that its business license for the premises in question is immediately and summarily revoked, and that continued operation of the business in question thereafter shall be deemed a violation of the city's municipal code. A copy of such notice shall be posted at a prominent location upon the property in question. An action to revoke a business license under this section may be appealed within ten days of the date of the written notice of the summary revocation, pursuant to the procedure set forth in Section 5.04.260 of this code. Notwithstanding any provision of the municipal code to the contrary, and because the city council has declared that a business operating in violation of this section poses an immediate threat to public health, safety and welfare, the filing of an appeal in connection with the immediate, summary revocation of a business license under this section shall not stay the effectiveness of the revocation during the pendency of an appeal.

(Ord. 71 § 14, 1960)

(Ord. No. 848 , § 1, 6-24-2014)

#### 5.04.250 - Procedure for revocation or suspension.

- A. **AUTHORITY OF FINANCE DIRECTOR.** The director of finance upon hearing, after giving the licensee five days' notice of the grounds for revocation or suspension, and the time and place of hearing, and requiring him to show cause why his license or licenses should not be revoked, may revoke or suspend any one or more of the licenses held by such licensee. Within three days after the decision, the director of finance shall notify the licensee thereof.
- B. **APPEAL.** Any person aggrieved by the decision of the director of finance may appeal therefrom to the city council in the manner provided in Section 5.04.260
- C. **FAILURE TO APPEAL.** In the event no appeal is taken by the licensee, the decision of the director of finance revoking or suspending such license shall become final and conclusive on expiration of the time herein fixed for appeal.

(Ord. 71 § 15, 1960)

19.160.140 - "M" definitions.

Massage Establishment. An establishment where massage services are provided. Massages are defined as the application of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client.

**5.56.100 - Unlocked exterior doors.**

To protect the personal health and safety and security of patrons and employees, all exterior doors of a massage business and establishment shall remain unlocked during business hours.

(Ord. No. 821, § 1, 7-13-2010)

**5.56.130 - Cleanliness.**

- (a) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
- (b) Hot and cold running water shall be provided at all times.
- (c) Separate closed cabinets shall be provided for the storage of clean and soiled linen, and shall be plainly marked: "Clean Linen" and "Soiled Linen."

(Ord. No. 821, § 1, 7-13-2010)

**5.56.150 - Bathing, dressing, and toilet facilities.**

Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one separate locker for each patron served at any given time, which locker shall be capable of being locked. If male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room or rooms, separate dressing, and separate toilet facilities shall be provided for male and for female patrons.

(Ord. No. 821, § 1, 7-13-2010)

**5.56.200 - List of services display.**

All massage businesses and establishments shall post a list of services available, described in English, and at the option of the massage business and establishment one or more other language, and the cost of such services in a conspicuous place on the premises.

(Ord. No. 821, § 1, 7-13-2010)

**ATTACHMENT C**

**URGENCY ORDINANCE NO. 851**

## ORDINANCE NO. 851

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE,  
CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE  
SECTIONS 36934, 36937, AND 65858, EXTENDING A MORATORIUM ON  
ESTABLISHING, LOCATING, OR OPERATING NEW MASSAGE ESTABLISHMENTS IN  
THE CITY AND THE GRANTING OR ISSUING OF ANY ZONING CLEARANCE,  
LICENSE OR PERMIT BY THE CITY WITH RESPECT THERETO**

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

**SECTION 1. Findings.** The City Council finds and determines as follows:

- A. Title 5 of the Duarte Municipal Code sets forth Business Licenses and Regulations for Massage Establishments. Title 5, Chapter 5.56 sets forth licensing requirements and regulations pursuant to Business and Professions Code section 4600 et seq. relating to the regulation of massage or massage services, which shall include but are not limited to services referred to as "bodywork and acupuncture."
- B. Title 19, Chapter 19.128 of the Duarte Development Code sets forth a procedure used by the City to verify that a proposed land use complies with the list of uses allowed in the zone and the development standards. A zoning clearance is required before the initiation or commencement of any land use not requiring construction of a structure.
- C. In 2008, Senate Bill 731 ("SB 731") was adopted by the Legislature and signed into law by the Governor and became effective on January 1, 2009. SB 731 shifted the regulation of massage therapists from local jurisdictions to statewide voluntary certification. Current State law significantly limits local land use control of massage uses which has led to the proliferation of massage establishments throughout the State, some which have been known to offer illicit services and/or engaging in human trafficking.
- D. The State is currently considering proposed legislation (AB 1147) which would give local governments greater authority to regulate massage establishments while creating a more robust regulatory system for massage professionals and establishments.
- E. On June 23, 2014, the Senate Business, Professions and Economic Development Committee heard AB 1147 (Bonilla), the California Massage Therapy Reform Act and passed it on an 8-0 vote. The bill now moves to the Senate Appropriations Committee, which will likely hear it in August following the Legislature's summer recess.
- F. SB 731 sunsets on January 1, 2015, and the League of California Cities, individual cities and other stakeholders have been working to craft new regulations that return a local government's authority to regulate massage therapists and massage businesses. AB 1147, authored by Assembly Member Susan Bonilla (D-Concord), Assembly Member Jimmy Gomez (D-Los Angeles) and Assembly Member Chris Holden (D-Pasadena), was amended in committee to authorize cities and counties to enforce any ordinance or zoning requirements relating to massage establishments, even if the same requirements do not apply to similar professional service providers. On June 23, 2014, AB 1147 was passed 8-0 by the Senate Business and Professions and Economic Development Committee. A hearing date before the Committee on Appropriations is set for August 11, 2014. Should the legislature pass the bill by the August 31 end of session deadline, the Governor will then have until September 30 to either sign the bill into law or veto it. If the bill is signed into law, it will take effect January 1, 2015.
- G. While following the status of proposed legislation (AB 1147) and the potential expiration of current legislation SB 731, it came to staff's attention that the Duarte Municipal Code Chapter 5 requires physical facility and operational requirements for massage establishments that may not be uniformly applicable to other professional or personal service business in the City, which is potentially inconsistent with current State law. During the moratorium, City staff will compare existing municipal code language against current State law with greater scrutiny and will consider the potential effects of proposed AB 1147. The adoption of the moratorium is necessary to ensure that

any new massage establishments do not become subject to regulations that may be in conflict with current State law.

H. According to the Duarte Public Safety Department, massage establishments require a higher level of scrutiny and enforcement, including inspections, to ensure compliance with state and local laws. Staff will consider both existing and proposed legislation for massage uses and consider the effects on current monitoring practices. There are currently five massage establishments operating with a City business license:

- 1163 Huntington Drive (near NWC of Huntington Dr. and Buena Vista St.)
- 1740 Huntington Drive # 310 (SWC Huntington Dr. and Highland Ave.)
- 1802 Huntington "D" (SEC Huntington Dr. and Highland Ave.)
- 2138 Huntington Drive (SEC Huntington Dr. and Elmhurst Ave.)
- 2163 Huntington Drive, (mid-block b/w Mt. Olive Dr. and Bradbourne Ave.)

I. Public Safety personnel continually monitor these businesses and advertisements on the web suggest that illegal activities may be taking place at some of these locations. On July 15, 2014, staff completed a web search using the search terms "Duarte massage" and the search results listed three Duarte massage locations under the heading "Duarte Massage Parlors – Erotic massage parlor reviews" which linked to the website [www.rubmaps.com](http://www.rubmaps.com), a website known to list reviews for illicit massage parlors.

J. Based on the foregoing, the City Council finds and declares there is a current and immediate threat to the public health, safety, or welfare, and to ensure that the Duarte Municipal Code is consistent with State law. During the moratorium period, staff intends to: (1) study current permit requirements that may be in conflict with SB 731; and (2) study potential effects of AB 1147 or continuation of SB 731 to ensure that the City had adequate code language to legally regulate or license massage establishments starting January 1, 2015.

K. A city, pursuant to Government Code Sections 36934, 36937, and 65858, may adopt an urgency ordinance to impose a moratorium as an interim measure for the immediate preservation of the public health, safety, and welfare, to prohibit any uses that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or city planning department is considering or intends to study within a reasonable time.

L. On July 8, 2014, the Duarte City Council, pursuant to Government Code 65858, adopted Ordinance No. 850 that established moratorium on the establishing, locating, or operating new massage establishments and granting or issuing of any zoning clearance, license, or permit in the city with respect thereto. In Ordinance 850, City Council found and determined as follows: (A) "there is a current and immediate threat to the public health, safety, or welfare, and to ensure that the Duarte Municipal Code is consistent with State law" and (B) during the moratorium period, staff intends to: (1) study current permit requirements that may be in conflict with SB 731; and (2) study potential effects of AB 1147 or continuation of SB 731 to ensure that the City had adequate code language to legally regulate or license massage establishments starting January 1, 2015."

M. The moratorium imposed by Ordinance No. 850 runs from the effective date of this Ordinance and continues for a period of the earlier of (A) forty-five (45) days (unless extended pursuant to Government Code Section 65858), or (B) until such time as the City Council adopts an ordinance amending the Municipal and/or Development Codes to address massage establishments. The City Council has not yet adopted an ordinance amending the zoning code to address these issues.

N. The moratorium established by adoption of Ordinance No. 850 will expire on its own terms on August 21, 2014. Government Code 65858 authorizes the extension of an urgency moratorium by adoption, after a public hearing, of another urgency ordinance to prohibit uses of land which may conflict with a contemplated zoning proposal which the legislative body, planning commission, or planning department is considering or studying, or intends to study, within a reasonable time.

O. On July 22, 2014, a date that is at least ten (10) days prior to the expiration of Ordinance 850, and prior to consideration of this Ordinance, the City Council timely approved, adopted, and issued the Report required by Government Code 65858(d) describing the measures taken to alleviate the condition which led to the adoption of Ordinance No. 850.

P. As set forth in Government Code Section 65858(d) Report, the Planning Division of the Community Development has reviewed the Development Code and has identified the need for additional review and analysis of land use regulations pertaining to massage establishments, and the need for additional review and analysis of the need to amend the Development Code pertaining to regulation of massage establishments, and that the extension to the moratorium is needed to complete the tasks identified in the Section 65858(d) Report.

Q. On August 12, 2014, the City Council held a duly noticed public hearing concerning this proposed urgency Ordinance to extend the moratorium established by Ordinance No. 850.

R. After consideration of all the information, evidence, and testimony presented at the public hearing held on August 12, 2014, the City Council finds that the current and immediate threat to the public health, safety, or welfare described in the findings adopted pursuant to Ordinance No. 850 still exists and it is therefore necessary to extend the moratorium as additional time is needed to address the current and immediate threat that prompted the moratorium adopted by Ordinance No. 850 and to complete the tasks set forth in the Section 65858(d) Report.

S. At least ten (10) days prior to the expiration of the moratorium as extended by this urgency Ordinance, the City Council shall review, approve, and issue a written report pursuant to Government Code 65858(d) describing the measures taken to alleviate the condition or conditions which led to the adoption of this urgency Ordinance.

SECTION 2. CEQA. The City Council finds and determines, for the reasons set forth in Section 1 hereof, that the adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under State CEQA Guidelines Section 15060(c)(2), in that the adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and is further and independently exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty there is no possibility the adoption of this Ordinance will have a significant effect on the environment.

SECTION 3. Imposition of Moratorium; Term of Moratorium Extension. The moratorium established by Ordinance No. 850 expires on August 21, 2014. Commencing upon the expiration of Ordinance No. 850, i.e., August 21, 2014, the moratorium established by Ordinance No. 850 is hereby extended and shall continue for a period of the earlier of (A) ten months and fifteen days from and after the expiration of Ordinance No. 850, i.e., to and through July 7, 2015 (unless extended pursuant to Government Code Section 65858), or (B) until such time as the City Council adopts an ordinance amending the Municipal and/or Development Codes to address massage establishments. Until the expiration of the moratorium established hereunder (and as was established in Ordinance No. 850):

- (1) No new massage establishments, as that term is defined herein below, may be established, located, or operated within the City;
- (2) No business license, building permit, zoning clearance, or any other license or permit issued by the City shall be issued or granted for any: (a) new massage establishment, (b) expansion of an existing massage establishment; or (c) accessory massage use in a new or existing establishment.

As used herein, the term "massage establishment" shall have the same meaning as Duarte Development Code Section 19.160.140 (Definitions) and shall include professionals certified by the Massage Therapy Organization as defined by the Business and Professions Code section 4600 et seq. relating to the regulation of massage or massage services.

SECTION 4. Effective Date. This Ordinance is declared to be an urgency ordinance by authority conferred on the City Council of the City of Duarte by Government Code Sections 36934, 36937, and 65858, and shall be in full force and effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision,

paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 6. Posting Of Ordinance. The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

PASSED, APPROVED, AND ADOPTED this 12<sup>th</sup> day of August, 2014.

