

AGENDA
REGULAR JOINT MEETING OF THE CITY COUNCIL OF THE
CITY OF DUARTE, SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT
AGENCY OF THE CITY OF DUARTE, THE DUARTE HOUSING AUTHORITY, AND
THE DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY

TUESDAY, MAY 14, 2013

6:30 p.m. – Closed Session
7:00 p.m. – Regular Session

COUNCIL CHAMBERS, 1600 HUNTINGTON DRIVE, DUARTE, CALIFORNIA 91010

MISSION STATEMENT

With integrity and transparency, the City of Duarte provides exemplary public services in a caring and fiscally responsible manner with a commitment to our community's future

MARGARET FINLAY, MAYOR
LIZ REILLY, MAYOR PRO TEM
JOHN FASANA, CITY COUNCILMEMBER
TZEITEL PARAS-CARACCI, CITY COUNCILMEMBER
PHIL REYES, CITY COUNCILMEMBER

City/Agency/Authority Staff:

Darrell George, City Manager
Kristen Petersen, Assistant City Manager and Director of Administrative Services
Craig Hensley, Community Development Director
Cesar Monsalve, Director of Parks and Recreation
Brian Villalobos, Director of Public Safety Services
Dan Slater, City Attorney
Marla Akana, City Clerk

ADDRESSING THE CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AND FINANCING AUTHORITIES:

If you wish to address the City Council, Successor Agency, Housing Authority, or Financing Authority on any item on the Agenda, you should fill out a Speaker Card indicating which item or items on the Agenda you wish to speak about, and hand the card to the City Clerk. You will be called to the Podium when that item is heard by the City Council/Successor Agency/Housing Authority/Financing Authority. If you wish to address the City Council, Successor Agency, Housing Authority, or Financing Authority on any item that is not on the Agenda, but that is within the subject matter jurisdiction of the City/Agency/Housing Authority/Financing Authority, you may do so under the "Oral Communications" portion of the Agenda. At the podium, before starting your remarks, please state your name and city of residence for the record.

ADA ACCESSIBILITY NOTICE:

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, you should contact the City Manager's office at (626) 357-7931. Notification no later than 1:00 p.m. on the day preceding the meeting will enable the City to make reasonable arrangements to assist your accessibility to this meeting.

Note: Any documents distributed by the City/Agency/Authorities to a majority of the City Council/Successor Agency/Housing Authority/Financing Authority Board less than 72 hours prior to the City Council/Successor Agency/Housing Authority/Financing Authority meeting will be made available for public inspection at City Hall, 1600 Huntington Drive, Duarte, CA 91010, during normal business hours, except such documents that relate to closed session items or which are otherwise exempt from disclosure under applicable law.

THE FOLLOWING ITEMS WILL BE HEARD AT 6:30 P.M

1. CALL TO ORDER OF CITY COUNCIL, SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY, HOUSING AUTHORITY, AND COMMUNITY FACILITIES FINANCING AUTHORITY, AND NOTATION OF ANY ABSENCES
2. ADOPTION OF THE AGENDA
3. CLOSED SESSION
 - A. Public Input – *Members of the public wishing to speak concerning the closed sessions listed below may do so at this time. Each person may speak once for no more than 3 minutes.*
 - B. Conference with Legal Counsel—Existing Litigation, pursuant to Government Code Section 54956.9(d)(1); *City of Duarte, et al., Petitioners/Plaintiffs, vs. Ana J. Matosantos, in her official capacity as Director of the State of California Department of Finance, et al., Sacramento County Superior Court Case No. Case No. 34-2012-80001338.*

THE FOLLOWING ITEMS WILL BE HEARD NOT EARLIER THAN 7:00 P.M.

4. PLEDGE TO THE FLAG
5. MOMENT OF REFLECTION
6. FITNESS/MENTAL WARM-UP
7. PUBLIC REPORT OF CLOSED SESSION ITEMS
8. SPECIAL ITEMS – Page 1
 - A. Presentation by Captain Christopher Nee – Temple Station dispatch process
 - B. Recognition – Jerry Katz, Temple Station’s 2012 Civilian Volunteer of the Year
 - C. Recognition – Skills USA State Competition Gold Medal winners and participants – Best Broadcast News Production
 - D. Recognition – Retiring Duarte Fire Captain Joseph Alvarado
 - E. Recognition – Dr. Gerald “Jerry” Delker, Duarte Senior Center Volunteer of the Year, and presentation of Proclamation for Older Americans Month
9. ANNOUNCEMENTS OF UPCOMING COMMUNITY EVENTS
Any person who wishes to make a brief announcement of a future community event that is open to the general public may do so at this time.
10. ORAL COMMUNICATIONS—ITEMS NOT ON THE AGENDA (30 MINUTES)
Any person wishing to speak on any issue that is not on the Agenda, but that is within the subject matter jurisdiction of the City/Agency or Authorities, may do so at this time. The opportunity to speak is on a first come, first serve basis. Each person may speak once for no more than 3 minutes and there is a maximum of 30 minutes for all Oral Communications at this time. Under the Brown Act, members of the City Council/Successor Agency/Housing Authority/Financing Authority, and staff can respond only with a brief reply to issues raised in Oral Communications, and no action on such matters may take place at this meeting.
11. ITEMS TO BE ADDED TO THE CONSENT CALENDAR
12. CONSENT CALENDAR – Page 4
All matters listed on the Consent Calendar are to be approved with one motion unless a member of the City Council/Successor Agency/Housing Authority/Financing Authority removes an item for separate action. Any consent calendar item for which separate action is requested shall be heard as the next Agenda item. The respective entity’s consent items are shown in parentheses at the end of each item as “CC” for City Council, “SA” for Successor Agency, “HA” for Housing Authority, and “FA” for C.F. Financing Authority.
 - A. Approval of Minutes – April 23 and 30, May 6 and 7, 2013 (CC/HA/SA/FA)
 - B. Approval of Warrants – May 14, 2013 (CC/HA/SA/FA)
 - C. Motion to introduce and/or adopt all resolutions and ordinances presented for consideration by title only and waive further reading (CC/HA/SA/FA)

- D. Council Bill 13-R-07 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADOPTING AMENDMENTS TO PORTIONS OF THE ADMINISTRATIVE POLICIES AND PROCEDURES FOR COMMUNITY FACILITIES AS THEY PERTAIN TO RENTALS (CC)
- E. Council Bill 13-R-08 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO THE PROVISIONS OF ARTICLE XIII B OF THE CALIFORNIA CONSTITUTION (CC)
- F. 13-O-01 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADDING CHAPTER 5.09, "TOBACCO RETAILER LICENSE," TO TITLE 5, "BUSINESS LICENSES AND REGULATIONS," OF THE DUARTE MUNICIPAL CODE (Second Reading) (CC)
- G. Letter supporting AB 1357 (Hernandez) – Local emergency room funding (CC)
- H. Notices of absence by Neil Bjornsen from Traffic Safety Commission meetings of 3/5/13 and 4/2/13, and by Barbie Bylsma-Houghton from Parks and Recreation Commission meeting of 5/13/13 (Receive and file) (CC)
- I. City Council/City Manager Conference Attendance – Duarte Chronicles book launching banquet, May 30, 2013, Duarte; League of California Cities Annual Conference, September 18-20, 2013, Sacramento (CC)

13. ITEMS REMOVED FROM CONSENT CALENDAR

14. BUSINESS ITEMS – Page 54

- A. Entitlement and development process update
- B. Memorandum of Understanding between the Los Angeles County Flood Control District, the County of Los Angeles, and the cities of Arcadia, Azusa, Bradbury, Duarte, Monrovia, and Sierra Madre regarding the administration and cost sharing for development of the Enhanced Watershed Management Program (EWMP) for the Rio Hondo/San Gabriel River Water Quality Group's Watershed, with a total project cost for a three-year period of \$65,712
- C. Adoption of a Friendship City Policy

15. CONTINUATION OF ORAL COMMUNICATIONS

*Any person who did **not** speak during the initial 30 minute Oral Communications period earlier in the meeting, who wishes to speak on any issue that is not on the Agenda but that is within the subject matter jurisdiction of the City Council/Successor Agency/Housing Authority/Financing Authority, may do so at this time. Each person may speak once for no more than 3 minutes. Under the Brown Act, members of the City Council/Successor Agency/Housing Authority/Financing Authority, and staff can respond only with a brief reply to issues raised in Oral Communications, and no action on such matters may take place at this meeting.*

16. ITEMS FROM CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY/FINANCING AUTHORITY MEMBERS AND CITY MANAGER/EXECUTIVE DIRECTOR (AB 1234 reports on trips, conference attendance, and meetings)

17. ADJOURNMENT

MEMORANDUM

TO: City Council
FROM: City Manager
DATE: May 9, 2013
SUBJECT: Comments on Agenda Items, Meeting of May 14, 2013

ITEM 8.A. Captain Christopher Nee will provide a presentation on the Temple Station dispatch process. The City Council has recently received complaints from residents regarding the dispatcher's customer service skills. Captain Nee will present an overview of the operation, and discuss how the County Sheriff Department is responding to these concerns.

ITEM 8.B. Mr. Jerry Katz will be recognized as the recipient of Temple Station's 2012 Civilian Volunteer of the Year. Since becoming a station volunteer in April 2007, Mr. Katz has donated over 698 hours of his own time. He has completed training in defensive driving and community emergency response. In December 2012, Mr. Katz received a letter of commendation for volunteering at the holiday Christmas celebration. He most recently completed the Law Enforcement Volunteer Training in February 2013. The City thanks Jerry for his hard work and dedication to the City of Duarte, Temple Station, and the Sheriff's Department.

ITEM 8.C. The City Council will recognize the Skills USA State Competition Gold Medal winners and participants, as the Best Broadcast News Production. Two teams of Duarte High School ROP Television and Video Production students competed in the 46th Annual Skills USA State Competition in San Diego, April 4-7, with one team bringing home Gold Medals and a ticket to the National Skills USA Competition in Kansas City, MO, June 24-28. More than 1,900 students from Northern and Southern California participated in the competition involving video and broadcast news production and about 110 other technical skills. One of two teams of Duarte students comprised of Isaiah Mendoza, Yanelly Serrano, Ghovanni Valdez, and Nicholas Perez, competed in the Broadcast News competition and won Gold Medals for their efforts. Four other Duarte ROP TV and Video Production students, Ellie Abajian, Lorelei Near, Martin Heithe, and Gerald Marin, participated but did not medal in the TV Video Production competition, which had students produce on the spot, 60-second videos featuring such topics as "Skills USA Partnership" and "Working Together."

ITEM 8.D. The City Council will be honoring Los Angeles County Fire Captain Joseph Alvarado for 39 years of service, including seven as a Montebello fireman. For the last six years, he served the citizens of Duarte before he brought his career to an end on April 25, 2013. He began his career at the age of 18 as a Fire Suppression Aide. Alvarado is also married and the father of three children.

ITEM 8.E. Dr. Gerald "Jerry" Delker will be recognized as the Senior Volunteer of the Year. In addition, a proclamation will be read recognizing May 2013 as Older Americans Month. Jerry Delker has been a long-standing active community leader whose dedication and volunteerism has improved the quality of lives of many Duarte residents. Jerry and his family moved to Duarte in December 1979, and he immediately became involved with local youth activities, including Girl Scouts and Boys Scouts. Jerry has served as a member of the former Community Services Commission (now called Public Services Commission), as well as the Youth and Family Master Plan Advisory Committee. In 2002, Jerry joined the Duarte Elks Lodge and expanded its services to youth. He got the Lodge involved in the National Dictionary Project in 2007, and has seen it grow to where they have provided

3,300 dictionaries to third graders throughout the San Gabriel Valley. In 2011, Jerry obtained a National Elks grant to start the Bikes for Kids Program, which has allowed the Duarte Elks Lodge to provide over 200 helmets and 90 bicycles to Duarte children.

ITEM 12.E (Consent). This item is a resolution to establish an appropriations limit on the amount of tax revenues that the State and most local governments can appropriate within a given fiscal year. The required computations to determine the appropriations limit for FY 2013/14 have been performed by the Administrative Services Department and are on file with the Office of the City Clerk, and are available for public review.

ITEM 12.G (Consent). This item presents a support letter for AB 1357 (Hernandez) pertaining to local emergency room funding. In 2002, the voters of the San Gabriel Valley approved Measure B, authorizing L.A. County to levy a special tax to provide funding for the Countywide system of trauma centers, emergency medical services, and bioterrorism response. Voters of the San Gabriel Valley were the largest group to come out in support of Measure B because they have historically been disenfranchised when it came to emergency medical services. Currently, there are no trauma centers located in the East San Gabriel Valley, and there continues to be a lack of infrastructure and staff support for the existing emergency medical services.

AB 1357 would require emergency room funds collected by the County of Los Angeles from property taxes in the San Gabriel Valley to remain in the San Gabriel Valley. This bill would also establish a task force study to audit the funds collected since the passage of the voter initiative, and report its findings to the legislature by January 1, 2015.

ITEM 14.A. At an earlier Council meeting, Councilmember Reyes asked for an update on the City's entitlement process to get an idea of the cost and associated timelines. Community Development staff will provide a presentation outlining the current entitlement process, and will also provide the Council an update of the building department activity over the past several months. As the Council is aware, the City made a consultant contract change earlier this year from Los Angeles County Building Department to Charles Abbot and Associates.

ITEM 14.B. This item asks the City Council to consider entering into an MOU with adjacent cities regarding the administration and cost sharing for the development of an Enhanced Watershed Management Program (EWMP) and Coordinated Integrated Monitoring Program (CIMP) for the Rio Hondo/San Gabriel River Water Quality Group. Community Development Department staff has been working with adjacent cities for the past several months to determine the most effective process for addressing the new NPDES requirements. This is a complex topic, and few cities have the staff and financial resources to adequately address the issue independently. The proposed multi-agency approach is a cost efficient and effective way to address the stormwater issue.

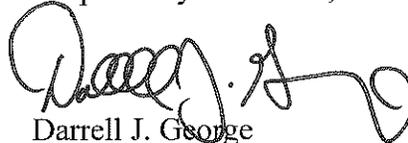
The cities of Arcadia, Azusa, Bradbury, Duarte, Sierra Madre, the local portions of unincorporated County of Los Angeles, and the Los Angeles County Flood Control District have collaborated to enter into a MOU to share the costs to prepare an EWMP and CIMP. The city of Arcadia has agreed to act as the fiduciary agent, and will be responsible for the administration of contract services and collecting and administering funds under the MOU. The city of Arcadia will be acting in this capacity at no cost to the participating agencies. Annual costs would be divided among participating agencies based on the MOU's cost share formula. The City of Duarte's total costs would be approximately \$65,712, of which a portion would be paid during the current fiscal year, and the remainder over the next three years.

ITEM 14.C. The City Council requested that the Economic Development Commission (EDC) review the idea of establishing a Friendship City program. EDC discussed the item at its April and May meetings, and on May 1, voted unanimously to recommend approval of a Friendship City Policy. The City Council, as it sees fit, may take action to approve, amend, or take some other action to address the recommended policy.

The Friendship City Policy is the first step in establishing an official friendship relationship with another city or cities in the world. If the policy is adopted, the next steps would be:

- The City Council or Councilmember would recommend a possible friendship city
- Contact would be made with the political leaders of the potential friendship city and a draft Friendship City Agreement would be developed that met the criteria in the Friendship City Policy
- The EDC would review the proposed Friendship City Agreement and make a recommendation to City Council
- The City Council would take unanimous action
- The Mayor would sign the final agreement
- When an initial friendship city relationship is made, the City Manager would also draft an Administrative policy to address issues such as designating an official City representative, and developing a process for setting meetings and monitoring costs

Respectfully submitted,



Darrell J. George
City Manager



MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: CESAR MONSALVE, PARKS AND RECREATION DIRECTOR

SUBJECT: RECOGNITION OF DUARTE SENIOR CENTER VOLUNTEER OF THE YEAR – DR. GERALD “JERRY” DELKER

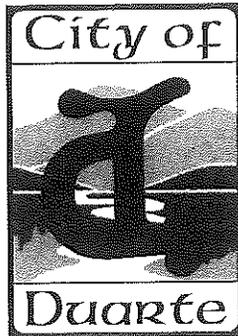
DATE: 5/6/13

The Duarte Senior Center has chosen Jerry Delker as the Senior Volunteer of the Year. On May 22, 2013 the Los Angeles County Board of Supervisors will recognize Jerry for his dedication and commitment to the City of Duarte and the Duarte Senior Center will further honor Jerry at the Duarte Senior Center Volunteer Recognition Dinner in June. Jerry has been invited to the May 14 Council meeting to be recognized for his volunteer efforts.

Jerry Delker has been a long-standing active community leader whose dedication and volunteerism has improved the quality of lives of many Duarte residents. Jerry and his family moved to Duarte in December of 1979 and he immediately became involved with local youth activities. Starting with their involvement with Girl Scouts of America, Jerry and his wife Kathy have continuously served at various levels of the organization, including the troop, district and council level. They helped on camporees, mall fairs, Halloween houses, and the very popular Girl Scout Cookie distribution. Just this past year Jerry worked on the 100th Anniversary Girl Scout Camporee. Jerry has also continued to work with the Boy Scouts of America by serving as a unit advisor, and conducts monthly leadership classes.

Jerry was involved with the Parent Teacher Association (PTA) until 1990, when his United States Army Reserve (USAR) unit was mobilized for Operation Desert Storm. He retired from the USAR as a Master Sergeant in 2001, after serving 31 years. Jerry has served the City of Duarte as a member of the Community Services Committee for 4 years and he served on the Youth and Family Master Plan advisory committee. In 2002, Jerry joined the Duarte Elks Lodge and expanded its services to youth. He got the lodge involved in the National Dictionary Project in 2007, and has seen it grow to where they have provided 3,300 dictionaries to 3rd graders throughout the San Gabriel Valley. In 2011 Jerry obtained a National Elks grant to start the Bikes for Kids Program. This has allowed the Duarte Elks Lodge to provide over 200 helmets and 90 bicycles to Duarte children. Jerry also conducts a weekly bike repair class at Mt. Olive High School, providing valuable trade skills to students. Jerry is also a good cook and prepares meals at the Elks Lodge on Thursdays and for special Elk events and

catered dinners for rentals. Jerry has also done the cooking for the Duarte Emblem Club's booth at the annual Duarte City Picnic Celebration as well as the Emblem Club's back yard barbeque. Finally, in his spare time, Jerry also serves as a substitute teacher for the Duarte Unified School District. The City of Duarte is grateful for Jerry Delker's commitment and dedication to the community.



Proclamation

OLDER AMERICANS MONTH

WHEREAS, May is traditionally Older Americans Month, a time to celebrate and pay tribute to seniors; and

WHEREAS, California's older population remains one of the State's most enduring resources; and

WHEREAS, older Americans have contributed many years of service in their communities through volunteer programs; and

WHEREAS, seniors possess and share a wealth of experience, background and history, making them an important part of the ties that bind both family and community; and

WHEREAS, today's efforts in designing a coordinated community-based system of care and services for seniors will contribute to the well-being of older Californians in the 21st century; and

WHEREAS, recognition within the State of California offers the State's residents an opportunity to reflect upon the multiple talents and accomplishments of the State's older residents; and

WHEREAS, Dr. Gerald "Jerry" Delker has been chosen Outstanding Older American for the City of Duarte for 2013;

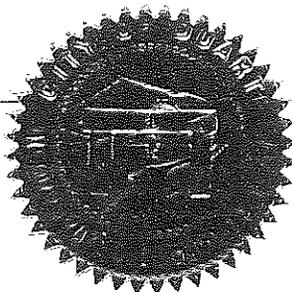
NOW, THEREFORE, LET IT BE RESOLVED, that the City of Duarte hereby declares May 2013 as OLDER AMERICANS MONTH, and urges all residents to participate in appropriate ceremonies honoring these men and women who have given of their time and talents to improve the quality of life for all.

Mayor Margaret Finlay

ATTEST:

City Clerk Marla Akana
Duarte, California

May 14, 2013



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 – APRIL 23, 2013

- 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 Finlay called the meeting to order at 5:36 p.m.
- RECORDATION OF ATTENDANCE The following were in attendance:
PRESENT: Fasana, Paras-Caracci (arrived prior to Closed Session), Reilly, Reyes, Finlay
ABSENT: None
ADMINISTRATIVE STAFF PRESENT: City Manager George, Deputy City Attorney Melching
- ADOPTION OF AGENDA Fasana moved, Reyes seconded to adopt the Agenda, as amended to adjourn in memory of Sean Collier, Krystle Campbell, Martin Richard, Lingzi Lu, Dolly Smith, Louis Garrett, and Frank Mossbarger, and carried unanimously.
- CLOSED SESSIONS There was no public input. Melching stated the first closed session is pursuant to Government Code Section 54957.6; Conference with Labor Negotiators; Negotiators: Darrell George, Kristen Petersen; Regarding SEIU Local 721 Management and Professional Employees and General Employee Units. The second Closed Session is pursuant to Government Code Section 54956.9(d)(1); Conference with Legal Counsel; Existing Litigation; *City of Duarte, et al., Petitioners/Plaintiffs vs. Ana J. Matosantos, in her official capacity as Director of the State of California Department of Finance, et al.*, Sacramento County Superior Court Case No. Case No. 34-2012-80001338. The third Closed Session is pursuant to Government Code Section 54956.9(d)(2) and (e)(5); Conference with Legal Counsel; Threatened Litigation; Number of potential cases: One. The Closed Sessions concluded at 6:45 p.m. The City Council reconvened at 7:07 p.m., with all members present.
- PLEDGE TO THE FLAG Damon Colaluca led the Pledge of Allegiance to the Flag.
- MOMENT OF REFLECTION A moment of reflection was observed.
- FITNESS/MENTAL WARM-UP Melching and Finlay provided the warm-up.
- PUBLIC REPORT OF CLOSED SESSION Melching reported that during the first Closed Session, City Council received a report on the status of the negotiations, with no reportable action taken. During the second Closed Session, City Council discussed strategic litigation issues, with no reportable action taken. During the third Closed Session, City

Council took no reportable action. Councilmember Fasana did not participate in the third Closed Session item.

SPECIAL ITEMS

Recognition – Irma Escalera and Seidner’s Collision Center

Mayor Finlay presented a Certificate of Appreciation to Irma Escalera for successfully completing the Groundhog Job Shadow Day program and securing her first job at Seidner’s Collision Center, and presented Seidner’s Collision Center a Certificate for providing excellent youth employment opportunities.

Proclamation – Water Safety Month

Mayor Finlay read and presented a Proclamation to Damon Colaluca of the Santa Anita Family YMCA for Water Safety Month, which will be observed during May 2013.

Presentation – Youth and Family Committee – Funding Priorities

Cesar Monsalve introduced Youth and Family Committee Chair Eddie Howard, who made a presentation about the Committee’s ideas and funding priorities, including a request for City Council consideration of \$2,000 in funding for establishment of a 501(c)3 non-profit foundation or facilitation of pro bono efforts, and \$2,000 in funding for a line item in the Parks and Recreation Department budget for annual administrative costs. Fasana requested that the two Youth and Family Committee recommendations be included at the budget workshop.

Presentation–AQMD Monitoring Station

Dr. Philip Fine, AQMD Assistant Deputy Executive Director, provided an overview of the proposed monitoring in the cities of Duarte and Azusa, including background, increased quarry activity, project location, potential monitoring site locations, proposed method for continuous monitoring, reporting, estimated costs, and timing, and answered questions from City Councilmembers pertaining to PM10 vs. PM2.5, baseline, health concerns, AQMD funding, public access to information, maintenance, watching monitors, spikes, and notifications.

Henry Baltazar inquired about model to be used, asked if there could be two monitors, stated he wants it at Valley View with a wind speed and peak sensor, he would like access for the public, and asked if Vulcan’s offer to pay is still valid.

Allen Field stated he was told it would cost \$250,000, asked if there is a fan involved, who pays for the monitor, he was told a group forming in the City will monitor it, and he believes there are no problems with the air.

Karen Vance stated Save Our Foothills will be monitoring, asked if AQMD would respond to light and noise pollution, where can they report pollution, how critical is it to report in real time, and stated she is counting on AQMD to preserve our quality of life.

Sharman Warner stated she is concerned about the location, the wind changes directions, Valley View is a good location, she would like another one if possible, asked what guarantee is there that no one can tamper with it, and she wants accuracy.

Steve Hernandez stated it is a homogenous mixture, he feels

there will not be a lot of PM10 events, there will be dust with the blasting, a real time monitor is needed, winds will predominantly blow east and west, and suggested the north end of Encanto Park be monitored.

There was discussion about effect of wind when ridges are removed, importance of moving the process along quickly, complaints about violations, use of cameras, and dust. Dr. Fine responded to questions from City Councilmembers and the public.

Fasana requested that the School District be made aware of the importance of coordinating with AQMD regarding the monitoring station so the process could proceed as quickly as possible.

ANNOUNCEMENTS

Sheryl Lefmann, Duarte Chamber, announced Taste of Duarte on May 8 at Westminster Gardens.

Joanna Gee, Duarte Library, announced upcoming events and programs in the months of April and May.

Jeanette Santana announced 5K walk for fibromyalgia on May 11.

Cesar Monsalve announced swim registration begins April 29.

Karen Vance announced Save Our Foothills meeting on May 1 at Valley View at 7:00 p.m.

ITEMS ADDED TO CONSENT

Reilly moved, Reyes seconded to add a Proclamation for Day of Remembrance of the Armenian Genocide as Consent Item 12.J, and carried unanimously.

CONSENT CALENDAR

Fasana moved, Paras-Caracci seconded to approve the Consent Calendar as amended, as follows, and carried unanimously.
Approve Items A, B, C, E, F, I.
Remove Items D, G, H, J.