/s/ Elizabeth Nowak Reilly  
Mayor Elizabeth Nowak Reilly

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss  
CITY OF DUARTE                )

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. 851 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 12<sup>th</sup> day of August, 2014, by the following vote:

AYES:       Councilmembers: Fasana, Finlay, Kang, Paras-Caracci, Reilly  
NOES:       Councilmembers: None  
ABSENT:     Councilmembers: None

/s/ Marla Akana  
City Clerk Marla Akana  
City of Duarte, California

**ATTACHMENT D**

**BUSINESS LICENSE APPLICATION**

**DATED AUGUST 5, 2014**



CITY OF DUARTE  
1600 HUNTINGTON DRIVE  
DUARTE, CA 91010  
(626) 357-7931

# BUSINESS LICENSE APPLICATION

|                       |         |
|-----------------------|---------|
| APP. FEE              | \$35.00 |
| Disability Access Fee | \$1.00  |
| LICENSE FEE:          | 1162.02 |
| LICENSE #             |         |
| DATE:                 |         |
| BY:                   |         |
| RECEIPT:              |         |

DEINED  
8/17/2014

RECEIVED  
AUG 05 2014

CITY OF DUARTE  
NAME OF BUSINESS: BELLARIO FOUNDATION OF YOUTH WELLNESS CENTER  
ADDRESS: 1740 HUNTINGTON DR #201 CITY: Duarte STATE CA ZIP 91010  
PHONE: (626) 324-0926

PROPOSED BUSINESS ACTIVITIES: WELLNESS CENTER Balance, strength, yoga, Tai Chi, Pilates, and Stress Relief, Weight, Food & Alcohol, Nutrition  
OWNERSHIP STATUS: Proprietorship

SOLE PROPRIETORSHIP ☒ PARTNERSHIP ☐ CORPORATION ☐ TRUST ☐

If Sole Proprietorship, enter Social Security Number 560-93-6537

FEDERAL TAX ID # (FEIN) \_\_\_\_\_ STATE TAX ID # (SEIN) \_\_\_\_\_

STATE BOARD OF EQUALIZATION# (Sellers Permit) \_\_\_\_\_

NAME OF OWNER/OFFICER: ROXANA ENRIQUETA PONCE DE LEON

ADDRESS: 918 SHAM LANE CITY BRENDORA STATE CA ZIP 91740

PHONE: (626) 324-0926 SOCIAL SECURITY NUMBER 560-93-6537

DRIVER'S LICENSE # A 1417485 DATE OF BIRTH 07/01/1957

NAME OF PARTNER/OFFICER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE: ( ) \_\_\_\_\_ SOCIAL SECURITY NUMBER \_\_\_\_\_

DRIVER'S LICENSE # \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

SIGNATURE OF APPLICANT: [Signature] DATE 04-09-2014

Conditions of Approval: \_\_\_\_\_

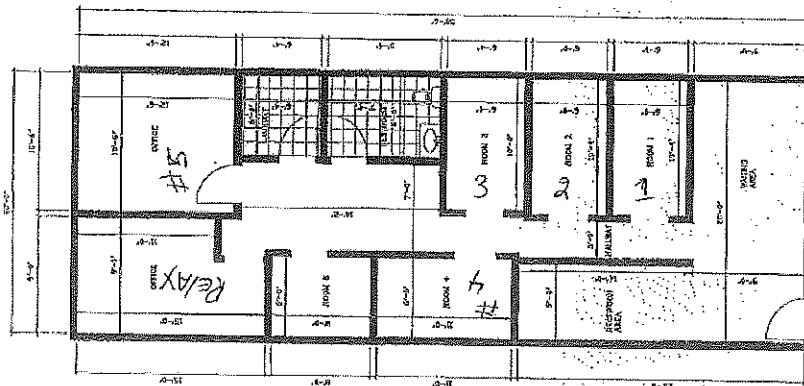
Signature of Planner: \_\_\_\_\_ DATE: \_\_\_\_\_

Disability Access & Education; SB 1186, Effective January 1, 2013

Under federal and state laws, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

The Division of the State Architect at [www.dgs.ca.gov/dsa/home.aspx](http://www.dgs.ca.gov/dsa/home.aspx)  
The Department of Rehabilitation at [www.rehab.ca.gov/net.pgy](http://www.rehab.ca.gov/net.pgy)  
The California Commission on Disability Access at [www.ccala.ca.gov](http://www.ccala.ca.gov)

DATE: 8/17/2014



RECEIVED  
AUG 05 2011  
CITY OF DUARTE

- Room
1. GROUND TERRACE
  2. CHAIRS - STAIRS
  3. BOSS THERAPY
  4. LIGHT THERAPY
  5. COFFEE THERAPY

DEIGNED  
8/7/2011

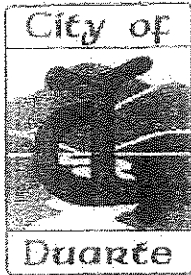
UNIT 102 - FLOOR PLAN  
SCALE: 1/8" = 1'-0"

1740 HUNTINGTON DRIVE, DUARTE, CA, 91010

**ATTACHMENT E**

**DENIAL LETTER FOR AUGUST 2014**

**BUSINESS LICENSE APPLICATION**



# City of Duarte

1600 Huntington Drive, Duarte, CA 91010 - (626) 357-7931 - FAX (626) 358-0018

August 7, 2014

Roxana Enriqueja Ponce De Leon  
918 Shady Lane  
Glendora, CA 91740

**SUBJECT: BUSINESS LICENSE APPLICATION & ZONING CLEARANCE REQUEST FOR BELLAGIO  
FOUNTAIN OF YOUTH WELLNESS CENTER PROPOSED AT 1740 HUNTINGTON DRIVE  
STE 201, DUARTE, CA, 91010**

Dear Ms. Roxana Enriqueja Ponce De Leon:

The City of Duarte Community Development Department routinely reviews business license applications to ensure compliance with zoning and allowable use standards of Duarte Municipal Code Chapter 19 (Duarte Development Code - DDC). The subject property located at 1740 Huntington Drive, Suite 201, is located in a General Commercial (C-G) zone.

The Duarte City Council, at its regular meeting held on July 8, 2014, unanimously adopted Urgency Ordinance No. 850, adopting a moratorium on establishing, locating, or operating new massage establishments in the City and the issuance of any zoning clearance, license or permit by the City with respect thereto. Pursuant to DDC 19.160, massage establishments are defined as the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body with the intent to enhance or restore the health and well-being of the client. Chapter 5.56 further defines massage establishments as those that provide services which include bodywork and acupressure.

Community Development staff has reviewed your written request to provide a variety of therapeutic service uses at the above referenced address (under a proposed business name of Bellagio Fountain of Youth Wellness Center). The proposed services include but are not limited to: (1) balance chakra with color, sounds, meditation exercise; (2) Aromatherapy with oils applied to skin; (3) reflexology with stimulation to certain points on the body; (4) light therapy to raise body temperature; (5) body sponge with skin brushing to remove toxins; (6) body wraps applied to the skin to promote exfoliation; and (7) acupressure facelift to stimulate particular points in the facial muscles. Staff has reviewed your request and has determined that the proposed services are currently prohibited by Urgency Ordinance No. 850 and therefore no permit, business license or zoning clearance may be issued with respect to your request. A copy of the Urgency Ordinance No. 850 is enclosed for your reference.

Sincerely,

Irma Hernandez  
Senior Planner

Enclosure

cc: Kristine Swart, Finance (Business License) Division  
Larry Breceda, Public Safety Manager

= Brand of the original Andres Duarte Rancho

**URGENCY ORDINANCE NO. 850**  
**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF**  
**DUARTE, CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA**  
**GOVERNMENT CODE SECTIONS 36934, 36937, AND 65858, ADOPTING A**  
**MORATORIUM ON ESTABLISHING, LOCATING, OR OPERATING NEW**  
**MASSAGE ESTABLISHMENTS IN THE CITY AND THE GRANTING OR**  
**ISSUING OF ANY ZONING CLEARANCE, LICENSE OR PERMIT BY**  
**THE CITY WITH RESPECT THERETO**

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

**SECTION 1. Findings.** The City Council finds and determines as follows:

A. Title 5 of the Duarte Municipal Code sets forth Business Licenses and Regulations for Massage Establishments. Title 5, Chapter 5.56 sets forth licensing requirements and regulations pursuant to Business and Professions Code section 4600 et seq. relating to the regulation of massage or massage services, which shall include but are not limited to services referred to as "bodywork and acupuncture."

B. Title 19, Chapter 19.128 of the Duarte Development Code sets forth a procedure used by the City to verify that a proposed land use complies with the list of uses allowed in the zone and the development standards. A zoning clearance is required before the initiation or commencement of any land use not requiring construction of a structure.

C. In 2008, Senate Bill 731 ("SB 731") was adopted by the Legislature and signed into law by the Governor and became effective on January 1, 2009. SB 731 shifted the regulation of massage therapists from local jurisdictions to statewide voluntary certification. Current State law significantly limits local land use control of massage uses which has led to the proliferation of massage establishments throughout the State, some which have been known to offer illicit services and/or engaging in human trafficking.

D. The State is currently considering proposed legislation (AB 1147) which would give local governments greater authority to regulate massage establishments while creating a more robust regulatory system for massage professionals and establishments.

E. On June 23, 2014, the Senate Business, Professions and Economic Development Committee heard AB 1147 (Bonilla), the California Massage Therapy Reform Act and passed it on an 8-0 vote. The bill now moves to the Senate Appropriations Committee, which will likely hear it in August following the Legislature's summer recess.

F. SB 731 sunsets on January 1, 2015, and the League of California Cities, individual cities and other stakeholders have been working to craft new regulations that return a local government's authority to regulate massage therapists and massage businesses. AB 1147, authored by Assembly Member Susan Bonilla (D-Concord), Assembly Member Jimmy Gomez (D-Los Angeles) and Assembly Member Chris Holden (D-Pasadena), was amended in committee to authorize cities and counties to enforce any ordinance or zoning requirements relating to massage establishments, even if the same requirements do not apply to similar professional service providers.

G. While following the status of proposed legislation (AB 1147) and the potential expiration of current legislation SB 731, it came to staff's attention that the Duarte Municipal Code Chapter 5 requires physical facility and operational requirements for massage establishments that may not be uniformly applicable to other professional or personal service business in the City, which is potentially inconsistent with current State law. During the moratorium, City staff will compare existing municipal code language against current State law with greater scrutiny and will consider the potential effects of proposed AB 1147. The adoption of the moratorium is necessary to ensure that any new massage establishments do not become subject to regulations that may be in conflict with current State law.

H. According to the Duarte Public Safety Department, massage establishments require a higher level of scrutiny and enforcement, including inspections, to ensure compliance with state and local laws. Staff will consider both existing and proposed legislation for massage uses and consider the effects on current monitoring practices.

I. Based on the foregoing, the City Council finds and declares there is a current and immediate threat to the public health, safety, or welfare, and to ensure that the Duarte Municipal Code is consistent with State law. During the moratorium period, staff intends to: (1) study current permit requirements that may be in conflict with SB 731; and (2) study potential effects of AB 1147 or continuation of SB 731 to ensure that the City had adequate code language to legally regulate or license massage establishments starting January 1, 2015.

J. A city, pursuant to Government Code Sections 36934, 36937, and 65858, may adopt an urgency ordinance to impose a moratorium as an interim measure for the immediate preservation of the public health, safety, and welfare, to prohibit any uses that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or city planning department is considering or intends to study within a reasonable time.

K. Adoption of this urgency Ordinance will allow the City Community Development Department and its Planning Division to effectively study, and the Planning Division intends to study in the near future and within a reasonable time, the City's Municipal and Development Codes and issues raised with respect to (1) existing permit requirements that may be in conflict with SB 731; (2) potential effects of AB 1147 or continuation of SB 731; and (3) whether the City's Municipal and Development Codes should be amended with different or additional provisions or regulations with respect to massage establishments.

SECTION 2. CEQA. The City Council finds and determines, for the reasons set forth in Section 1 hereof, that the adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under State CEQA Guidelines Section 15060(e)(2), in that the adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and is further and independently exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty there is no possibility the adoption of this Ordinance will have a significant effect on the environment.

SECTION 3. Imposition of Moratorium; Term of Moratorium. From the effective date of this Ordinance and continuing for a period of the earlier of (A) forty-five (45) days (unless extended pursuant to Government Code Section 65858), or (B) until such time as the City Council adopts an ordinance unending the Municipal and/or Development Codes to address massage establishments:

- (1) No new massage establishments, as that term is defined herein below, may be established, located, or operated within the City;
- (2) No business license, building permit, zoning clearance, or any other license or permit issued by the City shall be issued or granted for any: (a) new massage establishment; (b) expansion of an existing massage establishment; or (c) accessory massage use in a new or existing establishment.

As used herein, the term "massage establishment" shall have the same meaning as Duarte Development Code Section 19.160.140 (Definitions) and shall include professionals certified by the Massage Therapy Organization as defined by the Business and Professions Code section 4600 et seq. relating to the regulation of massage or massage services.

SECTION 4. Effective Date. This Ordinance is declared to be an urgency ordinance by authority conferred on the City Council of the City of Duarte by Government Code Sections 36934, 36937, and 65858, and shall be in full force and effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 6. Posting Of Ordinance. The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

PASSED, APPROVED, AND ADOPTED this 8<sup>th</sup> day of July, 2014.