ITEMS REMOVED

Item J – Proclamation

Mayor Finlay read the Proclamation for Day of Remembrance of the Armenian Genocide.

Item J – Approved

Reilly moved, Paras-Caracci seconded to approve Item J, and carried unanimously.

Item D – 2013/14 SLESF

Brian Villalobos presented a staff report about the 2013-14 State Supplemental Law Enforcement Services Funds (SLESF) and Citizens' Option for Public Safety (COPS) grant funding.

Item D – Approved

Fasana moved, Reyes seconded to approve the use of the 2013/14 State Supplemental Law Enforcement Services Funds (SLESF) for front line law enforcement services, specifically, the City of Duarte Motorcycle Deputy and Special Event overtime patrols, per staff recommendation, and carried unanimously.

Item G – Council Bill 13-R-05
Parking Restriction – Bloomdale

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ESTABLISHING A TWO-HOUR

PARKING RESTRICTION ON BLOOMDALE STREET

Rafael Casillas, Public Works Manager, presented a staff report about the proposed parking restriction on Bloomdale Street.

Item G – Approved
RESOLUTION NO. 13-05

Reyes moved, Fasana seconded to approve Item G and adopt Resolution No. 13-05, and carried unanimously.

ITEM H – Agreement with MTA
Exchange transportation funds

Rafael Casillas presented a staff report about the Agreement for exchange of transportation funds.

Item H – Approved

Reilly moved, Fasana seconded to approve Item H, and carried unanimously.

PUBLIC HEARING
Council Bill 13-O-01 – Tobacco
Retailer License (First Reading)

Mayor Finlay announced this was the time and place set for a Public Hearing pertaining to Tobacco Retailer Licenses and a Tobacco Retailer License Fee.

Council Bill 13-R-06 – Tobacco
Retailer License Fee

13-O-01 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADDING CHAPTER 5.09, "TOBACCO RETAILER LICENSE," TO TITLE 5, BUSINESS LICENSES AND REGULATIONS," OF THE DUARTE MUNICIPAL CODE (First Reading)

13-R-06 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE APPROVING AND ADOPTING A TOBACCO RETAILER LICENSE FEE

Notice of the hearing had been given, the affidavit is on file, and no written correspondence was received on the matter.

Brian Villalobos presented a staff report about the proposed ordinance and resolution, including tobacco control laws, primary goal, Duarte Community and Youth Advocacy Coalition projects, proposed ordinance requirements and prohibitions, limits on eligibility, application, proposed fee of \$100, license revocation, and staff recommendation.

Mayor Finlay asked if there was anyone in the audience who wished to speak on the item.

Steve Hernandez stated he is surprised at the number of tobacco retailers, and \$100 is a good fee.

Allen Field stated this item was discussed in February, he told Ms. Rivera the ordinance would pass, discussed the grading system, and stated he believes we are going into the area of fees.

Laura Cortez stated her senior project was about youth access to tobacco, provided the results of her survey, and discussed the American Lung Association grading.

Alondra Cabiedes and Anthony Galicia stated they participated in the youth purchase survey, and one out of four retailers was willing to sell tobacco to them.

Gabriel Morgan stated he previously was an underage smoker, it was easy to get tobacco here, he bought from seven stores who were willing to sell to him, and he believes the ordinance should pass.

Natalie Yaghjian stated many minors at school buy cigarettes, and she wants this ordinance to pass.

James Urias stated he thinks we are doing good passing the ordinance, as it will keep the City clean, keep youth safe, and will benefit the community.

Fasana moved, Reyes seconded to close the Public Hearing, and carried unanimously.

There was discussion about School District policies, youth involvement, adult mentors, commitment, activism, leadership, and health concerns.

Council Bill 13-O-01
(Introduced)

Fasana moved, Paras-Caracci seconded to introduce Council Bill 13-O-01 for first reading, and carried unanimously.

RESOLUTION NO. 13-06

Fasana moved, Paras-Caracci seconded to adopt Resolution No. 13-06, and carried unanimously.

BUSINESS ITEMS

Parks/Recreation Commission
Facilities Policies/Procedures

Cesar Monsalve presented the staff report about the proposed amendments to the Community Facilities Administrative Policies and Procedures, as recommended by the Parks and Recreation Commission.

Reyes moved, Paras-Caracci seconded to approve the Parks and Recreation Commission recommendation to amend portions of the Administrative Policies and Procedures for Community Facilities as they pertain to rentals, as outlined in the staff report, and carried unanimously.

Update – Dial-A-Ride Services

Kristen Petersen provided an update about dial-a-ride transit services, including a survey from Temple City, and provided ridership statistics, annual cost, funding sources, other Duarte transportation services, services in neighboring communities, and a comparison of the fixed route system.

Scott Transue, Southland Transit, stated they provide contracted transit services, there are options to contract services out, and he would like to review the data and perform an analysis to offer both a fixed route and dial-a-ride.

There was discussion about analysis as it relates to a franchise, a taxi franchise, and economic analysis, as well as the City's union employees.

Victor Caballero, Southland Transit, stated franchising a taxi company is a separate issue, they can bring a dial-a-taxi service, and they can put together a fixed route system for the general

population and create a system for the senior and disabled population using Prop A and Prop C funds.

There was further discussion about taking a fresh view of transportation in our community with the Gold Line coming in, to determine how to better serve the community.

Fasana moved, Paras-Caracci seconded to receive and file the update report on dial-a-ride services, with the request that staff initiate a process to look at the City's overall transportation plan during the budget workshop, and carried unanimously.

ITEMS FROM CITY COUNCIL/
CITY MANAGER

REYES: Requested an item supporting Senator Hernandez' bill AB 1357 pertaining to trauma services be on the next Agenda, thanked the boxing team, requested that staff look at faded signage that needs to be replaced or repainted such as on Mt. Olive/Huntington Drive, met with Senator Lara, Chair of the Latino Caucus, participated in the Housing, Community, and Economic Development Policy meeting in Pasadena, appreciates the traffic calming devices on Mt. Olive/Royal Oaks and would like to look at other sites for speed bumps, he feels graffiti on private property in high travel areas should be painted out, and asked that the item be discussed during the budget workshop.

PARAS-CARACCI: Attended Teen Center job workshop, she represented City Council at the retirement event for Joe Garcia, stated the community movie night at Maxwell School was well attended and she would like an update on its success, and she agrees that the faded street signs need to be assessed.

FASANA: Thanked staff for watching the Monrovia fire situation, attended Earth Day event at the Teen Center, provided information to the City Manager about the National Park Service study proposal for the San Gabriel Unit joining the Santa Monica National Recreation Area, asked that we see which of our parks are included and if there are recommendations we need to make, stated on the Nextdoor message boards, there have been some concerns and complaints, and asked that Captain Nee be invited to a Council Meeting to discuss dispatch and perceptions.

REILLY: Attended Duarte Council of PTA's Founders Day event and congratulated the award winners, participated in the Adopt-A-Block event and thanked Burrtec, attended the spring home buyers fair, stated at the Temple Station volunteer awards banquet, Duarte resident Jerry Katz received the Volunteer of the Year Award, and asked that he be invited to a Council Meeting for recognition, thanked Bradbury for partnering with us for Earth Day, asked that Judy Blake be invited to a Council Meeting for being named Duarte Woman's Club Woman of the Year, and stated Domino's and the El Salvadoreño restaurant have reopened, and we are happy to have them in the City.

FINLAY: Stated the Italian concert was incredible, congratulated participants in the School District track meet and asked that they be invited to a Council Meeting for recognition, attended the PTA Council dinner and congratulated the winners, stated the pupusas at the El Salvadoreño restaurant are excellent, and went on the bird walk with Kimball Garrett at the Historical Museum.

ADJOURNMENT

Reilly moved, Fasana seconded to adjourn the meeting at 10:02 p.m. in memory of Sean Collier, Krystle Campbell, Martin Richard, Lingzi Lu, Dolly Smith, Frank Mossbarger, and Louis Garrett, and carried unanimously.

Mayor Margaret Finlay

ATTEST:

City Clerk

MINUTES

CITY COUNCIL OF THE CITY OF DUARTE ADJOURNED REGULAR MEETING – COMMUNITY MEETING TUESDAY, APRIL 30, 2013

CALL TO ORDER The City Council of the City of Duarte met in an adjourned regular meeting (Community Meeting) at Andres Duarte Elementary School, 1433 Crestfield Drive, Duarte, California. Mayor Finlay called the meeting to order at 7:05 p.m.

RECORDATION OF ATTENDANCE PRESENT: Fasana (arrived during the meeting), Paras-Caracci, Reilly, Reyes, Finlay
ABSENT: None

PLEDGE TO THE FLAG Principal Rick Crosby, Andres Duarte, led the Pledge of Allegiance to the Flag.

ADOPTION OF AGENDA Finlay moved, Paras-Caracci seconded to adopt the Agenda, and carried unanimously.

ANNOUNCEMENTS Sheryl Lefmann announced upcoming Chamber events.
Karen Herrera announced upcoming community events.

STAFF PRESENTATIONS The following presentations were made:

Recognition – Torre De Alabanza Mayor Finlay presented certificates of appreciation to Pastor Ivan Villalta and Youth Pastor Martin Martinez from Torre De Alabanza for their outstanding service toward the growth of the Adopt-A-Block Program in the City of Duarte, and congratulations were extended.

City budget update Kristen Petersen presented an update on the City’s budget, and announced Budget Workshop on May 6, 2013, at 4:00 p.m.

Community outreach update Karen Herrera provided an overview of the City’s community outreach, and announced a number of upcoming programs and events sponsored by the City.

Public safety update Brian Villalobos provided a public safety update, including crime statistics, dog license process, Nextdoor, and Neighborhood Watch.

Gold Line construction Craig Hensley presented an update on the Gold Line construction, including timeline, Duarte Station, and anticipated street closures.

ORAL COMMUNICATIONS The following spoke on items not on the Agenda:
Sheryl Lefmann, Nick Zigic, Steve Hernandez, Chris Frye, Jack Ochoa, Tom Reyes.

ADJOURNMENT

The adjourned regular meeting (Community Meeting) was adjourned at 8:12 p.m., to the Budget Workshop, Monday, May 6, 2013, at 4:00 p.m., and carried unanimously.

Mayor Margaret Finlay

ATTEST:

City Clerk

MINUTES

ADJOURNED REGULAR JOINT CITY COUNCIL/CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY/HOUSING AUTHORITY/ COMMUNITY FACILITIES FINANCING AUTHORITY OF THE CITY OF DUARTE BUDGET WORKSHOP – MONDAY, MAY 6, 2013

- CALL TO ORDER The City Council, City Council as Successor Agency to Dissolved Redevelopment Agency, Housing Authority, and Community Facilities Financing Authority of the City of Duarte met in a Budget Workshop in the Duarte Community Center, 1600 Huntington Drive, Duarte, California. Mayor Finlay called the meeting to order at 4:15 p.m.
- ADOPTION OF AGENDA Fasana moved, Paras-Caracci seconded to adopt the Agenda, and carried unanimously.
- RECORDATION OF ATTENDANCE PRESENT: Fasana, Paras-Caracci, Reilly, Reyes, Finlay
ABSENT: None
ADMINISTRATIVE STAFF PRESENT:
City Manager/Executive Director George
Assistant City Manager Petersen
Director of Community Development Hensley
Director of Parks and Recreation Monsalve
Director of Public Safety Services Villalobos
The meeting functioned as a “Committee of the Whole.”
- PUBLIC INPUT The following spoke:
-Mary Ann Ur and Jim Dinsmore – mobile message board.
-Henry Baltazar – increase fees for field usage.
-Lupe Valerio–asked for \$4,000 for Youth and Family Master Plan.
-Estella Morales – spoke in general about Duarte Hawks.
- BUDGET OVERVIEW George provided a general overview of the past year, and laid out the order that the Budget Workshop items would be discussed. Petersen gave an overview of the City’s accomplishments, presented the budget philosophy and proposed 2013/14 budget, and reviewed the process, highlights, and recommendations. She presented information about the General Fund and other City funds.
- DELIBERATION/COMMENTS The City Council/Agency/Authority Board deliberated on the information provided. The following actions pertaining to the 2013/14 budget were moved, seconded, and carried unanimously:
-Add \$4,000 to budget for Youth and Family Master Plan.
-Bring back budget to June 11, 2013, meeting for consideration.
- ADJOURNMENT Paras-Caracci moved, Finlay seconded to adjourn the Budget Workshop at 7:35 p.m., to a Special Meeting of the Duarte City Council on Tuesday, May 7, 2013, at 5:30 p.m., and carried unanimously.

Mayor Margaret Finlay

ATTEST:

City Clerk

5/6/13

013

MINUTES

**CITY COUNCIL OF THE CITY OF DUARTE
SPECIAL JOINT MEETING – MAY 7, 2013**

CALL TO ORDER

The City Council of the City of Duarte met in a special meeting in the Duarte City Hall Conference Room, 1600 Huntington Drive, Duarte, California. Mayor Finlay called the meeting to order at 5:35 p.m.

The following were in attendance:

PRESENT: Fasana (arrived at 5:45 p.m., Paras-Caracci, Reilly, Reyes, Finlay

ABSENT: None

ADMINISTRATIVE STAFF PRESENT: City Manager George, Assistant City Manager Petersen, Special Counsel Kelly Trainer

ADOPTION OF AGENDA

Reyes moved, Reilly seconded to adopt the Agenda, and carried unanimously.

**CLOSED SESSION
Conference with Labor
Negotiators**

There was no public input. Mayor Finlay announced that the Closed Session is pursuant to Government Code Section 54957.6; Conference with Labor Negotiators; Negotiators: Darrell George, Kristen Petersen: Regarding SEIU Local 721 Management and Professional Employees and General Employee Units. The Closed Session concluded at 6:25 p.m.

**PUBLIC REPORT OF
CLOSED SESSION**

Trainer stated the City Council held a confidential and privileged Closed Session with its labor negotiators. The City Council discussed the status of the negotiations and negotiation issues with its labor negotiators, and the City Council unanimously directed its labor negotiators to continue negotiations with the Union, and no reportable action was taken.

ADJOURNMENT

Paras-Caracci moved, Reyes seconded to adjourn the meeting at 6:30 p.m., and carried unanimously.

Mayor Margaret Finlay

ATTEST:

City Clerk

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE,
CALIFORNIA, ADOPTING AMENDMENTS TO PORTIONS OF THE
ADMINISTRATIVE POLICIES AND PROCEDURES FOR COMMUNITY
FACILITIES AS THEY PERTAIN TO RENTALS**

WHEREAS, the City of Duarte is the owner of various rental facilities, including the Duarte Teen Center, Community Center, and various City Parks (collectively, the “City Facilities”); and

WHEREAS, the City Council finds that the rental of these particular City Facilities will not only increase revenues to the City but will also meet the community’s needs by providing additional needed facilities for families, businesses, and resident and non-resident groups to rent, as has been frequently requested; and

WHEREAS, the City Council desires to establish policies and procedures and a fee schedule for the rental of these particular City Facilities; and

WHEREAS, City staff analyzed the policies and procedures associated with providing the City Facilities for rental; and

WHEREAS, the proposed amendments and fee schedule were discussed at a public meeting held by the City Council on April 23, 2013; and

WHEREAS, at the public meeting, the City Council considered the staff report and all public input and testimony received;

NOW, THEREFORE, the City Council of the City of Duarte resolves as follows:

Section 1. The following changes to the Community facilities Administrative Policies and Procedures shall apply to rental of Community Facilities:

The front page cover is re-dated to read “Revised April 2013.”

On Page 1, Item 4, bullet points are added.

On Page 1, Item 6, the new smoking ordinance (DMC 6.20.060) is added.

On Page 3, Item 16, the word “facility” is added, and “Duarte City Council” is removed and replaced with “Parks and Recreation Commission.”

On Page 3, Item 17, a new paragraph is added that states: “Non-profit organizations can solicit through the Parks and Recreation Commission for the waiving of rental fees for a special event beneficial to the community. Solicitations must be submitted at least 6 days prior to the date of use, and are subject to approval by the Parks and Recreation Commission.”

On Page 3, Item 21, the word “silly string” is added among the items prohibited.

On Page 5, Item 2, “IRS non-profit” replaces “501 (c) 3.”

On the Rental Fee Schedule, the Duarte Teen Center Gas BBQ Grill, Television/AV Equipment fee is changed to \$20.

The last page will include photographs of the facilities available for rent.

Section 2. The City Council finds and determines the foregoing fee schedule sets fees that do not exceed the cost to the City associated with providing the City Facilities for rental to the public.

Section 4. The City of Duarte Community Facilities Administrative Policies and Procedures are hereby amended to incorporate the terms of this Resolution.

Section 5. The City Clerk shall certify to the adoption of this Resolution, and it shall take effect upon its adoption.

PASSED, APPROVED, AND ADOPTED this 14th day of May, 2013.

Mayor Margaret Finlay

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. 13-07 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 14th day of May, 2013, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

MEMORANDUM

TO: Darrell J. George, City Manager
FROM: Kristen Petersen, Assistant City Manager
DATE: May 14, 2013
SUBJECT: GANN APPROPRIATION LIMIT

Background

On November 6, 1979, California voters approved the Gann Spending Limitation Initiative (Proposition 4) establishing Article XIII B of the State Constitution. Article XIII B sets limits on the amount of tax revenues that the State and most local governments can appropriate within a given fiscal year. Its basic provisions are as follows:

- Each year, State and local governments must adopt resolutions establishing appropriation limits. FY 1978-79 appropriations served as the base for this limit, with adjustments being made annually to reflect increases in population, the cost of living, and service responsibility transfers.
- Only tax proceeds are subject to the limit. Charges for services, regulatory fees, grants, loans, donations, and other non-tax proceeds are not subject to the limit. Exemptions are also made for voter-approved debt, debt that existed prior to January 1, 1979, and for the cost of compliance with court and federal government mandates.
- All tax revenues received in excess of the appropriations limit must be refunded to taxpayers within a two-year period.
- Voters may approve an increase in the appropriations limit. For the increase to remain in effect, however, it must be re-approved by voters at four-year intervals.

On June 5, 1990, California voters approved the Traffic Congestion Relief and Spending Limitation Act (Proposition 111), which made various amendments to Article XIII B of the State Constitution. The major changes, which became effective July 1, 1990, are as follows:

- The change in the cost of living is now defined to be either the change in California per capita personal income or the change in assessed valuation due to the addition of non-residential new construction. Previously, the change in the cost of living was defined as the lesser of the change in the U.S. Consumer Price Index or the change in California per capita personal income.
- The change in population is now defined to be either the change in the City's population or the change in the population of Los Angeles County as a whole. Previously, the change in

population was defined to be the change in the City's population.

- "Qualified capital outlay projects" have been added to the items exempted from the appropriations limit. Qualified capital outlay projects must have a useful life of ten or more years, and a cost, which equals or exceeds \$100,000.
- Tax revenues received in excess of the appropriations limit must be refunded to taxpayers only if the limit is exceeded over a two-year period.
- The annual calculation of the appropriations limit must be reviewed as part of the City's annual financial audit.

Computation

The information used to calculate the City's FY 2013-14 appropriations limit is presented in Attachment 1. The City's appropriations limit for FY 2012-13 was \$25,778,015. The change allowed by Proposition 111, due to population change and the increase in the cost of living, is 1.0581%. This results in a FY 2013-14 appropriations limit of \$27,275,718.

As indicated above, Proposition 111 provides several options for calculating changes in the appropriations limit. With respect to the change in population, the County's calculation used the greater of the percentage increase in either the City or the County population. Therefore, the increase in County population was used since it was greater than the City's increase (.69% vs. .62%). With respect to the cost of living, the change in California per capita personal income was used.

Recommendation

It is recommended that the City Council adopt Resolution 13-R-08 establishing the City of Duarte's Appropriations Limit for the fiscal year 2013-14.

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE
ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO THE PROVISIONS
OF ARTICLE XIII B OF THE CALIFORNIA CONSTITUTION**

WHEREAS, the voters approved the Gann Spending Limitation Initiative (Proposition 4) on November 6, 1979, adding Article XIII B to the Constitution of the State of California to establish and define annual appropriations limits on state and local government entities; and

WHEREAS, SB 1352 provides for the implementation of Article XIII B by defining various terms used in the article and prescribing procedures to be used in implementing specific provisions of the article, including the establishment by resolution each year by the governing body of each local jurisdiction of its appropriations limit; and

WHEREAS, the voters approved the Traffic Congestion Relief and Spending Limitation Act (Proposition 111) on June 5, 1990, amending Article XIII B of the Constitution of the State of California; and

WHEREAS, SB 88 provides for the implementation of Proposition 111 by defining various terms used in the article and prescribing procedures to be used in implementing the amendments to the article; and

WHEREAS, the required computations to determine the appropriations limit for FY 2013-14 have been performed by the Administrative Services Department and are on file with the Office of the City Clerk, and are available for public review; and

WHEREAS, these computations are provided in Attachment 1, which is herein incorporated by reference and attached hereto.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE DOES RESOLVE AS FOLLOWS:

SECTION 1: The Appropriations Limit for the City of Duarte for fiscal year 2013-14 is \$27,275,718.

SECTION 2: The adjustment factors for the City's Appropriations Limit are: a) the change in County population; and b) the change in California per capita personal income.

PASSED, APPROVED AND ADOPTED this 14th day of May, 2013.

Mayor Margaret Finlay

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. 13-08 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 14th day of May, 2013, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

Attachment 1

**CITY OF DUARTE
COMPUTATION OF APPROPRIATIONS LIMIT**

FY 2012-13 Appropriations Limit	\$25,778,015
Change in per capita personal income*	1.0512%
Change in County population* (Change in City population = .62%)*	1.0069%
Cumulative compound change (1.0512 x 1.0069)	1.0581%
FY 2013-14 Appropriations Limit	\$27,275,718

* Source: State of California, Department of Finance, Price and Population Information, May 2013.

ORDINANCE NO.**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADDING CHAPTER 5.09, "TOBACCO RETAILER LICENSE," TO TITLE 5, "BUSINESS LICENSES AND REGULATIONS," OF THE DUARTE MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA ORDAINS AS FOLLOWS:

SECTION 1. Chapter 5.09, "Tobacco Retailer License," is added to Title 5, "Business Licenses and Regulations" of the City of Duarte Municipal Code, as follows:

Chapter 5.09 Tobacco Retailer License

5.09.010	Legislative findings
5.09.020	Definitions
5.09.030	Requirements and Prohibitions
5.09.040	Limits on Eligibility for a Tobacco Retailer License
5.09.050	Application Procedure
5.09.060	Issuance of License; Term of License
5.09.070	License Renewal and Expiration
5.09.080	Licenses Non-Transferable
5.09.090	License Conveys A Limited, Conditional Privilege
5.09.100	Fee for License
5.09.110	Compliance Monitoring
5.09.120	Revocation of License
5.09.130	Tobacco Retailing Without A License
5.09.140	Enforcement

5.09.010 Legislative findings.

- A. Based in part on the information contained in this section, the City Council finds that the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City.
- B. The City Council finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City, to protect the health, safety, and welfare of our residents
- C. Approximately 438,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of

preventable death. (US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Annual Smoking - Attributable Mortality, Years of Potential Life Lost, and Productivity Losses - United States 1997-2001*. 2005, 54(25): p. 625-628.)

- D. The World Health Organization (WHO) estimates that by 2030, tobacco will account for 8.3 million deaths per year, killing 50% more people in 2015 than HIV/AIDS, and will be responsible for 10% of all deaths worldwide. (World Health Organization. *World Health Statistics 2007, Part 1: Ten Statistical Highlights in Global Public Health*. 2007, p. 12.)
- E. The California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:
 - 1. The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950).
 - 2. State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308).
 - 3. State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952).
 - 4. State law prohibits the sale of tobacco products and paraphernalia through self-services displays with limited exceptions for tobacco stores (Cal. Bus. & Prof. Code § 22960, 22962).
 - 5. State law prohibits the sale of “bidis” (hand-rolled filter-less cigarettes imported primarily from India and Southeast Asian countries) except in adult-only establishments (Cal. Pen. Code § 308.1).
 - 6. State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of “roll-your-own” tobacco in packages containing less than 0.60 ounces of tobacco (Cal. Pen. Code § 308.3).
- F. State law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes

due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972).