/s/ Elizabeth Nowak Reilly  
Mayor Elizabeth Nowak Reilly

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES    ) ss  
CITY OF DUARTE             )

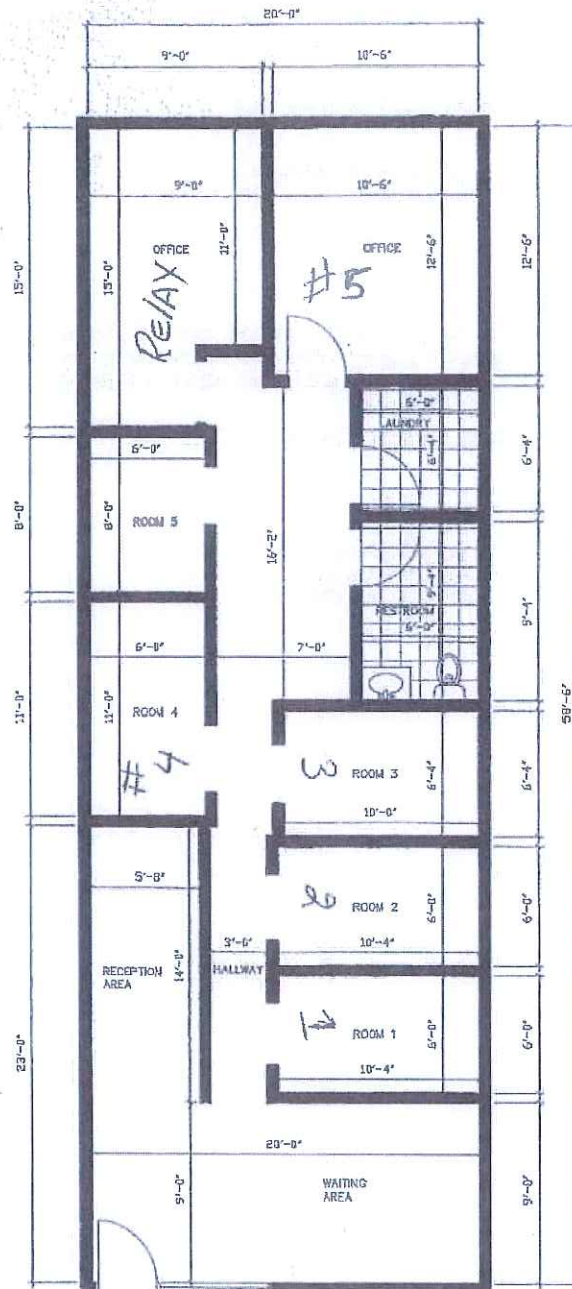
I, Maria Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Urgency Ordinance No. 850 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 8<sup>th</sup> day of July, 2014, by the following vote:

AYES:       Councilmembers: Pasana, Kang, Paras-Caracoi, Reilly

NOES:       Councilmembers: None

ABSENT:     Councilmembers: Finlay

/s/ Maria Akana  
City Clerk Maria Akana  
City of Duarte, California



UNIT 1012 - FLOOR PLAN

SCALE: 1/8"=1'-0"

1740 HUNTINGTON DRIVE, DUARTE, CA, 91010

RECEIVED  
AUG 05 2014  
CITY OF DUARTE

ROOM

- 1 AROMA THERAPY
- 2 CHAKRA BALANCE
- 3 BODY THERAPY
- 4 LIGHT THERAPY
- 5 COUPLES THERAPY

DEWEED  
8/7/2014

**ATTACHMENT F**

**BUSINESS LICENSE APPLICATION**

**DATED SEPTEMBER 25, 2014**



CITY OF DUARTE  
1600 HUNTINGTON DRIVE  
DUARTE, CA 91010  
(626) 357-7931

# BUSINESS LICENSE APPLICATION

APP. FEE \$35.00  
Disability Access Fee \$1.00  
LICENSE FEE: 132.00  
LICENSE # 136878  
DATE: 9-25-14  
BY: [Signature]  
RECEIPT: \_\_\_\_\_

NAME OF BUSINESS: BELLA GIO FOUNTAIN OF YOUTH WELLNESS CENT.  
ADDRESS: 1740 Huntington Dr<sup>102</sup> CITY: Duarte STATE CA ZIP 91010  
PHONE: 626 324-0926

PROPOSED BUSINESS ACTIVITIES: COACHING NUTRICION LOS TWEIGHT LOSS

## OWNERSHIP STATUS:

SOLE PROPRIETORSHIP X PARTNERSHIP \_\_\_\_\_ CORPORATION \_\_\_\_\_ TRUST \_\_\_\_\_

If Sole Proprietorship, enter Social Security Number \_\_\_\_\_

FEDERAL TAX ID # (FEIN) \_\_\_\_\_ STATE TAX ID # (SEIN) \_\_\_\_\_

STATE BOARD OF EQUALIZATION# (Sellers Permit) \_\_\_\_\_

NAME OF OWNER/OFFICER: ROXANA PONCE DE LEON  
ADDRESS: 918 SHADY LANE CITY GLENORA STATE CA ZIP 91740  
PHONE: (626) 324-0926 SOCIAL SECURITY NUMBER 560-93-6537  
DRIVER'S LICENSE # A1447485 DATE OF BIRTH 7-1-52

NAME OF PARTNER/OFFICER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE: ( ) \_\_\_\_\_ SOCIAL SECURITY NUMBER \_\_\_\_\_

DRIVER'S LICENSE # \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

SIGNATURE OF APPLICANT: Roxana Ponce de Leon DATE 9-25-2014

Conditions of Approval: approval for office and retail

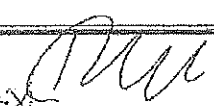
Signature of Planner: [Signature] DATE: 9-25-14

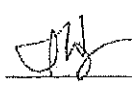
*City of Duarte*  
**BUSINESS LICENSE APPLICATION PROCEDURE**

---

1. Complete the business license application in full. It must be signed and dated.
2. **Application Review:** Check with the Community Development Department to be sure the planned location is properly zoned for the business. At this time, the application is reviewed by a City Planner. Also, Duarte Municipal Code requirements for allowable signs, outside storage, parking, etc., are discussed with the applicant.
3. **Fee Payment:** Pay the business license fee when you submit the completed form to the Finance Department.
4. **Business License Issuance:** The Finance Department issues a one-year business license effective on the original date of the application.
5. **Approvals:** The Finance Department will notify the following county agencies and city departments that the new business is licensed:
  6. City of Duarte: Planning Department  
Building Department
  - County of Los Angeles: Fire Prevention Bureau  
Sheriff's Department  
Health Department
7. **License Renewal:** Business licenses expire one year from the date of issue. As a courtesy, the Finance Department mails a renewal notice prior to the expiration date, indicating the fees required for the coming year. However, it is the responsibility of the applicant to renew the license and pay the licensing fee on or before the expiration date.
8. **Penalty:** A 10% per month cumulative penalty is charged for business licenses renewed after the expiration date.
9. **Business License Revocation or Suspension (Municipal Code 5.04.240):** Any license or permit granted or issued under the provisions of this title may be revoked or suspended at any time by the Finance Director for material false statements contained in the application, or for a failure to comply with any regulatory provisions contained in the statutes of the State, this code or the ordinances of the City regulating such business, or for any failure to operate such business in an orderly and businesslike manner, in compliance with such order, rules, and regulations as may be applicable thereto under the provisions of the title or statutes of this State, or for conducting such business in an illegal, improper or disorderly manner, or in a manner which endangers the public welfare.

---

Signature of Applicant: 

Signature of Planner: 

Date: 01-25-2014

Date: 9-25-14

resent my Business To Coaching  
To prevent cancer and other anoma  
lies, To guide & recognize alimentos  
food  
What is alkaloids and acides  
alkaline acids  
and Weight Control.  
Operation 7 AM 9 pm.

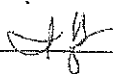
Monday To Saturday

#  
17240 Huntington DR 102

(Prensa Ponce de Leon

9-25-2014

Signature of Planner:



DATE: 9-25-14,

**ATTACHMENT G**

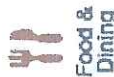
**ONLINE ADVERTISEMENTS FOR MASSAGE  
AT BELLAGIO**

# localsaver™

MY LOCATION  
Duarte, CA Change

Get New Coupons by Email | For Businesses | Request a Coupon

Search Business or Coupon



Food & Dining



Beauty



Home & Garden



Auto



Retail & Recreation



Health



Services



Real Estate



All

## Deal from Bellagio Fountain Of Youth Wellness Center in Duarte

### \$29 for \$140 - One-Hour Hot-Stone Massage

Stress and pain can make you feel older than you are. Seize this deal from Bellagio Fountain of Youth Wellness Center and work with a skilled therapist to embrace the many benefits of massage. You'll emerge feeling refreshed and renewed. \$29 (\$140 value) for a one-hour hot-stone massage. Ease aches, pains, and tension. Address an injury or chronic ailment. Warm stones send soothing heat into muscles. Improve mood and sleep quality. Bellagio Fountain of Youth Wellness Center. Website: [See Less](#)

#### Fine Print

. i. i. Limit 1 voucher per purchaser; additional 1 voucher may be sent as a gift. ii. i. Limit 1 voucher redemption per individual. br. ii. i. Appointments are required and subject to availability. Merchant cancellation/rescheduling policy of 24 hours applies; voucher subject to forfeiture. ii. i. All services must be redeemed during a single visit by same customer. ii. i. Available for use immediately after purchase. ii. i. PROMOTIONAL VALUE EXPIRES 180 DAYS FROM THE PURCHASE DATE. ii. i. PAID VALUE DOES NOT EXPIRE. ii. i. [See Less](#)

Expires March 20, 2015

Provider 8deals

| VALUE | DISCOUNT | SAVINGS |
|-------|----------|---------|
| \$140 | 79%      | \$111   |

Get Deal



8\*1

Report

## Bellagio Fountain Of Youth Wellness Center



Massage in Duarte CA





Find tacos, cheap dinner, Max's

Home About Me Write a Review Find Friends Messages Talk Events

Near San Francisco, CA



Sign Up

Log In

## Bellagio Fountain Of Youth

4 stars 4 reviews

Acupuncture, Massage Therapy

Write a Review

Add Photo

Share

Bookmark

 Map data ©2015 Google

1740 Huntington Dr  
Ste 102  
Duarte, CA 91010  
Get Directions  
(626) 324-0926  
bellagiofountainofyouth.com

Add Photo



**Turner Chiropractic and Wellness Center** 5 stars 19 reviews  
Bryan P. said "the Turners came highly recommended by our OBGYN to help my wife through her pregnancy and were wonderful! They also went out of their way to help during a back pain crisis. They truly care about your..." read more



**California Community Clinic For Acupuncture** 5 stars 6 reviews  
22.0 miles away from Bellagio Fountain Of Youth  
Respiratory Disorders: sinus, asthma, bronchitis Food allergies, dermatitis, Acne hormones and allergy-related, Chronic infections: herpes,... read more

### Recommended Reviews

Yelp Sort Date Rating Filter

English 4

Your trust is our top concern, so businesses can't pay to alter or remove their reviews. Learn more.



5 stars 3/13/2015

I came in visit about a month ago and I had no idea what

Today 9:00 am - 9:00 pm Open now  
Work here? Claim this business



### Hours

Mon 9:00 am - 9:00 pm

# Bellagio Fountain Of Youth Wellness Center

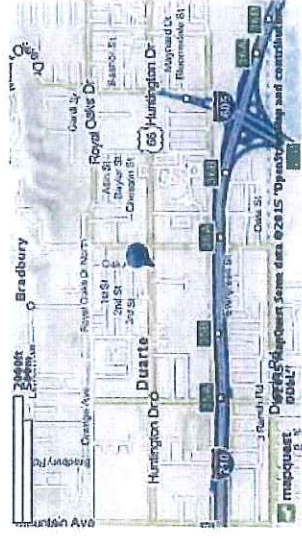
 (43) Reviews on yelp

Massage in Duarte CA



Show Phone Number

1740 Huntington Drive  
 Duarte, CA 91010  
 Get Directions





**Grecia P.**  
Los Angeles, CA  
22 friends  
2 reviews

★★★★★ 3/13/2015

I came to visit about a month ago and I had no idea what to expect. I was looking forward to visiting because I had never received a hot stone massage in my life. It was also a gift voucher from my boyfriend so I was even more excited.

My overall experience was amazing. The missus was very interactive and made my whole experience very rewarding both mentally and physically.

I highly recommend visiting it's definitely an eye opener.

Was this review ...?



**Kathy P.**  
Monrovia, CA  
0 friends  
6 reviews

★★★★★ 2/9/2015

If I could give a lower rating I would. I bought an Amazon deal and making an appointment was an ordeal. The owner was extremely rude. I had to change my first appointment. I rescheduled two weeks in advance and I wanted to verify the time. I spoke to the owner and she said to text her, I did on a Friday (a week before my appointment) and by Monday I still didn't get a verification so I called and sent a text. A couple of hours later I get a text that says my appointment is at 2. I called and left another message that I couldn't make it at 2 and I was told that I couldn't reschedule because I already did and that's too much and I should get a refund from Amazon. I did then I get another text about an hour later that says my appointment is at 12?? I don't need a message that bad.

Was this review ...?



## Hours

|     |                   |
|-----|-------------------|
| Mon | 9:00 am - 9:00 pm |
| Tue | 9:00 am - 9:00 pm |
| Wed | 9:00 am - 9:00 pm |
| Thu | 9:00 am - 9:00 pm |
| Fri | 9:00 am - 9:00 pm |
| Sat | 9:00 am - 6:00 pm |
| Sun | Closed            |

[Edit business info](#)

## More business info

By Appointment Only Yes



**Arlene A.**  
First to review

## People also viewed



**Fragrance SPA**  
★★★★★ 13 reviews



**Merlot Spa**  
★★★★★ 37 reviews  
Vicki did my facial and she's great as well.



**Life Bodyworks**  
★★★★★ 8 reviews

## Browse nearby

Restaurants, Nightlife, Shopping, Show all

[What Does It Mean This Distance](#)

**Arlene A.**  
Arcadia, CA  
0 friends  
4 reviews

5 stars 2/8/2015  
First to Review

I've been to many massage places and I would definitely come back. My husband bought a Groupon deal and that's how we discovered it. I was very pleased with my Swedish massage. Also service was excellent. She asked the main points where I felt stress and she focused in the main areas. I felt so relieved after and stress free. Also she has been in this business for many years and knows what she is doing. I highly recommend this spot!

Was this review ...?

Useful 1 Funny Cool

**Hilda F.**  
Monrovia, CA  
0 friends  
3 reviews

5 stars 2/24/2015

I got this amazon local coupon last month. Went and had the best massage I have had in a long time. This lady is amazing, the pressure was perfect. I think I fell asleep a few times. Totally recommend her.

Was this review ...?

Useful Funny Cool

### Work Here? Claim this Business

- Respond to reviews and privately message customers
- Claiming is free, and only takes a minute

Claim this business



# KEEP WISHING. START SAVING.

Save automatically and track your goals, with no fees or minimums in the way.

**ATTACHMENT H**

**CONFIRMATION OF MESSAGE APPOINTMENT  
FOR MASSAGE AT BELLAGIO**

verizon



7:48 PM

SENT

To: Bellagio Spa

Hi I just called you  
about the one hour  
deep tissue  
massage. I will see  
you next Tue 4-21  
at a 2Pm. Just to

Erase

SEND

Options

3G  
IX



7:45

SENT

about the one hour  
deep tissue  
massage. I will see  
you next Tue 4-21  
at a 2Pm. Just to  
confirm you said  
\$60 Correct?  
Thank you Susana

Erase

SEND

Options



Signal strength, battery, and time icons

826-324-0526

Mon Apr 20

Susana confirms  
via email 4-21  
at 2pm

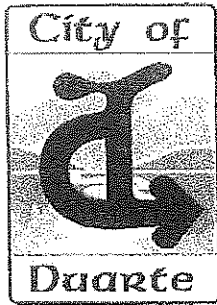
I appreciate for the  
info reply. Yes I  
will see a human at  
2. Thank...

You are being upgraded

Reply OPEN ORANGE

**ATTACHMENT I**

**NOTICE OF HEARING FOR APPEAL  
OF BUSINESS LICENSE REVOCATION**



# City of Duarte

1600 Huntington Drive, Duarte, CA 91010 - (626) 337-7931 - FAX (626) 338-0018

May 5, 2015

Roxana Ponce DeLeon  
918 Shady Lane  
Glendora, CA 91740

Robert & Bertha Yoohana  
3701 Ocean View Blvd  
Montrose, CA 91020

RE: Revocation of Duarte Business License located at 1740/1750 Huntington Drive, Suite 102; DBA: Bellagio Fountain of Youth Wellness Center; APN #: 8530-023-043

On April 21, 2015, the Duarte Code Compliance Division inspected the Bellagio Fountain of Youth, located at 1740 Huntington Drive, Suite 102 in Duarte. Several Administrative Citations were issued, including one pursuant to Section 5.04.030 of the Duarte Municipal Code (DMC) for performing massage without Proper Permits or licenses to perform massage and DMC Section 5.04.230 for knowingly misrepresenting to the City that the business would only be selling massage products, and would not be performing massage services. On April 22, 2015, you were given a Written Notice that your business license was being revoked and that you had 10 days to request an appeal of this decision to the Finance Director.

Pursuant to Section 5.04.240 of the Duarte Municipal Code, a business license may be revoked at any time for a failure to comply with any regulatory provisions contained in State statutes, the Duarte Municipal Code or City ordinances regulating such business, for obtaining a license by misrepresentation, or for using the license for a purpose different from that for which it was issued.

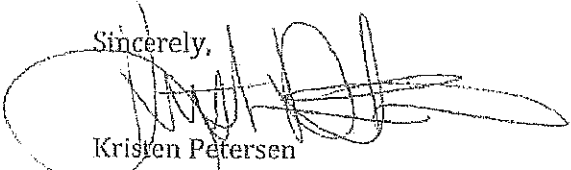
On May 5, 2015, we received a letter noting that you would like to appeal the decision to revoke your business license.

Pursuant to Section 5.04.250 of the Duarte Municipal Code, the City will set a hearing after giving the licensee at least five days' notice of the grounds for revocation and the time and place of the hearing.

Please consider this letter as your formal notice. The grounds for the revocation of your business license include, but are not limited to; obtaining the business license by misrepresentation, failure to comply with the regulatory provisions contained in the Duarte Municipal Code and using your business license for a purpose different from that for which it was issued.

The hearing will be held at Duarte City Hall 1600 Huntington Drive, at 10am on Wednesday, May 13, 2015. If you choose to attend this hearing, you will be required to show why the business license should not be revoked. Within three days after the hearing, the City shall notify the licensee of the decision. An appeal of the decision can be filed with the City Clerk in writing within fifteen days after the notice of the decision. If no appeal is received, the revocation of the business license is final.

Sincerely,



Kristen Petersen  
Finance Director

Assistant City Manager/Director of Administrative Services  
City of Duarte

**ATTACHMENT J**

**NOTICE OF FINANCE DIRECTOR'S DETERMINATION  
TO REVOKE BUSINESS LICENSE**



# City of Duarte

1600 Huntington Drive, Duarte, CA 91010 - (626) 357-7931 - FAX (626) 358-0018

May 13, 2015

Roxana Ponce DeLeon  
918 Shady Lane  
Glendora, CA 91740

Robert & Bertha Yoohana  
3701 Ocean View Blvd  
Montrose, CA 91020

RE: Revocation of Business License

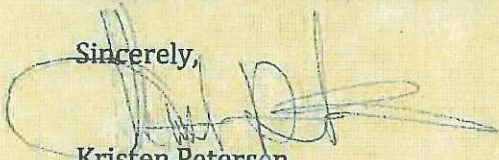
A hearing was held today at 10am at 1600 Huntington Drive in Duarte to consider the revocation of the Bellagio Fountain of Youth business license at 1740 Huntington Drive, Suite 102 in Duarte. I have taken into account all the information provided and come to the conclusion that the Bellagio Fountain of Youth business license at this address should be revoked. This license is revoked pursuant to Section 5.04.030 of the Duarte Municipal Code for performing massage without proper permits or licenses to perform massage and 5.04.230 for knowingly misrepresenting to the City that the business would only be providing nutrition and weight loss counseling and selling massage products. These violations were clearly reflected in the numerous reports presented by Public Safety as to the massage services that have been purchased and conducted specifically at 1740 Huntington Drive, Suite 102. It also included the testimony of the officer who witnessed a massage patron who had just completed her paid massage service on April 21, 2015, when the officers were inspecting the business and cited the business owner.

Please consider this letter as official notice of the decision to revoke the business license at 1740 Huntington Drive, Suite 102. You now have 15 days from the date of this notice if you want to file an appeal to the City Council by writing an appeal request to the City Clerk.

If an appeal is not filed, the decision will be final, your business license will be revoked and you are no longer allowed to operate any business at 1740 Huntington Drive, Suite 102 in Duarte.

If you would like to apply for a new business license for an alternative use at that address, you may do so by submitting a new business license application to the Duarte Administrative Services Department located at 1600 Huntington Drive.

Sincerely,

  
Kristen Petersen  
Assistant City Manager, Finance Director  
City of Duarte

**ATTACHMENT K**

**MS. DE LEON'S NOTICE OF APPEAL TO CITY COUNCIL**

RECEIVED

JUN - 1 2015

LAW OFFICES  
OF  
VICTOR S. KORECHOFF CITY OF DUARTE

Post Office Box 185  
Alhambra, CA 91802

Telephone (626) 457-5748  
Facsimile (626) 457-5740

June 1, 2015

VIA U.S. MAIL and FACSIMILE  
Fax No.: 626-358-0018

Marla Akana  
City of Duarte, City Clerk  
1600 Huntington Dr.  
Duarte, CA 91010

Re: Appeal of Revocation of Business License  
Our Client: Roxana Ponce DeLeon c/o Bellagio Fountain of Youth  
1740 Huntington Drive, Suite 102  
Duarte, CA 91010

Dear Ms. Akana,

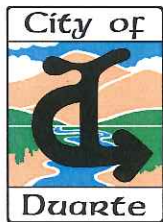
This letter serves as our Client's, named above, Written Notice of Appeal of the Revocation of Business License letter from the City of Duarte dated May 13, 2015.

Our Client was lawfully conducting massages as an ancillary permitted use prior to the enactment of the City of Duarte's new "Urgency Ordinance No. 850." Thus our Client should be grandfathered in and not subject to this moratorium.

Best regards,  
LAW OFFICES OF VICTOR S. KORECHOFF

Victor S. Korechoff, Esq.

cc Kristen Petersen, Assistant City Manager, Finance Director



# MEMORANDUM

---

**TO:** MAYOR AND CITY COUNCIL

**FROM:** PARKS AND RECREATION COMMISSION – CESAR MONSALVE, DIRECTOR OF PARKS AND RECREATION

**SUBJECT:** RECOMMENDATION BY THE DUARTE PARKS AND RECREATION COMMISSION TO REVISE THE FIELD RENTAL POLICY

**DATE:** JULY 14, 2015

## Recommendation

At the May 11, 2015 regular meeting of the Duarte Parks and Recreation Commission, the Commission unanimously voted to recommend a revised field rental policy to the Duarte City Council for approval. This is a recommendation to the Council to approve the revised Duarte Field Rental Policy as proposed.

## Discussion

Over the last two years staff has worked with the Duarte Parks and Recreation Commission to address the field use availability and field condition problems at the various Duarte parks and sports parks that are available for rent. The Commission has previously identified several issues that they have determined must be addressed including:

- A need to revise the non-resident fees with the intent to recover more field repair and maintenance costs.
- A need to revise and update the field rental policy.
- A need to explore changing the available rentable fields to accommodate more renters per field by dividing the rentable spaces.
- A need to update the DUSD/City Satellite Park Lease Agreement with specific language as it pertains to expectations from both parties and establish a more equitable agreement that reflects current uses and needs.

Last year the first step was taken and field rental fees were revised with City Council approval. Now, over the last few months staff has again worked with the Commission to revise and modernize the field rental policy that dates back to the early 1980's when the only field users were youth baseball/softball and youth tackle football leagues. Today, there are these same groups plus more youth baseball/softball travel teams and many Duarte and non-resident club and youth soccer league teams who are all competing for limited field rental spaces.

Two approaches are being taken to address these problems and when combined, a more streamlined and efficient rental system will be in place that also increases the available rentable field spaces and will allow for the scheduling of additional over seeding.

**New Policy**

There is a level of complexity to the new policy that will require staff to conduct an orientation meeting with all of our regular renters in order to properly explain the process. The new proposed policy will prioritize renters and will provide them the ability to rent for up to five months at a time as opposed to the current 90 days maximum. All interested renters will have two opportunities annually to submit for 5 months of field use: November for uses beginning in January and June for uses beginning in August. These months will coincide with scheduled over seeding of fields. Currently fields are shut down completely for over seeding during the month of December only and the new policy will allow for a secondary over seeding in July when school is out and most uses are limited. Once renters have submitted their applications by the designated deadline, then the applications will be sorted using the established prioritization list. Requested uses will be inserted into the master field use calendar and renters will be informed of their approved uses. Any new applications submitted after the deadline, or at any point before the next due date, will be subject to the current policy of 90 days maximum rentable time and will be subject to field availability.

**Additional Field Space**

Following the 1980's model, fields are currently rented as complete baseball fields or as complete soccer game play fields or larger. The new proposal will maintain the current fees but will divide most fields into two for team practices, but will maintain current configurations for games. As an example, currently a youth soccer team consisting of an average of 10-15 players can rent all of Encanto Park or Northview Park fields or ½ of the entire upper Duarte High School field, again for only 10-15 players. By dividing the fields we would be able to better accommodate our many resident users and increase the number of available field spaces while still providing teams with a large area to conduct their practices. The field spaces would be more in line with other city's rentable space sizes, and in many cases, will still larger than what other cities provide. For baseball and softball practices and for full soccer game rentals, due to the nature of the game and size of the field space needed for each sport, the fields would maintain their current configuration and fees.

**Application Form**

The full new policy form and application form will also include policies specific to the very popular Gazebo Rentals.

**Conclusion**

If this recommendation is approved, a resolution will be presented on the Consent Calendar to the City Council at the July 28 meeting.

## CITY OF DUARTE SPORTS/PARK FACILITIES USAGE POLICIES AND PROCEDURES

### Scope & Purpose

This document sets forth the policy for the City of Duarte to coordinate the allocation of all sports fields and park facilities available to the general public in an equitable and fair manner. The Facilities Usage Policies and Procedures is designed to advance the following public purposes:

1. To develop a procedure for user groups to secure fields for games, practices, and other events.
2. To avoid disputes among users over field usage.
3. To ensure Duarte residents have priority usage and access to Duarte facilities.
4. To ensure that maintenance and renovation can be scheduled and implemented properly to maintain the quality of the facilities to be used by the public.

### Priority Ranking For Field Use

An application for permission to use the sports fields and park facilities must be submitted by all organizations, teams, or individuals for all uses. **All user groups will be prioritized as follows:**

- a) Duarte Parks and Recreation Programs
- b) Duarte Unified School District (DUSD) Teams/Programs (As specified under the City/DUSD Joint Use Lease Agreement.)
- c) Duarte Youth Athletic Club and Duarte Jr. Falcons (Formerly Duarte Hawks) (Regular seasons under contract agreement with the City.)
- d) Duarte Youth Non-Profit Organizations/Teams  
(A non-profit youth organization based within the Duarte city limits or county unincorporated area and whose membership is composed of at least 51% Duarte residents or unincorporated area residents and have IRS 501C Non Profit status. Team rosters are required. Status must be verified.)
- e) Duarte Resident Youth Organizations/Teams  
(A youth organization based within the Duarte city limits or county unincorporated area and whose membership is composed of at least 51% Duarte residents or county unincorporated area residents. Team rosters are required.)
- f) Duarte Resident Adult Non-Profit Organization  
(Adult group based and organized within the Duarte city limits or county unincorporated area and whose membership is composed of at least 51% Duarte residents or county unincorporated area residents and have IRS 501C Non Profit status. Status must be verified.)
- g) Duarte Resident Adult Groups & Leagues and Duarte Business Adult Groups  
(Adult group or team based and organized by a resident applicant within the Duarte city limits or county unincorporated area. Example: Current Duarte Major League Softball teams. Resident applicant can be a team coach or team organizer and must be present on the field. League resident applicant must be a league director or board member. Business must have a current Duarte business license.)
- h) Youth Non-Resident/Non-Profit Teams  
(A 501C non-profit youth organization not based or organized within the Duarte city limits or county unincorporated area that does not have 51% roster residents.)

- i) **Non-Resident Adult Groups**  
(Group not based or organized within the Duarte city limits or county unincorporated area.)