- G. State law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3).
- H. California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993), have affirmed the power of cities to regulate business activity in order to discourage violations of law.
- I. Despite the state's efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the following facts:
 - 1. Each day, nearly 4,000 children under 18 years of age smoke their first cigarette, and almost 1,500 children under 18 years of age begin smoking daily. (Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *Results from the 2004 National Survey on Drug Use and Health: National Findings*. 2005.)
 - 2. More than 75% of all current smokers in 2001 began smoking before the age of 18. (Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *2003 National Survey on Drug Use and Health: Results*. 2003.)
 - 3. Among middle school students who were current cigarette users in 2004, 70.6% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66.4% were not refused purchase because of their age. (US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Tobacco Use, Access & Exposure to Tobacco Among Middle & High School Students, U.S., 2004*. 2005, 54: p. 297-301.)
 - 4. In 2002, youth smoked approximately 540 million packs of cigarettes, generating nearly \$1.2 billion in tobacco industry revenue. (Healton C, Farrelly MC, Weitzenkamp D, et al. "Youth Smoking Prevention and Tobacco Industry Revenue." *Tobacco Control*, 15: 103-106, 2006.)
- J. Research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes, as evidenced by the following:

1. A review of thirteen California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in twelve of the thirteen communities, with an average decrease of 68% in the youth sales rate. (American Lung Association of California, Center for Tobacco Policy and Organizing. *Tobacco Retail Licensing is Effective*. 2007.)
 2. A study of the effect of licensing and enforcement methods used in the Philadelphia area revealed a decrease in sales to minors from 85% in 1994 to 43% in 1998. (Ma GX, Shive S and Tracy M. "The Effects of Licensing and Inspection Enforcement to Reduce Tobacco Sales to Minors in Greater Philadelphia, 1994-1998." *Addictive Behaviors*, 26(5): 677-87, 2001.)
 3. A study of several Minnesota cities found that an increased licensing fee in conjunction with strict enforcement of youth access laws led to a decrease from 39.8% to 4.9% in the number of youth able to purchase tobacco. (Forster JL et al. "The Effects of Community Policies to Reduce Youth Access to Tobacco." *American Journal of Public Health*, 88(8): 1193-1197, 1998.)
- K. The implementation of tobacco retailer licensing requirements is supported by most Californians, as evidenced by the following:
1. Statewide, over 80% of California adults think tobacco retailers should be licensed. (Department of Health Services, Tobacco Control Section. *California Tobacco Control Update*. 2004.)
 2. Similarly, in rural areas in California, 78% of adults think tobacco retailers should be licensed, and 91% agree that a store owner who repeatedly sells cigarettes to minors should no longer have the right to sell cigarettes. (American Lung Association of California, Center for Tobacco Policy and Organizing. *Survey of California Rural and Small Town Voters About Local Tobacco Retail Licensing Ordinances*. 2008.)
 3. 65% of California's key opinion leaders surveyed support implementation of tobacco-licensing requirements. (California Department of Health Services, Tobacco Control Section. *Final Report, Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000)*. 2003.)
 4. Over 90% of enforcement agencies surveyed in 2000 rated license suspension or revocation after repeated violations as an effective strategy to reduce youth access to tobacco. (California Department of Health Services, Tobacco Control Section. *Final Report*,

Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000). 2003.)

- L. Approximately eighty cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from smoking. (American Nonsmokers' Rights Foundation. *California Municipalities With Ordinances Restricting Youth Access To Tobacco*. 2008.)
- M. California retailers continue to sell tobacco to underage consumers, evidenced by the following;
 - 1. Nearly 11% of all tobacco retailers unlawfully sold to minors in 2007. (California Department of Health Services, Tobacco Control Section. *Youth Purchase Survey, 2007: Percent of Retailers Selling Tobacco to Youth by Store Type*. 2007.)
 - 2. Non-traditional tobacco retailers such as deli, meat, and donut shops sold to minors in 2007 at a much higher rate than the statewide average, as high as 16%. (California Department of Health Services, Tobacco Control Section. *Youth Purchase Survey, 2007: Percent of Retailers Selling Tobacco to Youth by Store Type*. 2007.)
 - 3. Teens surveyed in 2002 say they bought their cigarettes at: gas stations (58%), liquor stores (45%), and supermarkets and small grocery stores (29% combined). (California Department of Health Services, Tobacco Control Section. *Final Report, Tobacco Control Successes in California: A Focus on Young People, Results from the California Tobacco Surveys, 1990-2002*. 2003, p. 11-12.)
 - 4. Twenty-three "youth tobacco purchase surveys" in 2011 resulted in 13% of Duarte tobacco retailers willing to sell tobacco products to minors under 18 years of age.
- N. A requirement for a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults, but it will allow the City to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws.
- O. The City has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in

protecting children from being lured into illegal activity through the misconduct of adults.

- P. It is the intent of the City Council, in enacting the ordinance establishing this chapter, to ensure compliance with the business standards and practices of the City and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

5.09.020 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

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

(b) "Department" means the City's Public Safety Department, and any agency or Person designated by the Department to enforce or administer the provisions of this chapter.

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

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

(e) "Self-Service Display" means the display or storage of Tobacco Products or Tobacco Paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of Self-Service Display.

(f) “Smoking” means possessing a lighted Tobacco Product, lighted Tobacco Paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind) and also means the lighting of a Tobacco Product, Tobacco Paraphernalia, or any other weed or plant (including, but not limited to, a pipe, cigar, hookah pipe, or cigarette of any kind).

(g) “Tobacco Paraphernalia” means cigarette papers or wrappers, pipes, holders of Smoking materials of all types, cigarette rolling machines, and any other item designed for the Smoking, preparation, storing, or consumption of Tobacco Products.

(h) “Tobacco Product” means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

(i) “Tobacco Retailer” means any Person, whether or not a Tobacco Proprietor, who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, Tobacco Products, or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(j) “Youth Decoy” means a person under the age of 18 who, solely for the purposes of conducting compliance checks pursuant to this chapter, has received training by the Department, has received written authorization from the Department, or has received an immunity letter from the Los Angeles County District Attorney’s Office and has provided a true and correct copy of that immunity letter to the Department. The City shall not enforce any law establishing a minimum age for purchase of Tobacco Products against a Youth Decoy if the violation occurs when the Youth Decoy is participating in a compliance check supervised by the Department or other peace officer or City code enforcement, or the Youth Decoy is participating in a compliance check supervised by a Person designated in writing as an agent of the Department for purposes of monitoring compliance with this chapter.

5.09.030 Requirements and Prohibitions.

A. TOBACCO RETAILER LICENSE REQUIRED. It shall be unlawful for any Person to act as a Tobacco Retailer in the City without first obtaining and maintaining a valid Tobacco Retailer license pursuant to this chapter for each location at which that activity is to occur. Tobacco Retailing

without a valid Tobacco Retailer's license is a nuisance as a matter of law and a violation of this code.

- B. **LAWFUL BUSINESS OPERATION.** In the course of Tobacco Retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to Tobacco Products, Tobacco Paraphernalia, or Tobacco Retailing.
- C. **DISPLAY OF LICENSE.** Each Tobacco Retailer license shall be prominently displayed in a publicly visible location at the licensed location
- D. **POSITIVE IDENTIFICATION REQUIRED.** No Person engaged in Tobacco Retailing shall sell, exchange, or transfer in any manner a Tobacco Product or Tobacco Paraphernalia to another Person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.
- E. **MINIMUM AGE FOR PERSONS SELLING TOBACCO.** No Person who is younger than the minimum age established by state law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.
- F. **SELF-SERVICE DISPLAYS PROHIBITED.** Tobacco Retailing by means of a Self-Service Display is prohibited.
- G. **FALSE AND MISLEADING ADVERTISING PROHIBITED.** A Tobacco Retailer or Proprietor without a valid Tobacco Retailer license, including, but not limited to, a person whose license has been suspended or revoked:
 - (1) Shall keep all Tobacco Products and Tobacco Paraphernalia out of public view. The public display of Tobacco Products or Tobacco Paraphernalia in violation of this provision shall constitute Tobacco Retailing without a license under this chapter.
 - (2) Shall not display any advertisement relating to Tobacco Products or Tobacco Paraphernalia that promotes the sale or distribution of such products from the Tobacco Retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

5.09.040 Limits on Eligibility for a Tobacco Retailer License

- A. LICENSE FOR FIXED LOCATION ONLY. No license may issue to authorize Tobacco Retailing at other than a fixed location. For example, Tobacco Retailing by Persons on foot or from vehicles is prohibited.
- B. APPLICABILITY OF ZONING. No license may issue to authorize Tobacco Retailing at any location that is not in a zone where Tobacco Retailing is prohibited.

5.09.050 Application Procedure.

- A. APPLICATION. Application for a Tobacco Retailer license shall be submitted in the name of each Proprietor proposing to conduct retail tobacco sales and shall be signed by each Proprietor or an authorized agent thereof.
- B. LICENSE NOT SUBSTITUTE FOR COMPLIANCE WITH ALL LAWS. It is the responsibility of each Proprietor to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer license. No Proprietor may rely on the issuance of a Tobacco Retailer license as a determination by the City that the Proprietor has complied with all laws applicable to Tobacco Retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a Proprietor shall be revoked pursuant to the applicable provisions of this chapter. Nothing in this chapter shall be construed to vest in any Person obtaining and maintaining a Tobacco Retailer license any status or right to act as a Tobacco Retailer in contravention of any provision of law.
- C. APPLICATION FORM. All applications shall be submitted on a form supplied by the Department and shall contain the following information and may require an applicant to provide other and additional information:
 - (1) The name, address, telephone number, and email address of each Proprietor of the business seeking a license.
 - (2) The business name, address, telephone number, and email address of the single fixed location for which a license is sought.
 - (3) A single name and mailing address authorized by each Proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or necessary to the enforcement of this chapter. If an Authorized Address is not supplied, each Proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.

- (4) Proof that the location for which a Tobacco Retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
 - (5) Whether or not any Proprietor or any agent of the Proprietor has admitted violating, or has been found to have violated, this chapter and, if so, the dates and locations of all such violations within the previous five years.
 - (6) Such other information as the Department deems reasonably necessary for the administration or enforcement of this chapter as specified on the application form required by this section, which may include, but not necessarily limited to, social security number and driver's license number.
- D. CHANGE IN INFORMATION PROVIDED. A licensed Tobacco Retailer shall inform the Department in writing of any change in the information submitted on an application for a Tobacco Retailer license within ten (10) business days of a change.
- E. APPLICATION INFORMATION SUBJECT TO PUBLIC DISCLOSURE. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code section 6250 *et seq.*) or any other applicable law, subject to the laws' exemptions.

5.09.060 Issuance of License; Term of License.

- A. LICENSE ISSUANCE. Upon the receipt of a complete application for a Tobacco Retailer's license and the license fee required by this chapter, the Department shall issue a license unless substantial evidence demonstrates that one or more of the following bases for denial exists:
1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.
 2. The application seeks authorization for Tobacco Retailing at a location for which this chapter prohibits issuance of Tobacco Retailer licenses.
 3. The application seeks authorization for Tobacco Retailing for a Proprietor to whom this chapter prohibits a license to be issued.
 4. The application seeks authorization for Tobacco Retailing that is prohibited pursuant to this chapter or that is unlawful pursuant to other provisions of this code, or that is unlawful pursuant to any other law.

- B. TERM OF LICENSE. The term of a Tobacco Retailer license is one (1) year commencing on the date of issuance of the license unless earlier revoked pursuant to the provisions of this chapter.
- C. PAYMENT OF LICENSE FEE. A Tobacco Retailer license is invalid if the license fee as established by resolution of the City Council has not been timely paid in full.

5.09.070 License Renewal and Expiration.

- A. RENEWAL OF LICENSE. A Tobacco Retailer license is invalid upon the date of its expiration unless renewed prior to the expiration date. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer license and submit the license fee no later than thirty (30) days prior to expiration of the license term.
- B. To renew a Tobacco Retailer license, the Proprietor must:
 - 1. Submit the license fee and application renewal form.
 - 2. Submit a signed affidavit affirming that the Proprietor:
 - a. Has not sold and will not sell any Tobacco Product or Tobacco Paraphernalia after the license expiration date and before the license is renewed.
 - b. Has waited the applicable ineligibility period established for Tobacco Retailing without a license, as set forth in Section 5.090.130(a) before seeking renewal of the license.

5.09.080 Licenses Non-Transferable.

- A. NO TRANSFER OF LICENSE. A Tobacco Retailer license may not be transferred from one Person to another or from one location to another. A new Tobacco Retailer's license is required whenever a Tobacco Retailing location has a change in Proprietor(s) or a Tobacco Retailing location has a change in location.
- B. EFFECT OF PRIOR VIOLATIONS. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:
 - 1. The location has been fully transferred to a new Proprietor or fully transferred to entirely new Proprietors.

2. The new Proprietor(s) provide the City with clear and convincing evidence that the new Proprietor(s) have acquired or is acquiring the location in an Arm's Length Transaction.

5.09.090 License Conveys A Limited, Conditional Privilege.

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

5.09.100 Fee for License.

The fee to issue or to renew a Tobacco Retailer's license shall be established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example and without limitation, issuing a license, administering the license program, retailer education, retailer inspection, and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law. The license fee is nonrefundable except as may be provided by law.

5.09.110 Compliance Monitoring.

- A. DEPARTMENT; PEACE OFFICERS. Compliance with this chapter shall be monitored by the Department including but not limited to peace officers and City code enforcement officers. In addition, any peace officer may enforce the penal provisions of this chapter. The City may designate any number of additional Persons to monitor compliance with this chapter.
- B. PURPOSE OF COMPLIANCE CHECK. Compliance checks shall be conducted so as to allow the Department to determine, at a minimum, if the Tobacco Retailer is conducting business in a manner that complies with laws regulating youth access to Tobacco Products and Tobacco Paraphernalia. When the Department deems appropriate, the compliance checks shall determine compliance with other laws applicable to Tobacco Retailing.

- C. **YOUTH DECOYS.** From time to time, and at a time of the Department's choosing, the Department may, but is not obligated to, use one or more Youth Decoys to determine if a Proprietor or Tobacco Retailer is complying with the requirements of this chapter and other laws with respect to the prohibition on the sale, exchange, or transfer of any Tobacco Product or Tobacco Paraphernalia to a minor. Youth Decoys, at the direction and under the supervision of the Department, or other peace officers, may enter a Tobacco Retailer location as a customer and attempt to obtain through lawful means a Tobacco Product or Tobacco Paraphernalia and if so obtained then report to the Department officer or other peace officer supervising the Youth Decoy that the Proprietor or Tobacco Retailer has sold, exchanged, or transferred the Tobacco Product or Tobacco Paraphernalia to the Youth Decoy. Nothing in this chapter shall prohibit the Department officer or other peace officer supervising the Youth Decoy to enforce the provisions of this chapter or other applicable laws pursuant to the information provided by the Youth Decoy.