## **Regulations For All Field Uses**

1. Users requesting fields for league play or on-going uses must submit a bi-annual rental application for a maximum 5-month use period. These rental uses will be approved based on the prioritized rankings listed above. A maximum of 3 uses per week will be approved for applicants that are not recreation programs, DUSD uses and contract agreements. Applicants will be contacted after applications have been prioritized and use requests have been inserted into the master calendar.
2. Bi-annual applications must be submitted to the Recreation office at Duarte City Hall as follows:
  - Submit your application during the 3<sup>rd</sup> week of November, Monday - Thursday (except for holidays), 7:30 a.m. – 6:00 p.m. for 5-month facility uses that will begin after January 1<sup>st</sup>.
  - Submit your application during the 3<sup>rd</sup> week of May, Monday - Thursday (except for holidays), 7:30 a.m. – 6:00 p.m. for 5-month facility uses that will begin after July 1<sup>st</sup>.
3. All other applications for use of available fields or facilities must be submitted at least eight (8) working days and not more than ninety (90) days prior to the time of use ending December 1<sup>st</sup> and June 1<sup>st</sup>. Facilities uses will be subject to availability.
4. Applications shall be issued only to responsible adults who shall be in attendance at the function for which application is made and for field rental uses as specified in the **Priority Ranking For Field Use** section.
5. All persons, groups or organizations using a public facility must abide by all Municipal, State and Federal laws.
6. All persons or organizations using a facility will be expected to abide by Municipal Code, Chapter 9.20 (All sections) regarding Conduct in Parks. This includes ***no consumption of alcoholic drinks at any park or parking lot*** and ***no smoking allowed. Municipal Code 6.20.60.***
7. All persons, groups or organizations using a public facility must abide by the City's Community Facilities Administrative Policies and Procedures on points not covered in these policies.
8. City recreation programs and City government functions shall have first priority on use of all facilities. Furthermore, previously scheduled uses may be cancelled or rescheduled for city functions or for field renovations.
9. The City will not be held responsible for loss, damage, or theft of equipment, or personal articles owned, leased, or rented by people utilizing the facilities.
10. Rentals involving league, tournament, or organized game play, including practice games or non-season games, will be required to provide a certificate of insurance. This insurance must cover a minimum of \$1,000,000 in liability and must name the City of Duarte as additionally insured and may be procured by the renter or may be purchased as special event insurance through the City. At the City's discretion, other field uses may be subject to this requirement.
11. The number of fields that one user group may be allowed to reserve will be determined by the City to ensure safety, fair use, and the preservation of the fields.

12. No user may forfeit or exchange its allocations, or any part thereof, to another user. Cancellation of a scheduled reservation must be reported to the City to allow other groups the opportunity to use the facility as determined under the policies and procedures.
13. In the interest of player safety, groups reserving fields for games or practices without light use will be required to end their reservation and field use at sunset based on the sunset calendar for the date rented.
14. The City reserves the right to alter fields and times and include postponements to optimize usage and/or allow field recovery.
15. Interference with another reservation or falsifying information may result in suspension of field use and possible cancellation of any future use.
16. The City reserves the right to deny any request to preserve the best interest of the City, quality of the fields, and in retrospect to any previous violations.
17. Violation of policies, rules or regulations or the deliberate inclusion of misleading or misstated information on an application form can result in forfeiture of a deposit, forfeiture of fees paid, and/or the suspension or cancellation of all facility use privileges by an individual or group.
18. Most fields are divided for team practice uses for soccer and related uses with a maximum of 40 participants per field. Softball and baseball practices will use fields in their proper infield configuration with a single field use fee, due to the nature of the sport.
19. Full games for soccer or similar sports using non-lighted regulation size turf fields at Encanto, Northview and Beardslee Parks and Otis Gordon Sports Park will incur a single field use fee. Duarte Sports Park between Field A & B will also incur a single field use fee.
20. Full games using lighted regulation size turf fields requiring 2 sets of field lights will be charged for both fields.
21. A deposit is required upon approval of the facility use request application. Equipment may be stored by a renter upon approval (Subject to space availability) and payment of Equipment Storage Deposit.
22. Final approval is granted upon payment of the balance of fees. Facilities are subject to automatic cancellation if balance of fees are not paid eight (8) working days prior to use.
23. Cleaning/damage/equipment storage deposit is refundable by a city warrant subject to condition of facility and removal of equipment, and will be returned by mail approximately 20 days after date of use.
24. Reservations may be cancelled by the applicant and all fees returned, up to 60 calendar days prior to the event. The deposit will be retained if reservations are cancelled 60-14 calendar days prior to event. All fees will be retained if reservations are cancelled less than 14 calendar days prior to event.
25. Any requested changes to re-approved reservations less than 8-business days prior to date of use will be subject to approval.
26. To qualify for the Duarte Youth Non-Profit Group (d) rate, the group must be composed of at least 51% Duarte residents and have a 501C status. A Duarte resident *group* is defined as a non-profit organization based within the City limits or County and whose membership is composed of at least 51% Duarte residents or unincorporated area residents.

27. A Duarte business resident is defined as a business operating within the incorporated City of Duarte and has been issued a current business license.
28. A resident is defined as a person whose residence has a Duarte mailing address.

### **Gazebos and Park Facility Rentals**

29. All applications for use of available facilities must be submitted at least eight (8) working days and not more than ninety (90) days prior to the time of use. Facility uses will be subject to availability.
30. All persons or organizations using a facility will be expected to abide by Municipal Code, Chapter 9.20 (All sections) regarding Conduct in Parks. This includes ***no consumption of alcoholic drinks at any park or parking lot*** and ***no smoking allowed. Municipal Code 6.20.60.***
31. All persons, groups or organizations using a public facility must abide by the City's Administrative Policies and Procedures on points not covered in these policies.
32. City recreation programs and City government functions shall have first priority on use of all facilities.
33. The City will not be held responsible for loss, damage, or theft of equipment, or personal articles owned, leased, or rented by people utilizing the facilities.
34. Violation of policies, rules or regulations or the deliberate inclusion of misleading or misstated information on an application form can result in forfeiture of a deposit, forfeiture of fees paid and/or the suspension or cancellation of all facility use privileges by an individual or group.

### **DUARTE GAZEBO RENTAL PARK RULES**

1. Please follow all rules and regulations detailed in the Policies and Procedures.
2. All dogs must be on a leash.
3. No inflatable bouncers, carnival/animal rides allowed.
4. No model airplanes, model rockets or drones allowed.
5. No generators or portable lighting apparatus are allowed.
6. No alcoholic drinks are allowed in the park or parking lot.
7. ***Absolutely no motorized vehicles of any kind are allowed to drive onto a park.*** (Please come prepared with hand trucks or carts to move supplies to your gazebo.)
8. No smoking is allowed.
9. Do not drive nails into any gazebo.
10. Have fun and enjoy your gazebo!

## DUARTE SPORTS FACILITIES

### FEE SCHEDULE

#### MULTI-PURPOSE FIELDS:

**Otis Gordon Park Fields A-1, A-2, B-1, B-2**

**Duarte Sports Park Fields A, B & C-1, C-2**

|                                                              | <u>Base Rate</u><br><u>"A"</u> | <u>Duarte</u><br><u>Resident</u><br><u>"B"</u> | <u>Duarte Youth</u><br><u>Non-Profit Group</u><br><u>"C"</u> |
|--------------------------------------------------------------|--------------------------------|------------------------------------------------|--------------------------------------------------------------|
| Lights                                                       | \$55.00/hr.                    | \$30.00/hr.                                    | \$15.00/hr.                                                  |
| Without Lights                                               | \$30.00/hr.                    | \$10.00/hr.                                    | No Fee                                                       |
| Cleaning/Damage Deposit<br>(Equipment Storage Deposit \$500) | \$100.00                       | \$100.00                                       | \$100.00                                                     |

#### BASKETBALL, TENNIS & VOLLEYBALL COURTS - DUARTE PARK / ENCANTO PARK / ROYAL OAKS PARK:

|                                      | <u>Base Rate</u> | <u>Duarte</u><br><u>Resident</u> | <u>Duarte Youth</u><br><u>Non-Profit Group</u> |
|--------------------------------------|------------------|----------------------------------|------------------------------------------------|
| All Courts With<br>or Without Lights | \$34.00/hr./ct.  | \$ 17.00/hr./ct.                 | No Fee                                         |
| Cleaning/Damage Deposit              | \$100.00         | \$100.00                         | \$100.00                                       |

#### GAZEBOS

(8 hrs. maximum)

|                         | <u>Base Rate</u> | <u>Duarte</u><br><u>Resident</u> |
|-------------------------|------------------|----------------------------------|
| Small                   | \$75.00/day      | \$50.00/day                      |
| Large                   | \$100.00/day     | \$75.00/day                      |
| Cleaning/Damage Deposit | \$50.00          | \$50.00                          |

#### SKATE PARK:

|                         | <u>Base Rate</u> | <u>Duarte</u><br><u>Resident</u> | <u>Duarte Youth</u><br><u>Non-Profit Group</u> |
|-------------------------|------------------|----------------------------------|------------------------------------------------|
|                         | \$55.00/hr.      | \$30.00/hr.                      | No Fee                                         |
| Cleaning/Damage Deposit | \$100.00         | \$100.00                         | \$100.00                                       |

#### MULTI-PURPOSE FIELDS:

**Beardslee Park A-1, A-2 Encanto Park A-1, A-2 Northview Park A-1, A-2 (No Lights)**

|                   | <u>Base Rate</u> | <u>Duarte</u><br><u>Resident</u> | <u>Duarte Youth</u><br><u>Non-Profit Group</u> |
|-------------------|------------------|----------------------------------|------------------------------------------------|
| Soccer/Open Field | \$30.00/hr.      | \$10.00/hr.                      | No Fee                                         |

|                         |          |          |          |
|-------------------------|----------|----------|----------|
| Cleaning/Damage Deposit | \$100.00 | \$100.00 | \$100.00 |
|-------------------------|----------|----------|----------|

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**MISCELLANEOUS CHARGES FOR ALL FACILITIES:**

|                                                                                                                 | <u>Base Rate</u> | <u>Duarte<br/>Resident</u> | <u>Duarte Youth<br/>Non-Profit Group</u> |
|-----------------------------------------------------------------------------------------------------------------|------------------|----------------------------|------------------------------------------|
| Rental of Park Restrooms                                                                                        | \$40.00/hr.      | \$20.00/hr.                | No Fee                                   |
| Staff-on-Duty                                                                                                   | \$40.00/hr.      | \$20.00/hr.                | \$12.00/hr.                              |
| <i>(During certain large-scale events and under special circumstances a Staff-on-Duty fee may be required.)</i> |                  |                            |                                          |
| Equipment Rental                                                                                                | \$25.00/day      | \$25.00/day                | \$25.00/day                              |
| Equipment Use Deposit                                                                                           | \$100.00         | \$100.00                   | \$100.00                                 |

## **DUARTE SPORTS FACILITIES RENTAL APPLICATION AND AGREEMENT**

Date: \_\_\_\_\_ Name of Organization/Responsible Person: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
                     Street Address                      City                      Zip

Email: \_\_\_\_\_

### **FACILITIES REQUESTED**

#### **DUARTE SPORTS PARK:**

\_\_\_\_\_ Baseball Field (Lights \_\_\_\_\_)  
 \_\_\_\_\_ Softball Field "A" (Lights \_\_\_\_\_)  
 \_\_\_\_\_ Softball Field "B" (Lights \_\_\_\_\_)  
 \_\_\_\_\_ Softball Field "C-1" (Lights \_\_\_\_\_)  
 \_\_\_\_\_ Softball Field "C-2" (Lights \_\_\_\_\_)

#### **OTIS GORDON SPORTS PARK**

\_\_\_\_\_ A-1 (Lights \_\_\_\_\_)  
 \_\_\_\_\_ A-2 (Lights \_\_\_\_\_)  
 \_\_\_\_\_ B-1 (Lights \_\_\_\_\_)  
 \_\_\_\_\_ B-2 (Lights \_\_\_\_\_)

#### **BASKETBALL/TENNIS Cts.**

\_\_\_\_\_ Duarte Sports Park  
 \_\_\_\_\_ Encanto Park  
 \_\_\_\_\_ Royal Oaks Park

#### **BEARDSLEE PARK**

\_\_\_\_\_ A-1  
 \_\_\_\_\_ A-2  
 \_\_\_\_\_ Restrooms

#### **ENCANTO PARK**

\_\_\_\_\_ A-1  
 \_\_\_\_\_ A-2  
 \_\_\_\_\_ Gazebo # \_\_\_\_\_  
 \_\_\_\_\_ Volleyball Courts

#### **NORTHVIEW PARK**

\_\_\_\_\_ A-1  
 \_\_\_\_\_ A-2

#### **ROYAL OAKS PARK**

\_\_\_\_\_ Restrooms  
 \_\_\_\_\_ Gazebo # \_\_\_\_\_

Date/s of Use: \_\_\_\_\_ Time: \_\_\_\_\_ to \_\_\_\_\_

#### **OTHER PARK SITE:**

Location: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_ to \_\_\_\_\_

Purpose of Rental: \_\_\_\_\_

Estimated Attendance:      Adults \_\_\_\_\_ Teens \_\_\_\_\_ Children \_\_\_\_\_ Total \_\_\_\_\_

Admission/Fee: \_\_\_\_\_ What will proceeds be used for? \_\_\_\_\_

Concessions Served? \_\_\_\_\_ Concessions Sold? \_\_\_\_\_

Facilities approval subject to conditions listed below:

- |                            |                              |
|----------------------------|------------------------------|
| 1. NO ALCOHOLIC BEVERAGES. | 4. No/Yes attendant on duty. |
| 2. Must do own clean up.   | 5. _____                     |
| 3. Use of own equipment.   | 6. _____                     |

I hereby certify that I shall be personally responsible on behalf of this group for any damage or unnecessary abuse of any building, grounds, or equipment growing out of the occupancy of said premises by our group. I agree to the conditions set forth in the approval of this application and further agree to abide by and enforce the rules and regulations of the City of Duarte. I certify that all above statements are true and correct. I understand that any misstatement or omission of a material fact may be sufficient cause for cancellation of use of the facility. I am aware that all fees are due and payable eight (8) working days in advance of the activity and I have inspected the facility and am satisfied with its condition as a safe and playable field. I, as participant or renter fully understand that the use of the listed facility exposes me to the risk of personal injury, death or property damage. I hereby release, discharge and agree not to sue the City of Duarte or its employees for any injury, death or damage to or loss of personal property arising out of, or in connection with participation in the rental of this field from whatever cause, including the active or passive negligence of the City of Duarte or its employees. The parties to this agreement understand that this document is not intended to release any party from any act of omission of "gross negligence," as that term is used in applicable case law and/or statutory provision. In consideration for being permitted to participate in the program/class/excursion, I hereby agree, for myself, my heirs, administrators, executors, and assigns, that I shall indemnify and hold harmless the City of Duarte or its employees from any and all claims, demands, actions or suits arising out of or in connection with the rental of this facility.

|                                 |                         |               |                |
|---------------------------------|-------------------------|---------------|----------------|
| _____<br>Signature of Applicant | _____<br>Street Address | _____<br>City | _____<br>Phone |
|---------------------------------|-------------------------|---------------|----------------|

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For Official Use Only

Application Approved:\_\_\_\_\_ Application Denied:\_\_\_\_\_ Classification:\_\_\_\_\_

Fees:

Rental Hours\_\_\_\_\_ @ \$\_\_\_\_\_ \$\_\_\_\_\_

Deposit:

Amount: \$\_\_\_\_\_ Rcpt. #:\_\_\_\_\_

Cleaning/Damage Bond #2120 \$\_\_\_\_\_

Date Rcvd.: \_\_\_\_\_ Rcvd. By:\_\_\_\_\_

Miscellaneous Charges \$\_\_\_\_\_

Bal. Due: \$\_\_\_\_\_ Due By:\_\_\_\_\_

\_\_\_\_\_  
TOTAL FEES \$\_\_\_\_\_

Balance Paid:

Amount Rcvd:\_\_\_\_\_ Rcpt. #:\_\_\_\_\_

Date Rcvd:\_\_\_\_\_ Rcvd. By \_\_\_\_\_

\_\_\_\_\_  
Director of Parks & Recreation Department or Authorized Designate



# A G E N D A M E M O

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**TO:** Mayor Paras-Caracci and Members of the Duarte City Council

**FROM:** Karen A. Herrera, Deputy City Manager

**SUBJECT:** Update on Mandatory Statewide Water Conservation Measures 2015

**DATE:** July 14, 2015

**Recommendation:**

Receive and file this update on the status of State Water Resource Board Water Restriction regulations in the City of Duarte and how California American Water Company will be handling the enforcement process.

**Background:**

In January of 2014, Governor Brown declared a drought State of Emergency and called for Statewide Water Conservation. The City's private water utility, California American Water activated voluntary water conservation measures. In May of that year, the Duarte City Council passed resolution 14-10 (See Attachment A) calling for a Citywide 20% voluntary reduction of water usage.

Water conservation efforts transitioned from voluntary to mandatory on August 14, 2014, when the California Public Utilities Commission (CPUC) issued a resolution requiring all water agencies to inform their customers about the four mandatory statewide water restrictions and their potential fines. The restriction included prohibitions against: 1) using potable water on outdoor landscape causing runoff into adjacent properties, roadways, parking lots, or private/public walkways; 2) using a hose to wash a vehicle except when the hose is fitted with a shut-off nozzle; 3) using water on driveways and sidewalks; and 4) using potable water in a fountain or other decorative water feature except where water is part of a recirculating system.

In response to this action, the City of Duarte adopted Resolution 14-21 (See Attachment B) implementing and enforcing the Statewide Water Conservation provisions in the City of Duarte. This action also confirmed that the City had pre-existing authority to enforce the Emergency Regulation utilizing its existing Administrative Citation process thereby ensuring that residents, visitors, and businesses comply with the State Water Board's Emergency Regulation.

**Discussion:**

As California has entered its fourth year of drought, the State Water Board further expanded its emergency regulations on March 17, 2015 and new prohibitions were added in a variety of areas. Many directly affecting both the City's operation and our residents and businesses.

### City Landscaping

On April 1, 2015, Governor Brown issued an Executive Order and directed the Water Board to impose restrictions to achieve an aggregated statewide 25% reduction in urban water use through February 2016. These restrictions consider the average per capita water usage in each water supplier 's service area and require that those with higher per capita usage achieve proportionately greater reductions than those with lower usage. The Executive Order also directed the Water Board to develop regulations that impose restrictions on City's ability to water turf on street medians.

On May 5, 2015, the Water Board adopted an additional emergency regulation that implemented the requirements in the Governor's Executive Order. Beginning in June 2015, the City of Duarte is required to reduce usage by 28% as compared to the same months in 2013.

In addition, the Water Board has enacted two additional prohibitions that the City must enforce.

- The application of potable water to outdoor landscape during and within 48 hours after measurable rainfall is prohibited and;
- The irrigation with potable water of ornamental turf on public street medians is prohibited.

Since the Water Board's regulation prohibits the use of potable water to irrigate turf on public street medians, the City's Street Maintenance has developed an inventory of turf medians in the City and also as part of the 2015-16-budget process, will be designing a prototype street median utilizing California Native and drought tolerant landscaping. The Water Board has also stated that as this provision is implemented, it is important to ensure that existing trees remain healthy and do not present a public safety hazard. The State Water Board is currently developing further guidance on this issue.

With the intent to comply with State regulations, Staff has significantly reduced the watering of median areas since early June, maintaining a schedule that is intended to allow trees and shrubs to remain healthy. With turf areas sharing irrigation systems with tree and shrub areas, it is infeasible to eliminate all irrigation; however, the response does address the spirit of the State regulation. The minimal amount of irrigation will result in brown turf areas and it is likely that the result will be dead turf and an increase in weed growth in the future.

Prior to this recent action, over the past several years, the City has taken several actions to be more water efficient, such as: upgrading irrigation clocks and equipment; increasing the focus on irrigation management; and completing turf replacement projects. Because of this meeting, the 28% water usage reduction goal is very optimistic.

### Private Property Landscaping

The City of Duarte through its Code Compliance Division enforces City laws relating to maintenance of landscaping throughout the City. However, in light of the ongoing drought and the City's initiation of significant water conservation measures in order to meet its 28% reduction goal, landscape enforcement must be looked at in a corresponding light. As previously discussed, under Stage 2 measures, landscape irrigation will be limited to two days per week. Depending on weather, this amount of watering may not be enough to maintain many types of live landscaping, particularly lawns.

Under existing Municipal Codes, dried or dead landscaping including brown lawns are considered a public nuisance and could be pursued as a violation upon a complaint being filed with the City's Code Compliance Division. As deteriorating landscape conditions become more of a common occurrence under the water conservation measures, staff believes a stay on enforcement of certain landscape related violations should be implemented.

Staff looked at other Southern California cities to determine if other cities are also rethinking their current code compliance posture in light of the drought. Generally, most cities are conducting very limited landscape enforcement, either because their regulations do not contain or have limited language regarding maintenance standards or simply because of the drought.

Based on staff's evaluation, regarding the impacts that the proposed water conservation measures will have on existing landscape, the following enforcement practices will be followed during the water shortage:

Code Compliance will discontinue enforcement for the following:

Dead or brown vegetation that is otherwise well maintained, even if shown on an approved landscape plan;

Code Compliance will continue regular enforcement of the following:

1. Dead, overgrown or neglected landscape that creates a public safety hazard (excessive weeds, excessive dead/unmaintained plantings, etc.)
2. Landscaping installed as part of an approved landscape plan that is needed to support stability of a manufactured slope area.

At such time, the enhanced Statewide Water Conservation measures are lessened or eliminated, Code Compliance staff will resume enforcement of the regulations as originally adopted and intended in the Municipal Code.

Drought Management Plan

On June 9, 2015, the California Public Utilities Commission approved California American Water's Amended Rule 14.1 Schedule with an effective date of June 1, 2015. The approved Water Shortage Contingency Plan has five stages and Duarte is in Stage 2. A Stage 2 Plan condition exists when it is determined that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a further consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Further this level includes the enforcement of both Stage 1 and 2 requirements.

Among other things, the Emergency Regulation prohibits the following activities: (1) No watering lawns or landscapes with potable water 48-hours following rain or between the hours of 9am and 5pm.; (2) No washing down hard or paved surfaces; (3) No irrigation overspray onto sidewalks and driveways; (4) No washing a vehicle with a hose that DOES NOT contain a positive pressure shut-off nozzle; (5) No use of fountains and decorative water features that DO NOT recirculate water; (6) Water agencies will be required to notify customers when they are aware of leaks that are within the customer's control; (7) Restaurants and other food service establishments can only serve water to customers on

request; (8) Operators of hotels and motels must provide guests with the option of choosing not to have towels or linens laundered daily, and prominently display notice of this option; (9) Cities have to stop watering medians; (10) Fire hydrant water can only be used for fire suppression; (11) Outdoor irrigation is limited to no more than two days per week. Specifically, odd addresses may water Tuesday and Friday and even addresses may water Monday and Thursday; (12) Commercial car washes must use recycled water; (13) Leaks must be corrected within 72 hours; (14) No excessive water use for dust control or earth compaction; and (15) no additional wasteful practices that may be identified from time to time.

### Enforcement

Enforcement of the new State Water Board regulations will be handled by California American Water Company effective July 14, 2015. Prior to this date, based on previous policy established by Resolution 14-R-21 in September of 2014, the City had committed to locally enforcing the then, four mandatory water conservation measures adopted by the CPUC. However, since the addition of the new conservation provisions, especially the limiting of outdoor irrigation to two days per week, the City's Code Compliance Division is experiencing high volumes of calls and is unable to do the appropriate follow up and enforcement.

The overall intent of the California American's enforcement program into gains voluntary compliance. Since gaining approval for the program from the CPUC on June 9, 2015, the Utility has notified its customers with a summary of the new provisions via direct mail, email, information on the company website and direct phone calls. This information is required to be dispersed prior to the onset of new Stages or the imposition of fines.

There maybe some cases however where a property owner does not voluntarily comply. This is a summary of the how those cases will be handled:

1. Enforcement is complaint driven or based on field observations by City or Cal American staff. Residents will be directed to contact California American Water with these observations.
2. First time violators will receive a written warning.
3. Second offense of same restriction within 1 year will result in another written warning and a \$100 penalty.
4. Third offense of the same restriction within 1 year will result in another written warning and a fine of \$250.
5. Fourth offense within 1 year of the same restriction will result in another written warning and a \$500 fine.
6. Fifth offense within 1 year of the same restriction will result in another written warning, service termination and a \$500 fine.
7. Sixth offense within 1 year of the same restriction will result in the installation of a flow restricting device on the customer's water meter for a the duration of the Water Contingency Plan.

Additional offenses for separate water use restrictions will start at the beginning step. Violation fines are in addition to the customer's regular water bill. All enforcement related monies generated by Cal American during this period must be held in a separate account as directed by the CPUC.

The City of Duarte will coordinate and support California American Water with enforcement in the following manners:

- Refer all calls that come into the City to California American
- Track on weekly basis calls that come in thru email, voice mail and social media reporting them on a form provided by California American
- Publicize and promote compliance with water restrictions via social media, Duarte City News, accessduarte.com, etc.

**Fiscal Impact:** None

**Attachments:** Attachment A – Resolution 14-10  
Attachment B – Resolution 14-21

**RESOLUTION NO. 14-10****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE  
ENCOURAGING ALL DUARTE RESIDENTS AND BUSINESS OWNERS  
TO TAKE IMMEDIATE ACTION TO VOLUNTARILY REDUCE  
WATER USE BY TWENTY PERCENT**

**WHEREAS**, the San Gabriel Valley is experiencing a third consecutive dry year; and

**WHEREAS**, 2013 was the driest year on record; and

**WHEREAS**, the level of the Main San Gabriel Basin as measured at the Key Well is approaching the historical low level of 189 feet above mean sea level recorded in December 2009, and is projected to fall below the historic low level by June of 2014; and

**WHEREAS**, the Governor of the State of California declared a drought emergency and called on Californians to reduce water by twenty percent; and

**WHEREAS**, the State Water Project allocation is currently at an unprecedented level of 0 percent; and

**WHEREAS**, the Metropolitan Water District of Southern California is drawing upon a significant portion of its regional drought storage reserves to meet demand, and has adopted a Water Supply Alert as a first step in implementing its Water Supply Allocation Plan, and has called upon all Southern Californians to reduce water use by twenty percent; and;

**WHEREAS**, the Main San Gabriel Basin Watermaster is required by the Environmental Protection Agency to meet rates of water production from the operable units that treat contaminated groundwater, and imported water is required to sustain such operations; and

**WHEREAS**, the health and safety of over 1.8 million people living in the San Gabriel Valley depends upon the long-term sustainable management of the Basin; and

**WHEREAS**, a reduction in current water use by twenty percent will result in less of a need to withdraw water from storage, preserving water in storage to maintain a reliable supply in the event the drought continues through 2015; and

**WHEREAS**, in order to continue to meet the water needs of residents and businesses in the City of Duarte, and to protect the public from potential health hazards, the City is encouraging its citizens and business owners to voluntarily conserve water whenever and wherever possible; and;

**WHEREAS**, Duarte residents are being asked to voluntarily take simple steps to save water, including taking shorter showers, not leaving water running, checking for leaks, washing only full laundry loads, not washing vehicles at home, promptly fixing defective plumbing or sprinklers, watering only when landscaping needs it during early morning hours, avoid causing or allowing water to run off landscaped areas into adjoining streets, sidewalks, or other paved areas due to incorrectly directed sprinklers or excessive watering, and using a broom instead of the hose to clean driveways, gutters, and walkways;

**NOW, THEREFORE, BE IT RESOLVED** that the Duarte City Council hereby determines that voluntary water conservation is needed, and encourages all Duarte residents and business owners to take immediate action to voluntarily reduce water use by 20%, to conserve water for all of its uses, and to make every reasonable effort to conserve this precious natural resource.