5.09.120 Revocation of License.

- A. **REVOCAION OF LICENSE FOR VIOLATION.** In addition to any other penalty authorized by law, a Tobacco Retailer license shall be revoked if any court of competent jurisdiction determines, or the Department finds based on a preponderance of the evidence after the licensee is afforded reasonable notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the provisions, requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law pertaining to the display, sale, exchange, or transfer of any Tobacco Product including but not limited to the requirements of Section 5.090.030.
- B. **APPEAL OF REVOCATION.** A decision of the Department to revoke a Tobacco Retailer license is appealable to the City Manager and must be filed with City Clerk within ten (10) days of mailing of the Department's decision. If such an appeal is made, it shall stay enforcement of the appealed action. An appeal to the City Manager is not available for a revocation made pursuant to subdivision C below.
- C. **REVOCAION OF LICENSE WRONGLY ISSUED.** A Tobacco Retailer's license shall be revoked if the Department finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under Section 5.090.060 existed at the time application was made or at any time before the license issued. The decision by the Department shall be the final decision of the City. Such a revocation shall be without prejudice to the filing of a new license application.

D. **NEW LICENSE AFTER REVOCATION.** In addition to other applicable provisions of this chapter pertaining to obtaining a Tobacco Retailer license, the following requirements shall also apply in the situation where a Proprietor or Tobacco Retailer seeks to obtain a new Tobacco Retailer license after such Person or Tobacco Retailer has had a Tobacco Retailer revoked:

1. After revocation for a first violation of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until ten (10) days have passed from the date of revocation.
2. After revocation for a second violation of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until thirty (30) days have passed from the date of revocation.
3. After revocation for a third violation of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until ninety (90) days have passed from the date of revocation.
4. After revocation for four or more violations of this chapter at a location within any sixty-month (60) period, no new license may issue for the location until five (5) years have passed from the date of revocation.

5.09.130 Tobacco Retailing Without a License.

A. In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Department finds based on substantial evidence, after notice and an opportunity to be heard, that any Person has engaged in Tobacco Retailing at a location without a valid Tobacco Retailer's license, either directly or through the Person's agents or employees, the Person shall be ineligible to apply for, or to be issued, a Tobacco Retailing license as follows:

1. After a first violation of this section at a location within any sixty-month (60) period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until thirty (30) days have passed from the date of the violation.
2. After a second violation of this section at a location within any sixty-month (60) period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until ninety (90) days have passed from the date of the violation.

3. After of a third or subsequent violation of this section at a location within any sixty-month (60) period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until five (5) years have passed from the date of the violation.
- B. SEIZURE OF TOBACCO PRODUCTS AND TOBACCO PARAPHERNALIA. Tobacco Products and Tobacco Paraphernalia offered for sale, exchange, or transfer in violation of this section are subject to seizure by the Department or any peace officer and shall be forfeited after the licensee and any other owner of the Tobacco Products and Tobacco Paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the Tobacco Products and Tobacco Paraphernalia were not offered for sale or exchange in violation of this chapter. The decision by the Department may be appealed pursuant to the procedures set forth in Section 5.090.120 (B). Forfeited Tobacco Products and Tobacco Paraphernalia shall be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to California Code of Civil Procedure section 1094.6 or other applicable law has expired without the filing of a lawsuit or, if such a suit is filed, after dismissal of that suit or judgment in that suit becomes final and non-appealable.
- C. SEPARATE VIOLATIONS. For the purposes of the civil remedies provided in this chapter:
1. Each day on which a Tobacco Product or Tobacco Paraphernalia is offered for sale, exchange, or transfer in violation of this chapter constitutes a separate violation of this chapter.
 2. Each individual retail Tobacco Product and each individual retail item of Tobacco Paraphernalia that is distributed, sold or offered for sale, exchanged or offered for exchange, or transferred or offered for transfer, in violation of this chapter constitutes a separate violation of this chapter.

5.09.140 Enforcement.

- A. REMEDIES CUMULATIVE. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. EVIDENCE PROVIDED BY MINOR. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a Person under the age of eighteen (18) years old, including but not limited to a Youth Decoy, such a Person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this

chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

- C. AIDING AND ABETTING. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- D.. VIOLATIONS ARE A PUBLIC NUISANCE. Violations of this chapter are hereby declared to be public nuisances.
- E. OTHER PENALTIES AND REMEDIES. Notwithstanding any other penalty provided by this Code or otherwise by law, any person who violates any provision of this Chapter 5.09 shall be guilty of a misdemeanor for each such violation and, in addition, the City may enforce the provisions of this Chapter 5.09 for any violations hereof by means of a criminal or civil enforcement process including, without limitation, through nuisance abatement proceedings, a restraining order, a preliminary or permanent injunction, or by any other means available in law or equity. Violations of this chapter are also subject to Chapters 1.04 and 1.08 of this code.

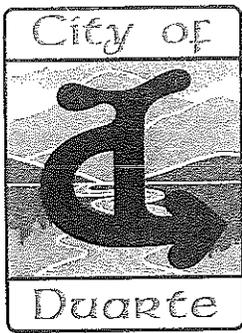
SECTION 2. CEQA Determination. In adopting this Ordinance, the City Council finds and determines, based on all of the information in the record and on the basis of its independent judgment, that this Ordinance is exempt from the California Environmental Quality Act pursuant to the following exemptions, and each of them independently: Title 14 California Code of Regulations Section 15061(b)(3), in that it can be seen with certainty that the adoption of this Ordinance proposes no activity that may have a significant effect on the environment, and pursuant to Title 14 California Code of Regulations Section 15301, in that this Ordinance involves no expansion of use of existing facilities.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, 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, phrases, or portions be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 4. 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 _____ day of _____, 2013.

Mayor Margaret Finlay



City of Duarte

Sixteen Hundred Huntington Drive, Duarte, California 91010-2592
Tel 626-357-7931 FAX 626-358-0018 www.accessduarte.com

May 15, 2013

Assemblymember Roger Hernandez
California State Assembly
State Capitol, Room 4146
Sacramento, California 95814
(FAX 916-319-2148)

AB 1357 (Hernandez) – Support

Dear Assemblymember Hernandez:

The Duarte City Council, at its meeting of May 14, 2013, voted to support AB 1357 pertaining to local emergency room funding.

In 2002, the voters of the San Gabriel Valley approved Measure B, authorizing L.A. County to levy a special tax to provide funding for the Countywide system of trauma centers, emergency medical services, and bioterrorism response. Voters of the San Gabriel Valley were the largest group to come out in support of Measure B because they have historically been disenfranchised when it came to emergency medical services. Currently, there are no trauma centers located in the East San Gabriel Valley, and there continues to be a lack of infrastructure and staff support for the existing emergency medical services.

AB 1357 would require emergency room funds collected by the County of Los Angeles from property taxes in the San Gabriel Valley to remain in the San Gabriel Valley. This bill would also establish a task force study to audit the funds collected since the passage of the voter initiative, and report its findings to the legislature by January 1, 2015.

Respectfully,

Margaret Finlay
Mayor

Mayor
Margaret E. Finlay
Mayor Pro Tem
Liz Reilly
Councilmembers
John Fasana
Tzeitel Paras-Caracci
Phillip R. Reyes
City Manager
Darrell George

AMENDED IN ASSEMBLY APRIL 8, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL**No. 1357**

Introduced by Assembly Member Roger Hernández

February 22, 2013

An act to amend Section 1317 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1357, as amended, Roger Hernández. Emergency departments: diversion of patients.

Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulations of health facilities, including, but not limited to, health facilities operating emergency departments.

Existing law requires a health facility maintaining or operating an emergency department to provide emergency services and care to any person requesting those services and care for any condition in which the person is in danger of loss of life, or serious injury or illness. Violation of these provisions is a crime.

This bill would require emergency room funds in the County of Los Angeles that were approved by voter initiative, which are collected from properties within the San Gabriel Valley, to remain in that geographic region of the county.

This bill would establish a task force to study and audit the funds collected from properties in the San Gabriel Valley since the passage of the local voter initiative, and to report its findings to the Legislature by January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

P2 1 SECTION 1. Section 1317 of the Health and Safety Code is
2 amended to read:
3 1317. (a) Emergency services and care shall be provided to
4 any person requesting the services or care, or for whom services
5 or care is requested, for any condition in which the person is in
6 danger of loss of life, or serious injury or illness, at any health
7 facility licensed under this chapter that maintains and operates an
8 emergency department to provide emergency services to the public
9 when the health facility has appropriate facilities and qualified
10 personnel available to provide the services or care.

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11 (b) In no event shall the provision of emergency services and
 12 care be based upon, or affected by, the person's ethnicity,
 13 citizenship, age, preexisting medical condition, insurance status,
 14 economic status, ability to pay for medical services, or any other
 15 characteristic listed or defined in subdivision (b) or (e) of Section
 16 51 of the Civil Code, except to the extent that a circumstance such
 17 as age, sex, preexisting medical condition, or physical or mental
 18 disability is medically significant to the provision of appropriate
 19 medical care to the patient.

20 (c) Neither the health facility, its employees, nor any physician
 21 and surgeon, dentist, clinical psychologist, or podiatrist shall be
 22 liable in any action arising out of a refusal to render emergency
 23 services or care if the refusal is based on the determination,
 24 exercising reasonable care, that the person is not suffering from
 25 an emergency medical condition, or that the health facility does
 26 not have the appropriate facilities or qualified personnel available
 27 to render those services.

28 (d) Emergency services and care shall be rendered without first
 29 questioning the patient or any other person as to his or her ability
 30 to pay therefor. However, the patient or his or her legally
 31 responsible relative or guardian shall execute an agreement to pay
 32 therefor or otherwise supply insurance or credit information
 33 promptly after the services are rendered.

34 (e) If a health facility subject to this chapter does not maintain
 35 an emergency department, its employees shall nevertheless exercise
 P3 1 reasonable care to determine whether an emergency exists and
 2 shall direct the persons seeking emergency care to a nearby facility
 3 that can render the needed services, and shall assist the persons
 4 seeking emergency care in obtaining the services, including
 5 transportation services, in every way reasonable under the
 6 circumstances.

7 (f) No act or omission of any rescue team established by any
 8 health facility licensed under this chapter, or operated by the federal
 9 or state government, a county, or by the Regents of the University
 10 of California, done or omitted while attempting to resuscitate any
 11 person who is in immediate danger of loss of life shall impose any
 12 liability upon the health facility, the officers, members of the staff,
 13 nurses, or employees of the health facility, including, but not
 14 limited to, the members of the rescue team, or upon the federal or
 15 state government or a county, if good faith is exercised.

16 (g) "Rescue team," as used in this section, means a special group
 17 of physicians and surgeons, nurses, and employees of a health
 18 facility who have been trained in cardiopulmonary resuscitation
 19 and have been designated by the health facility to attempt, in cases
 20 of emergency, to resuscitate persons who are in immediate danger
 21 of loss of life.

22 (h) (1) This subdivision facilitates the continuation and
 23 expansion of emergency medical services and trauma services in

24 the San Gabriel Valley.

25 (2) For the purpose of emergency room funds in the County of
26 Los Angeles that were approved by voter initiative in that county,
27 funds collected from properties within the San Gabriel Valley shall
28 remain in that geographic region of the county.

29 (3) Funds allocated pursuant to subdivision (b) shall be used
30 for the purposes intended by the voter initiative, within that
31 geographic area, to reduce ambulance diversion.

32 (4) *A task force is hereby established consisting of the Director*
33 *of the Emergency Medical Services Authority, the Director of the*
34 *State Department of Public Health, the California State Auditor,*
35 *and a representative of a local hospital task force to be selected*
36 *by the other members. The task force shall study and audit the*
37 *funds collected from properties in the San Gabriel Valley since*
38 *the passage of the local voter initiative to gain an understanding*
39 *as to how the moneys have been allocated and to gage what*
P4 1 *improvements, if any, have been made. The task force shall report*
2 *its findings to the Legislature by January 1, 2015.*

3 (i) This section shall not relieve a health facility of any duty
4 otherwise imposed by law upon the health facility for the
5 designation and training of members of a rescue team or for the
6 provision or maintenance of equipment to be used by a rescue
7 team.

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RECEIVED
MAY - 7 2013
CITY OF DUARTE



Memorandum

To: **City Council**

From: **Commissioner Bjornsen**

CC: **File**

Date: **March 6, 2013**

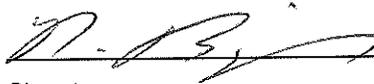
Subject: Notice of Absence from Traffic Safety Commission Meeting

Reason for Absence:

_____ Accident Vacation _____ Other**
_____ Sickness _____ Death in Family

Date of Meeting Absence March 5, 2013

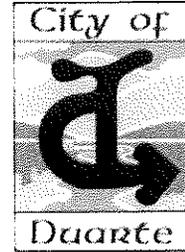
** Explanation of Absence _____


Signature

Absence noted by City Council

Date

RECEIVED
MAY -7 2013
CITY OF DUARTE



Memorandum

To: **City Council**

From: **Commissioner Bjomsen**

CC: **File**

Date: **March 6, 2013**

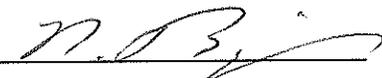
Subject: Notice of Absence from Traffic Safety Commission Meeting

Reason for Absence:

_____ Accident _____ Vacation X Other**
_____ Sickness _____ Death in Family

Date of Meeting Absence April 2, 2013

** Explanation of Absence ATTENDANCE AT COUNCIL MTG. ON EAST COAST


Signature

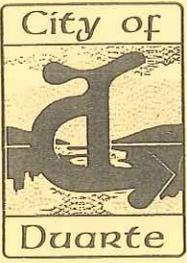
Absence noted by City Council

Date

RECEIVED

MAY - 7 2013

MEMORANDUM



CITY OF DUARTE

TO: CITY COUNCIL
FROM: COMMISSIONER Barbie Bylsma-Haughton
SUBJECT: NOTICE OF ABSENCE FROM Parks/Rec Comm COMMISSION MEETING
DATE: 5/7/13

REASON FOR ABSENCE

ACCIDENT VACATION
 SICKNESS OTHER *
 DEATH IN FAMILY

DATE OF MEETING ABSENCE 5/13/13

* EXPLANATION OF ABSENCE Taking care of Parents

Signature

* * * * *

Absence noted by City Council

Date

MEMORANDUM

TO: Mayor and Councilmembers

FROM: Darrell J. George, City Manager

DATE: May 9, 2013

SUBJECT: Conference Attendance – City Council Meeting of May 14, 2013

Duarte Historical Society
Duarte Chronicles book launching banquet
May 30, 2013
Duarte
\$22 per person

League of California Cities
Annual Conference & Expo
September 18-20, 2013
Sacramento
Registration: \$475
Hotel: \$129-\$159 per night + taxes/fees

In celebration of
DUARTE CHRONICLES
By: Claudia & Alan Heller

Thursday, May 30, 2013
OLD SPAGHETTI FACTORY
1431 Buena Vista
Duarte, CA 91010

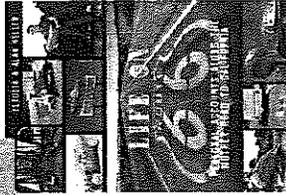
5 p.m. Social; 6 p.m. Dinner
6:45 Presentation
7:30 Book signing and sale

*Dinner profits benefit the Duarte
Historical Society

Reservations by May 25 a must:
Send check for \$22.00 per person
Payable to Duarte Historical Society

c/o Claudia Heller
277 Opal Canyon Road
Duarte, CA 91010

**(excluding book sales)*

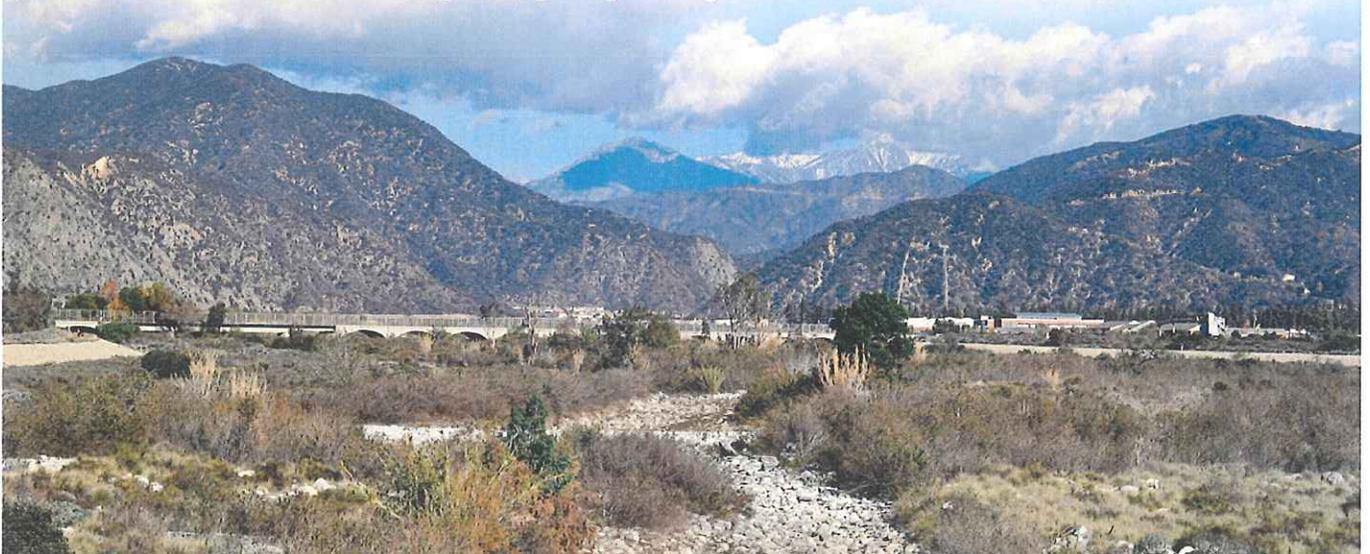




DUARTE CHRONICLES

CLAUDIA HELLER

Photography by Alan Heller



AMERICAN CHRONICLES
A HISTORY PRESS SERIES

048

Press Release
By Claudia Heller
(626) 358-0329

DUARTE CHRONICLES BOOK
TO LAUNCH AT BANQUET

Featuring Duarte's secret places, tragic events, illustrious history and memorable people, *Duarte Chronicles* by local authors Claudia and Alan Heller has been recently released and will be celebrated on May 30 at the Old Spaghetti Factory, 1431 Buena Vista Ave., Duarte, at a book launching banquet sponsored by the Duarte Historical Society.

"Have you been to Lake Duarte or the local 'hanging tree?'" asks Claudia. "Do you know about the fatal plane crash on the hillside behind our town or the historic homes within our borders?" *Duarte Chronicles* is a compilation of a number of Claudia's columns which have appeared in the Pasadena Star News over the past twenty years. "You will recognize many of the names, faces and events, if you are or were a Duartean. Still, some of Duarte's past people and events are nearly forgotten. Our book memorializes these and more local historical moments and personalities."

Many of the people and subjects covered in the book, published by History Press, will be featured in a power point presentation to debut at the upcoming banquet. "It will be a visual trip into Duarte's past and present," says Claudia, who created the presentation.

The banquet will commence with social hour at 5 p.m, dinner at 6 p.m. followed by the program, book signing and sale. The Hellers' previous book entitled *Life on Route 66: personal accounts along the Mother Road to California* and the book entitled *Images of America-Duarte* authored by Irwin Margiloff and Neil Earle, will also be on sale.

Reservations by May 25 is a must. Banquet tickets are \$22.00 which covers dinner and the program. Checks payable to the Duarte Historical Society, may be mailed to Claudia Heller, P.O. Box 1251, Duarte 91009. *Duarte Chronicles* and *Life on Route 66* sell for \$20, while *Images of Duarte* sells for \$23.00. Dinner profits excluding book sales will benefit the Duarte Historical Society and Museum.

For further information, call (626) 358-0329.

Alan & Claudia Heller



ANNUAL CONFERENCE & EXPO

SACRAMENTO, CALIFORNIA

SEPTEMBER 18-20



REGISTRATION AND HOUSING DEADLINE: SEPTEMBER 3

WWW.CACITIES.ORG/AC



REGISTRATION:

Registration includes:

- Admission to education sessions daily and evening networking events
- Wednesday Host City Reception and Expo; Thursday lunch with Exhibitors; Friday voting delegate luncheon

Online Registration (credit card) - Visit www.cacities.org/AC
You will receive an immediate conference confirmation.

Mail-in Registration (pay by check)
Contact mdunn@cacities.org to request a registration form.

**** SAME CITY REGISTRATION RATE SINCE 2008 ****

FULL CONFERENCE REGISTRATION FEES

	EARLY BIRD BEFORE JUNE 28	AFTER JUNE 29 AND ONSITE
City Delegate		
Member City	\$475	\$525
Nonmember City	\$1475	\$1525
Public Official		
County/State	\$550	\$600
Partner/Exhibitor/All Others		
Company Representative	\$650	\$700

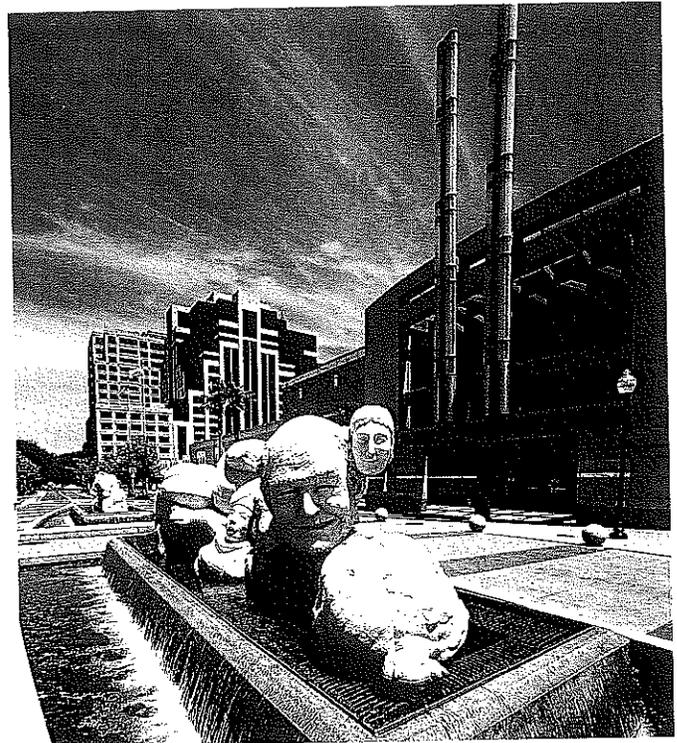
NOTE: Conference registration is required to attend Policy Committees, Department, Division, Annual Conference business meeting and/or to be a Voting Delegate.

ONE-DAY REGISTRATION

	SELECT ONE - WED/THURS/FRIDAY
City Delegate	
Member City	\$250
Nonmember City	\$1250
Public Official	
County/State	\$300
Partner/Exhibitor/All Others	
Company Representative	\$350

Refund Policy

Advance registrants unable to attend will receive a refund of rate paid, **minus a \$75 processing charge**, only when a written request is submitted to the League, Conference Registration, 1400 K Street, Sacramento, CA, 95814 or mdunn@cacities.org and received before **5:00 p.m. on Tuesday, August 27**. Absolutely, no refunds will be provided after this date. Send an alternate/substitute onsite to avoid financial penalty.



Sacramento Convention Center

OPTIONAL REGISTRATION ADD-ON (non-refundable)

Spouse Registration - \$100

Spouse rate is restricted to those who are not city/public officials, are not related to any Partner/Expo company, and would have no professional reason to attend for learning or business. Rate includes admission to the Expo and receptions only. Session seats are reserved for conference registrants. There is no refund for the cancellation of a spouse registration. It is not advisable to use city funds to register a spouse.

Onsite Badge Pick Up

You must pick up an official 2013 Annual Conference badge at the registration desk at the Sacramento Convention Center. Registration hours:

- Wednesday, September 18 9:00 a.m. - 6:30 p.m.
- Thursday, September 19 7:00 a.m. - 4:00 p.m.
- Friday, September 20 7:30 - 10:00 a.m.



Questions or special needs? Call the conference registrar at (916) 658-8291 or email mdunn@cacities.org before Tuesday, August 27.

CONFERENCE HOTELS

(*plus occupancy taxes and fees 12%)

HYATT REGENCY SACRAMENTO

1209 L Street \$159 single/double

SHERATON GRAND SACRAMENTO

1230 J Street \$144 single

THE CITIZEN HOTEL

926 J Street : \$129

RESIDENCE INN SACRAMENTO

Downtown at Capitol Park

1121 15th Street : \$129

HOLIDAY INN SACRAMENTO

Capitol Plaza

300 J Street : \$154

Reduced room rates are available for registered attendees/exhibitors at the 2013 Annual Conference.

Phone reservations will not be available. The discounted hotel rate cut-off is Tuesday, September 3 and the hotels are subject to sell out prior to the reservation deadline – reserve early.