PASSED, APPROVED, AND ADOPTED this 13th day of May, 2014.

/s/ Elizabeth Nowak Reilly  
Mayor Elizabeth Nowak Reilly

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss.  
CITY OF DUARTE                )

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 14-10 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 13<sup>th</sup> day of May, 2014, by the following vote:

AYES:       Councilmembers: Fasana, Finlay, Kang, Paras-Caracci, Reilly

NOES:       Councilmembers: None

ABSENT:     Councilmembers: None

\_\_\_\_\_  
/s/ Marla Akana  
City Clerk Marla Akana  
City of Duarte, California

**RESOLUTION NO. 14-21****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
DUARTE, CALIFORNIA, IMPLEMENTING THE STATEWIDE  
WATER CONSERVATION PROVISIONS IN THE CITY OF  
DUARTE**

WHEREAS, on January 17, 2014, Governor Edmund G. Brown Jr. issued Governor's Proclamation No. 1-17-2014 declaring a State of Emergency to exist in California due to severe drought conditions; and

WHEREAS, on April 25, 2014, Governor Brown issued an executive order to strengthen the State of California's ability to manage water and habitat effectively in drought conditions, and called for all Californians to redouble their efforts to conserve water; and

WHEREAS, on July 15, 2014, the State Water Resources Control Board ("State Water Board") approved Resolution No. 2014-0038 To Adopt An Emergency Regulation For Statewide Urban Water Conservation, which added Sections 863, 864 and 865 to Title 23 to the California Code of Regulations as an emergency regulation to address the severe drought conditions (the "Emergency Regulation"); and

WHEREAS, among other things, the Emergency Regulation prohibits the following activities: (1) using potable water on outdoor landscapes causing runoff into adjacent properties, roadways, parking lots, or private/public walkways; (2) using a hose to wash a vehicle except when the hose is fitted with a shut-off nozzle; (3) using water on driveways and sidewalks; and (4) using potable water in a fountain or other decorative water feature except where water is part of a recirculating system; and

WHEREAS, on July 28, 2014, the State of California Office of Administrative Law approved the State Water Board's Emergency Regulation; and

WHEREAS, the Emergency Regulation took effect on July 28, 2014, and will remain in effect for 270 days (*i.e.*, until April 4, 2015) unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the Emergency Regulation due to continued drought conditions pursuant to Water Code Section 1058.5; and

WHEREAS, a copy of the State Water Board's Emergency Regulation is attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, on August 14, 2014, the California Public Utilities Commission ("CPUC") adopted Resolution No. W-5000 Ordering Water Utility Compliance With the State Water Resource Control Board's Resolution No. 2014-0038 Adopting An Emergency Regulation For Statewide Urban Water Conservation, As Codified in the California Code of Regulations, Title 23, Article 22.5, Sections 863, 864 and 865, which ordered all water utilities subject to the CPUC's jurisdiction to, among other things, track and record their progress in assisting local enforcement agencies responsible for enforcing compliance with the Emergency Regulation's water restrictions; and

WHEREAS, a copy of the CPUC's Resolution is attached hereto as Exhibit "B" and incorporated herein; and

WHEREAS, Section 1.04.110 of the City of Duarte Municipal Code states that "[i]t shall be a violation of this code for any person or entity to engage in any act, activity, business, or use within the city that is in violation of any city, county, state, or federal law, ordinance, rule, or regulation . . ."; thus, failure to comply with the State Water Board's Emergency Regulation is both a violation of State law and a violation of the City's Municipal Code; and

WHEREAS, the City of Duarte has historically applied Section 1.04.110, by initially providing warnings to non-compliant individuals and entities, followed by, if necessary, graduated fines in the amounts of \$75 for a first offense, \$150 for a second offense and \$300 for a third offense;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Duarte, California, as follows:

1. This City Council hereby finds and determines that the foregoing recitals are true and correct.

2. This City Council hereby confirms that the City has pre-existing authority to enforce the Emergency Regulation, and therefore authorizes and directs City staff and its Code Enforcement Officers to treat violations of the Emergency Regulation in a manner consistent with other infractions, and to thereby ensure its residents, visitors, businesses, and water utilities comply with the State Water Board's Emergency Regulation.

3. This resolution shall take effect upon its adoption and remain in effect while the State Water Board's Emergency Regulation is in effect.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 2014.

/s/ Elizabeth Nowak Reilly  
Mayor Elizabeth Nowak Reilly

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       )     ss.  
CITY OF DUARTE                )

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 14-21 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 9<sup>th</sup> day of September, 2014, by the following vote:

AYES:       Councilmembers: Fasana, Finlay, Kang, Paras-Caracci, Reilly

NOES:       Councilmembers: None

ABSENT:     Councilmembers: None

/s/ Marla Akana  
City Clerk Marla Akana  
City of Duarte, California

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2014-0038**

**TO ADOPT AN EMERGENCY REGULATION  
FOR STATEWIDE URBAN WATER CONSERVATION**

**WHEREAS:**

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order to strengthen the state's ability to manage water and habitat effectively in drought conditions and called on all Californians to redouble their efforts to conserve water. The executive order finds that the continuous severe drought conditions present urgent challenges across the state including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity if drought conditions continue into 2015. The National Integrated Drought Information System reported that nearly 80% of the state was reported to be under "extreme" drought conditions at the end of June;
2. The executive order refers to the Governor's Proclamation No. 1-17-2014, issued on January 17, 2014, declaring a State of Emergency to exist in California due to severe drought conditions. The January Proclamation notes that the state is experiencing record dry conditions, with 2014 projected to become the driest year on record. Since January, state water officials indicate that reservoirs, rainfall totals and the snowpack remain critically low. This follows two other dry or below average years, leaving reservoir storage at alarmingly low levels. The January Proclamation highlights the State's dry conditions, lack of precipitation and the resulting effects on drinking water supplies, the cultivation of crops, and the survival of animals and plants that rely on California's rivers and streams. The January Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. There is no guarantee that winter precipitation will alleviate the drought conditions that the executive orders address, which will lead to even more severe impacts across the state if the drought wears on;
4. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";
5. Over 400,000 acres of farmland are expected to be fallowed, thousands of people may be out of work, communities risk running out of drinking water, and fish and wildlife will suffer.

6. Many Californians have taken bold steps over the years and in this year to reduce water use; nevertheless, the dire nature of the current drought requires additional conservation actions from residents and businesses. Some severely affected communities have implemented water rationing, limiting water use in some cases to only 50 gallons per person per day, foregoing showers, laundry, toilet flushing, and all outdoor watering.
7. Water conservation is the easiest, most efficient and most cost effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available next year, giving water suppliers the flexibility to manage their systems efficiently. The more water that is conserved now, the less likely it is that a community will experience such dire circumstances that water rationing is required ;
8. Most Californians use more water outdoors than indoors. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes would not suffer greatly from receiving a decreased amount of water;
9. Public information and awareness is critical to achieving conservation goals and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>).
10. Enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
11. The emergency regulations set a minimum standard requiring only modest lifestyle changes across the state. Many communities are already doing more and have been for years. They should be commended, but can and should do more. Others are not yet doing so and should at least do this, but should do much more given the severity of the drought;
12. On July 8, 2014, the State Water Board issued public notice that the State Water Board would consider the adoption of the regulation at the Board's regularly-scheduled July 15, 2014 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
13. On April 25, 2014, the Governor suspended the California Environmental Quality Act's application to the State Water Board's adoption of emergency regulations pursuant to Water Code section 1058.5 to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation;
14. As discussed above, the State Water Board is adopting the emergency regulation because of emergency drought conditions, the need for prompt action, and current limitations in the existing enforcement process;

15. Disadvantaged communities may require assistance in increasing water conservation and state agencies should look for opportunities to provide assistance in promoting water conservation;
16. Nothing in the regulations or in the enforcement provisions of the regulations, preclude a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulations adopted by this resolution and local agencies retain their enforcement discretion in enforcing the regulations, to the extent authorized, and may develop their own progressive enforcement practices to encourage conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, sections 863, 864, and 865, as appended to this resolution as an emergency regulation;
2. The State Water Board staff will submit the regulation to the Office of Administrative Law (OAL) for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes;
4. These regulations shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulations due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulations and their effect;
6. Directs State Water Board staff to condition funding upon compliance with the emergency regulations, to the extent feasible;
7. Directs State Water Board staff to work with the Department of Water Resources and the Save Our Water campaign to disseminate information regarding the emergency regulations; and
8. Directs State Water Board staff in developing an electronic reporting portal to include data fields so that local agencies may provide monthly reporting data on (i) conservation-related implementation measures or enforcement actions taken by the local agency and (ii) substitution during the drought of potable water with recycled water to extend water supplies.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board commends water suppliers that have increased conservation messaging and adopted innovative strategies to enhance customer awareness of water use, such as applications that let customers compare their water use to water use by others; reduce system losses, such as fixing system leaks which can deplete supplies by 10 percent or more; and establish incentives to reduce demand, such as tiered or drought rate structures. The State Water Board also commends all Californians that have already been working to maximize their conservation efforts, both at home and at work;

10. The State Water Board calls upon water suppliers to take the following actions:

*Educate customers and employees*

- Retail water suppliers should provide notice of the regulations in English and Spanish in one or more of the following ways: newspaper advertisements, bill inserts, website homepage, social media, notices in public libraries;
- Wholesale suppliers should include reference to the regulations in their customer communications;
- All water suppliers should train personnel on the regulations;
- All water suppliers should provide signage where recycled or reclaimed water is being used for activities that the emergency regulations prohibit with the use of potable water, such as operation of fountains and other water features;
- All water suppliers should redouble their efforts to disseminate information regarding opportunities and incentives to upgrade indoor fixtures and appliances;
- All water suppliers should use education and the tools available through the Save Our Water website (<http://saveourwater.com>); and
- All water suppliers should educate and prepare their boards and councils on the drought response actions contained in the emergency regulations and in this resolution, and to make sure that drought response items are placed on agendas as early as possible;

*Increasing local supplies*

- All water suppliers should accelerate the completion of projects that will conserve potable water by making use of non-potable supplies, such as recycled water, "greywater," and stormwater collection projects;
- All water suppliers should improve their leak reporting and response programs and request that police and fire departments and other local government personnel report leaks and water waste that they encounter during their routine duties/patrols;
- Smaller water suppliers – those with fewer than 3,000 service connections – should take proactive steps to secure their communities' water supplies and educate their customers about water conservation and the status of their supply reserves;
- All water suppliers should conduct water loss audits and make leak detection and repair a top priority for the duration of the drought; and
- All urban water suppliers should evaluate their rate structures and begin to implement needed changes as part of planning for another dry year. Information and assistance on setting and implementing drought rates is available from the Alliance for Water Efficiency. (<http://www.allianceforwaterefficiency.org/>).

11. The State Water Board calls on all Californians to take the following additional actions:
  - Further reduce water demand, whether by using less water in daily routines indoors and out, retrofitting appliances and installing greywater and rainwater catchment systems; and
  - Check residential and business water bills to see if there are high charges that may indicate a leak and to fix the leak, if they are able, or contact their local water utility if they need assistance.
12. The State Water Board encourages its staff, the Department of Water Resources, the Public Utilities Commission, urban water suppliers, and other local agencies to look for opportunities to encourage and promote new technologies that reduce water usage, including through timely access to water usage information and behavioral response.
13. The State Water Board encourages all state and local agencies to look for additional opportunities to minimize potable water use in outdoor spaces.
14. The State Water Board encourages investor-owned utilities to expeditiously submit applications for implementation of the regulations to the California Public Utilities Commission.

#### CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 15, 2014.

AYE: Chair Felicia Marcus  
Vice Chair Frances Spivy-Weber  
Board Member Steven Moore  
Board Member Dorene D'Adamo

NAY: None

ABSENT: Board Member Tam M. Doduc

ABSTAIN: None

  
\_\_\_\_\_  
Jeanine Townsend  
Clerk to the Board

## **PROPOSED TEXT OF EMERGENCY REGULATIONS**

### **Article 22.5. Drought Emergency Water Conservation**

#### **Sec. 863 Findings of Drought Emergency**

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;

(4) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(5) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

#### **Sec. 864 Prohibited Activities in Promotion of Water Conservation**

(a) To promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(3) The application of potable water to driveways and sidewalks; and

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

(b) The taking of any action prohibited in subdivision (a) of this section, in addition to any other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

## PROPOSED TEXT OF EMERGENCY REGULATIONS

### Sec. 865 Mandatory Actions by Water Suppliers

(a) The term "urban water supplier," when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water.

(2) As an alternative to subdivision (b)(1), an urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within thirty (30) days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

(d) In furtherance of the promotion of water conservation each urban water supplier shall prepare and submit to the State Water Resources Control Board by the 15<sup>th</sup> of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. Beginning October 15, 2014, the monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within thirty (30) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105; 350; 10617; 10632.

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AGENDA ID #13219 (Rev. 3)  
ITEM #89

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**DIVISION OF WATER AND AUDITS**  
Water and Sewer Advisory Branch

**RESOLUTION W-5000**  
**August 14, 2014**

**RESOLUTION**

**(RES. W-5000) RESOLUTION ORDERING WATER UTILITY  
COMPLIANCE WITH THE STATE WATER RESOURCES CONTROL  
BOARD'S RESOLUTION NO. 2014-0038 ADOPTING AN EMERGENCY  
REGULATION FOR STATEWIDE URBAN WATER CONSERVATION  
AS CODIFIED IN THE CALIFORNIA CODE OF REGULATIONS,  
TITLE 23, ARTICLE 22.5, SECTIONS 863, 864, AND 865.**

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**SUMMARY**

On July 15, 2014 the State Water Resources Control Board (Water Board) adopted an Emergency Regulation for Statewide Water Conservation (Emergency Regulation).

The Emergency Regulation is available on the Water Board's website at:

[http://www.swrcb.ca.gov/waterrights/water\\_issues/programs/drought/docs/emergency\\_regulations/oal\\_app2014071810e.pdf](http://www.swrcb.ca.gov/waterrights/water_issues/programs/drought/docs/emergency_regulations/oal_app2014071810e.pdf)

The Emergency Regulation went into effect on July 28, 2014, after approval by the Office of Administrative Law, and it will expire on April 25, 2015. Within ten (10) days of the effective date of this Resolution, all water utilities subject to the Commission's jurisdiction shall publish notice of the Emergency Regulation in the local newspaper and on their respective website. Within twenty (20) days of the effective date of this Resolution, all water utilities subject to the Commission's jurisdiction shall provide direct notice to their customers by either posted mail or e-mail of the Emergency Regulation. The notice shall list the Water Board's mandatory restrictions and the potential fines arising from violations of these prohibited water uses. All Commission jurisdiction water utilities are ordered to comply with the Water Board's requirements codified in Title 23, Article 12.5, Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively,

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mandatory water conservation measures. Utilities shall include notice of the implementation of either the mandatory outdoor irrigation restrictions or mandatory water conservation measures as required in Sections 865(b) through (e) as part of the required customer notification.

In addition, Class A and B water utilities are to track and record their progress in assisting local enforcement agencies responsible for enforcing compliance with the enumerated mandatory water use restrictions.

### **BACKGROUND**

On January 17, 2014, Governor Edmund G. Brown Jr. issued an executive order declaring a drought state of emergency (Emergency Drought Declaration). In response to this executive order, the Commission on February 28, 2014 issued Resolution W-4976 wherein it adopted drought procedures for water conservation. The Commission ordered Class A and B water utilities with Tariff Rule 14.1 for voluntary conservation to activate this Tariff Rule 14.1 calling for a voluntary reduction in water use. Those utilities that did not have an existing Tariff Rule 14.1 were required to file an advice letter adding this rule to its tariff. All Class A and B water utilities are in compliance with Resolution W-4976. Utilities were also provided an opportunity to add memorandum accounts to their preliminary statements in the tariffs to track the incremental costs associated with drought compliance efforts. Finally, the Commission directed water utilities to comply with future directives under the Emergency Drought Declaration for either additional voluntary conservation measures or requirements for mandatory rationing.

On April 25, 2014, Governor Brown issued a second executive order to strengthen the state's ability to manage water in drought conditions. The executive order recognizes the need for additional expedited actions to reduce the harmful

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impacts from the drought. In this regard, Governor Brown ordered California residents to refrain from wasting water and directs the Water Board to adopt emergency regulations as it deems necessary, pursuant to Water Code Section 1058.5, to implement called for reductions in outdoor irrigation and wasteful water practices.

The Emergency Regulation is the Water Board's response to the April 25, 2014 executive order. The Water Board adopted amendments to the California Code of Regulations by adding Sections 863, 864, and 865 to Title 23, Article 12.5. Section 864 outlines prohibited activities intended to promote water conservation. The following actions are prohibited except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency.

1. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadway, parking lots, or structures.
2. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
3. The application of potable water to driveways and sidewalks.
4. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

Section 864(b) provides that violation of any of the four prohibited actions is an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Section 865 outlines mandatory actions required of all water suppliers. All Class A and B utilities that meet the definition of an urban water supplier set forth in Water Code Section 10617 shall implement all requirements and actions of the stage of their water shortage contingency plans that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water (Section 865(b)(1)). As an

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alternative, the Water Board provides that Class A and B utilities that are classified as urban water suppliers can request approval of an alternate plan that achieves a level of conservation superior to that achieved above (Section 865(b)(2)).

All Class A and B utilities that meet the definition of an urban water supplier and that do not have water shortage contingency plans or have been notified by the Department of Water Resources that their water shortage contingency plans do not meet the requirements of Water Code Section 10632 shall, within 30 days, limit outdoor irrigation of ornamental landscapes or turf with potable water by customers they serve to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption relative to the amount consumed in 2013 (Section 865(c)).

All Class B, C, and D utilities that do not meet the definition of an urban water supplier shall take one or more of the following actions within 30 days. Utilities are either to: (1) limit outdoor irrigation of ornamental landscapes or turf with potable water by customers they serve to no more than two days per week; or (2) implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the customers they serve relative to the amount consumed in 2013 (Section 865(e)).

Finally, the Emergency Regulation, as it pertains to Commission-jurisdictional utilities, requires all Class A and B water utilities to prepare and submit monthly reports to the Water Board showing monthly water production in 2014 along with a comparison to the amount produced in the same calendar month in 2013. The Emergency Regulation was made effective on July 28, 2014 and will expire on April 25, 2015.

### DISCUSSION

With nearly 80% of the state reported to be under extreme drought conditions at the end of June 2014, all Californians need to be cognizant of and compliant with the

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mandatory restrictions enacted by the Water Board. If California experiences a fourth dry year in a row in 2014/ 2015, water needs for basic health and safety will be at risk. Commission-jurisdictional water utilities are integral and important players in California's water delivery system. As such, they serve an important role through interactions with their customers in assisting in complying with the Water Board's mandatory water use restrictions. By this Resolution, we are ordering all jurisdictional water utilities to take the following steps outlined below to assist in complying with the Water Board's mandatory water use restrictions.

The first component in achieving customer compliance is conveyance of what is expected from water consumers, as well as the consequences for non-compliance. Within ten (10) days of the effective date of this Resolution, water utilities shall publish notice of the Emergency Regulation in the local newspaper and on their respective website.

Within twenty (20) days of the effective date of this Resolution, water utilities shall provide direct notice to their customers by either posted mail or e-mail of the Emergency Regulation. The notice shall list the Water Board's mandatory restrictions and the potential fines arising from violations of these prohibited water uses. Following on regular intervals for the duration that the mandatory restrictions are in effect, utilities shall use either bill inserts or bill messages to remind customers of the continuing mandatory restrictions. A suggested draft notice is attached as Appendix A. This draft notice should be modified as necessary by the water utilities, but should contain the Emergency Regulation provisions and the potential fine for violations of the regulations.

Second, all Class A and B water utilities shall assist in assuring compliance with the restricted water uses by working with local law enforcement or public agencies

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charged with enforcing the mandatory use restrictions.<sup>1</sup> All Class A and B water utilities shall, at a minimum, establish procedures and mechanisms that facilitate employee- and customer-identified violations and the conveyance of this information to the appropriate enforcement officials. These utilities shall track and record reports of violations, actions taken to assist local law enforcement or public agencies, and the results of such actions. This information shall be made available to the Commission upon request.

Utilities also have in their tariffs rules to address the negligent or wasteful use of water, such as Tariff Rule 11.B.3 which provides for the discontinuance of service following proper notice to a customer. Short of this, utilities can also assist enforcement officials by placing flow restrictors on meters for premises where there has been shown a documented history of repeat violations.

All Class A, B, C, and D utilities shall comply with the Water Board's requirements outlined in Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively, mandatory water conservation measures. Utilities shall include notice of the implementation of either the mandatory outdoor irrigation restrictions or mandatory water conservation measures required in Section 865 as part of the customer notification requirements of the four prohibited water uses specified in Section 864.

Finally, Section 865(d) of the amended California Code of Regulations adopted by the Water Board requires all Class A and B utilities to provide a monitoring report to the Water Board by the 15<sup>th</sup> of each month beginning in October 2014. The monitoring reports are intended to show progress towards the objective of a 20% reduction in water usage called for in the Governor's Drought Emergency Proclamation dated January 17,

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<sup>1</sup> Water Code section 1058.5(d) provides that violations of the Water Board's emergency regulations are "infractions." In California, "infractions" are defined as criminal penalties. See Pen. Code Sections 16, 17, and 19.6.

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2014. All Class A and B utilities are required to provide a copy of this monthly monitoring report to the Director of the Division of Water and Audits as long as this report is required by the Water Board.

### **COMMENTS ON PROPOSED RESOLUTION**

As provided by Rule 14.6(a) of the Commission's Rules of Practice and Procedure and Pub. Util. Code § 311(g)(2), the 30-day public review and comment period has been waived given the unforeseen emergency situation being addressed by this Resolution. This matter is added to the Agenda pursuant to Government Code Section 11125.3(a)(2).

### **FINDINGS AND CONCLUSIONS**

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order to strengthen the state's ability to manage water in drought conditions.
2. On July 15, 2014 the State Water Resources Control Board (Water Board) adopted an Emergency Regulation for Statewide Water Conservation (Emergency Regulation). In the Emergency Regulation, the Water Board adopted amendments to the California Code of Regulations in Title 23, Article 12.5, by adding Sections 863-865.
3. The Emergency Regulation went into effect on July 28, 2014, after approval by the Office of Administrative Law, and it will expire on April 25, 2015.
4. Cal. Code Regs. Tit. 23, § 864, enumerates four mandatory water use restrictions and fines for violation of the prohibited uses of up to five hundred dollars (\$500) for each day in which the violation occurs.
5. Cal. Code Regs. Tit 23, § 865(b) through (e), imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf using potable water.
6. Cal. Code Regs. Tit 23 § 865(b) through (e), provides for implementation of mandatory conservation measures as an alternative to mandatory restrictions on outdoor irrigation.

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7. Water needs for basic health and safety are at risk if California experiences another dry year in 2014/ 2015.
8. Local law enforcement and public agencies are charged with enforcing the mandatory water use restrictions.
9. Cal. Code Regs. Tit. 23, § 865(d), requires all Class A and B water utilities to prepare and submit monthly monitoring reports to the Water Board showing water production in 2014 along with a comparison to the amount of water produced in the same calendar month in 2013.
10. As provided by Rule 14.6(a) of the Commission's Rules of Practice and Procedure and Pub. Util. Code § 311(g)(2), the 30-day public review and comment period has been waived given the unforeseen emergency situation being addressed by this Resolution.
11. Within ten (10) days of the effective date of this Resolution, water utilities shall publish notice of the Emergency Regulation in the local newspaper and on their respective website listing the Water Board's mandatory restrictions and the potential fines arising from violations of the listed prohibited water uses.
12. Within twenty (20) days of the effective date of this Resolution, water utilities shall provide direct notice to their customers by either posted mail or e-mail of the Emergency Regulation listing the Water Board's mandatory restrictions and the potential fines arising from violations of the listed prohibited water uses.
13. All Class A and B water utilities shall assist in assuring compliance with the restricted water uses by working with local law enforcement or public agencies charged with enforcing the mandatory use restrictions.
14. All Class A and B water utilities shall, at a minimum, establish procedures and mechanisms that facilitate employee- and customer-identified violations and the conveyance of this information to the appropriate enforcement officials. These utilities shall track and record reports of violations, actions taken to assist local law enforcement or public agencies, and the results of such actions. This information shall be made available to the Commission upon request.

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15. All Class A and B water utilities should provide copies of the monthly monitoring report on water production, as called for by the Water Board, to the Director of the Division of Water and Audits so long as this report is required by the Water Board.
16. All Class A, B, C, and D utilities shall comply with the Water Board's requirements outlined in Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively, mandatory water conservation measures.

### **THEREFORE IT IS ORDERED THAT:**

1. All California Public Utilities Commission jurisdictional water utilities shall notify their customers, either by posted mail or email, as well as by a notice published in the local newspaper, and on their respective website, of the State Water Resources Control Board's enactment of mandatory water use restrictions and fines for violations as codified in Title 23, Article 12.5, Section 864 of the California Code of Regulations within ten to twenty days of the effective date of this Resolution.
2. All California Public Utilities Commission jurisdiction water utilities shall comply with the State Water Resources Control Board's requirements codified in Title 23, Article 12.5, Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively, mandatory water conservation measures. Utilities shall include notice of the implementation of either the mandatory outdoor irrigation restrictions or mandatory water conservation measures as required in Sections 865(b) through (e) as part of the customer notification required in Ordering Paragraph No. 1.
3. All Class A and B utilities are required to provide a copy of the monthly monitoring report on water production, as required by the State Water Resources

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Control Board's enactment of Section 865(d) in Title 23, Article 12.5 of the California Code of Regulations, to the Director of the Division of Water and Audits as long as these reports are required by the State Water Resources Control Board.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 14, 2014; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

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### APPENDIX A

Date

Notice of State Water Resources Control Board Emergency Regulation to Control Water Use During Droughts

Water Utility (WU) has been ordered by the California Public Utilities Commission to notify its customers of the State Water Resources Control Board's (Board) restrictions and fines for violations of the Board's regulations. This notification is being sent because California is in a drought and your cooperation is needed to ensure reliable supplies of water for your comfort and necessary use *[for something that explains/reminds customers of the situation]*

The Board has determined that the following water use activities by *[insert water utility name]* customers are not allowed:

1. Watering outdoor landscapes in a way that causes water to "runoff" onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
2. Washing a vehicle, with a hose without a shut-off nozzle or other device that will immediately stop the flow of water when not in use.
3. Using drinking water to wash driveways and sidewalks.
4. Using drinking water in a fountain or other decorative water feature, except where the water is recirculated.
5. Violation of any of these four prohibited or restricted water use activities may be punished by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Further information may be obtained from the (WU) local business office.

(END OF APPENDIX A)