STEP ONE: Register for the Conference

STEP TWO: Book room at the Hotels

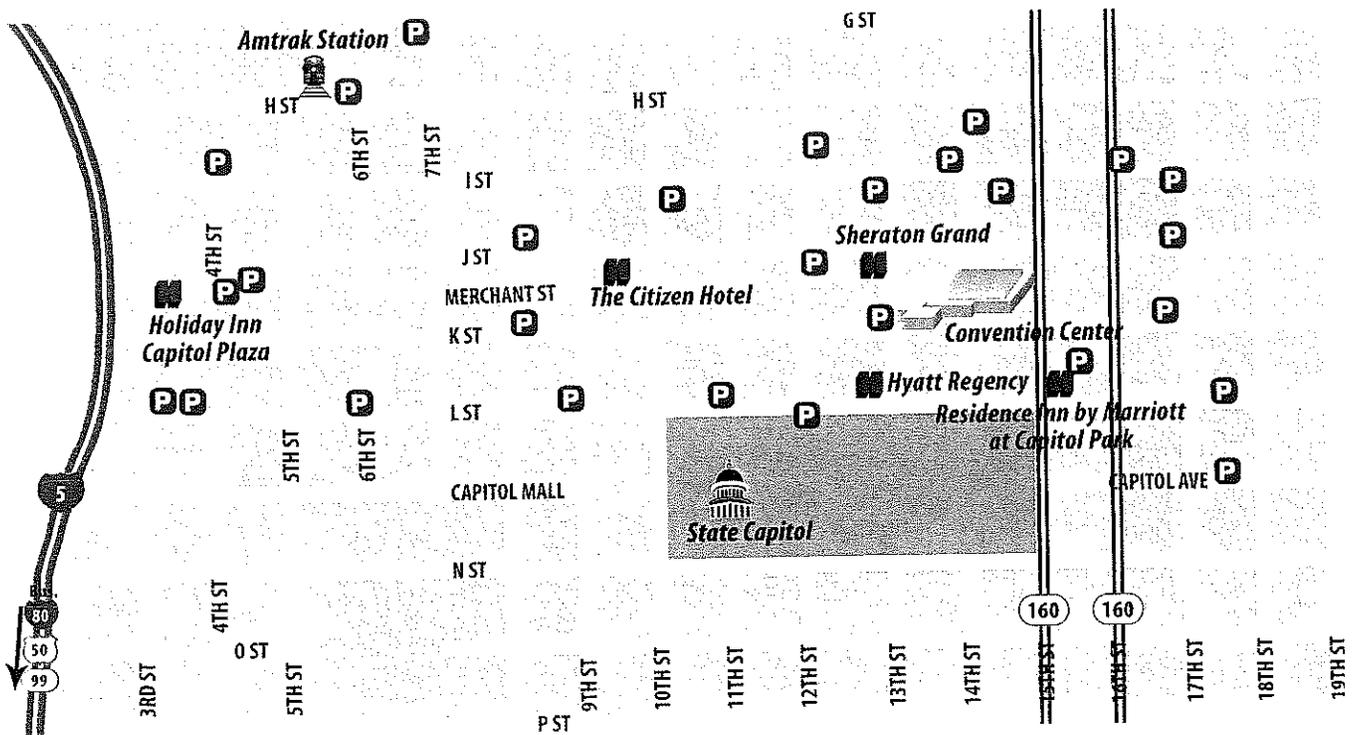
Online Registration – Register for the conference online and you will receive an immediate confirmation email with the online link (URL) to the Housing Reservations for rooms currently available on your selected dates. Please note there is a two-night minimum stay.

Mail-in Registration – After your registration for the conference is received and processed, you will be sent a registration confirmation email containing the online link (URL) to the Housing Reservations.

Hotel Changes or Hotel Cancellations

Hotel reservation changes, date modifications, early check-out, or cancellations must be done directly with the hotel, prior to Tuesday, September 3. After this date, you may incur a financial penalty and minimum one-night room charge or attrition fees.

CAUTION! Do not make a hotel reservation unless you are sure it is needed. Your city/company will be financially responsible for all cancellation/attrition fees. If you are making hotel reservations for others, please confirm with each individual, in advance, that they actually need hotel accommodations and intend to use them on the dates you are reserving.





TENTATIVE SCHEDULE OF EVENTS

As of April 15, 2013 *(subject to change)*

WEDNESDAY, SEPTEMBER 18

- 9:00 - 10:30 a.m..... Policy Committees (at hotel)
- 10:30 a.m. - Noon..... Policy Committees (at hotel)
- 9:00 a.m. - 6:30 p.m..... Registration Open, Sacramento Convention Center
- Noon - 1:30 p.m..... Regional Division Lunches (optional)
- 1:00 - 1:30 p.m..... First Time Attendee Orientation
- 1:30 - 2:30 p.m..... **Department Business Meetings, Programs & Welcome**
- 3:00 - 5:00 p.m..... **Opening General Session – Annual Report and Keynote Address**
- 5:00 - 7:00 p.m..... **Grand Opening Expo Hall & Host City Reception**
(No competing events/receptions are permitted at this time)
- 7:00 - Evening..... Networking Events and Exhibitor Dinners

THURSDAY, SEPTEMBER 19

- 7:00 a.m. - 4:00 p.m..... Registration Open
- 8:00 - 9:30 a.m..... **General Session – Keynote Address**
- 9:45 - 11:00 a.m..... Education – Breakouts, CityTalks, etc.
- 10:00 a.m. - 3:00 p.m..... **Expo with Lunch Exhibitor Exclusive**
(No competing events 11:30 a.m. – 1:00 p.m.)
- 1:00 - 2:15 p.m..... General Resolutions committee
- 1:00 - 2:15 p.m..... Education
- 2:45 - 4:00 p.m..... Education
- 4:15 - 5:30 p.m..... Education
- 4:15 - 5:30 p.m..... Board of Directors Meeting
- 5:30 - Evening Networking Receptions – Caucus, League Partners, Divisions

FRIDAY, SEPTEMBER 20

- 7:30 - 10:00 a.m..... Registration Open
- 7:30 - 8:45 a.m..... Regional Division Breakfasts (optional)
- 9:00 - 10:15 a.m..... Education
- 10:30 - 11:45 a.m..... Education
- Noon - 2:00 p.m..... **Closing Luncheon with Voting Delegates & General Assembly**
Install New Board of Directors
- 2:00 p.m..... Adjourn

NOTE: Conference registration is required to attend Policy Committees, Department, Division, Annual Conference business meeting and/or to be a Voting Delegate.



MEMORANDUM

To: Mayor and City Council

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

Date: May 14, 2013

Subject: Memorandum of Understanding By and Among the Cities of Arcadia, Azusa, Bradbury, Duarte, Monrovia, and Sierra Madre, and County of Los Angeles and Los Angeles County Flood Control District Regarding the Administration and Cost Sharing for the Development of the Enhanced Water Management Program for the Rio Hondo/San Gabriel River Water Quality Group

RECOMMENDATION

Staff recommends that the City Council approve the above-referenced Memorandum of Understanding (MOU) regarding the administration and cost sharing for the development of an Enhanced Watershed Management Program (EWMP) and Coordinated Integrated Monitoring Program (CIMP) for the Rio Hondo/San Gabriel River Water Quality Group; and direct the City Manager to execute the agreement; and direct Staff to prepare and submit a Notice of Intent to the Los Angeles Regional Water Quality Control Board (LARWQCB).

BACKGROUND

The Water Quality Act of 1987 added Section 402(p) to the Federal Clean Water Act requires the United States Environmental Protection Agency (USEPA) to establish regulations related to stormwater discharges. The Clean Water Act authorizes the USEPA to permit a state as the National Pollutant Discharge Elimination System permitting authority in lieu of the USEPA. In California, regional stormwater permits are developed and enforced under the Regional Water Quality Control Boards – the City of Duarte is assigned to the Los Angeles Regional Water Quality Control Board (LARWQCB).

Stormdrain system discharges are regulated under the Clean Water Act's National Pollutant Discharge Elimination System (NPDES). There are several types of activities regulated under the NPDES program such as construction, municipal, and industrial activities. Municipalities that have separate stormwater and sewer infrastructure and that are within urban areas with populations of over 100,000 are subject to a Phase I Municipal Separate Sanitary Storm Sewer



(MS4) NPDES permit. Since 1996, the City has been covered under county-wide Phase 1 MS4 NPDES permits.

On November 8, 2012, the LARWQCB issued a new MS4 NPDES Permit to the cities in Los Angeles County (excluding Long Beach), the County of Los Angeles, and the Los Angeles County Flood Control District (Board Order No. R4-2012-0175; NPDES Permit No. CAS004001). The new MS4 NPDES Permit became effective on December 28, 2012. The MS4 NPDES Permit contains many new provisions in comparison to past Permits including the option to develop integrated planning and monitoring plans to address many of the Permit's water quality and program requirements. Although the City of Duarte has filed a Petition to the State Water Board for review and repeal or modification of the new MS4 NPDES Permit, while that Petition is pending the City must comply with the new requirements.

Community Development Department Staff have been working with adjacent cities for the past several months to determine the most effective process for addressing these new requirements. This is a complex topic and few cities have the staff and financial resources to adequately address the issue independently. The proposed multi-agency approach is a cost efficient and effective way to address the stormwater issue.

ANALYSIS

Memorandum of Agreement –

The cities of Arcadia, Azusa, Bradbury, Duarte, Sierra Madre, the local portions of unincorporated County of Los Angeles, and the Los Angeles County Flood Control District have collaborated to enter into a MOU to share the costs to prepare an EWMP and CIMP. The City of Arcadia has agreed to act as the fiduciary agent and will be responsible for the administration of contract services and collecting and administering funds under the MOU. The City of Arcadia will be acting in this capacity at no cost to the participating agencies.

To guide the development of the scope of work to be conducted under this MOU, the participating agencies developed an Oversight Committee comprised of City Managers, Public Works Directors and Stormwater Program Managers from each agency. Based on the Oversight Committee's direction, on March 13, 2013, the City of Arcadia released a Request for Proposals (RFP) for work related to the development of an EWMP and CIMP including:

- Project Management
- Development of an EWMP Work Plan
- Development of a Draft EWMP
- Development of a Final EWMP
- Development of a CIMP
- Review of Notice of Intent

- Assistance with obtaining review and approval from the LARWQCB's Executive Officer

On Monday, April 8, 2013, the City of Arcadia staff received three (3) proposals from consulting firms. The following is a list of the firms that submitted proposals:

- California Watershed Engineering (CWE) of Orange, CA
- Montgomery Watson Holdings (MWH) of Arcadia, CA
- Stetson Engineers of Covina, CA

Based on the Oversight Committee's review and evaluation of the proposals, California Watershed Engineering (CWE) was selected at a total estimated cost of \$790,537.00. The CWE Team comprises of a partnership between CWE, Larry Walker and Associates and TetraTech. Their selection was based on their expertise with the MS4 Permit, expertise and experience developing similar plans, their existing relationships with the Regional Board Staff, Boardmembers, and key stakeholder groups; TetraTech developed the modeling system proposed for the project, and their competitive costs.

Based on the MOU's cost share formula, the City of Duarte's cost share for the development of the EWMP and CIMP would be approximately \$65,712. Cost-share payments will be split into a base fee and over three years with the base fee of \$10,164 and the following years of \$18,516; however costs may vary from year to year based on the scheduling of work as directed by Oversight Committee. Annual costs would be divided among participating agencies based on the MOU's cost share formula. The first invoice will be due no later than July 31, 2013, with the understanding that all agencies will execute the agreement not later than June 4, 2013. Subsequent annual invoices will be due no later than July 31 of each year.

The MOU also includes a consideration of environmental review to be conducted once the plan is under development. Once the appropriate level of environmental review necessary for the EWMP and CIMPs is evaluated, the Oversight Committee may direct the City of Arcadia to develop an RFP for environmental review services. Based on the proposals received at that time, the city's costs for such services will be assessed based on the MOU's costs share formula.

The term of the MOU is estimated to extend through fiscal year 2015-2016 or the time at which the LARWQCB provides approval of EWMP/CIMP, all work is completed and the City of Arcadia provides the parties with a full accounting and all outstanding invoices are paid.

Notice of Intent –

Cities opting to develop an EWMP are required to submit a Notice of Intent (NOI) to the LARWQCB by June 28, 2013. The following information and documents must be submitted with the NOI:

- (i) Watershed Management Approach (is the City choosing to develop a WMP or EWMP and which other cities will the City be developing the plan with),
- (ii) Identify all interim and final pollutant limits
- (iii) Verify that Low Impact Development Ordinance and Green Street Policy development has begun,
- (iv) Permittees electing for the EWMP option must also provide:
 - a. Plan concept and geographical scope;
 - b. Cost estimate for plan development;
 - c. Executed Memorandum of Agreement (MOU) among participating Permittees, or final draft MOU among participating Permittees along with a signed letter of intent from each participating City Manager or head of agency.
 - d. Interim milestones for plan development and deadlines for their achievement; and
 - e. Identification of, and commitment to fully implement, one (or a suite of smaller) Infrastructure project(s) at a scale that provides meaningful water quality improvement within each watershed covered by the plan. Project must be completed by June 28, 2015.
- (v) Identify watershed control measures to be implemented during plan development.
- (vi) Type of Monitoring Plan to be developed (ie. CIMP)

If the MOU is approved, the Oversight Committee will prepare the information necessary to submit the NOI by June 28, 2013.

FISCAL IMPACT

Annual costs would be divided among participating agencies based on the MOU's cost share formula. The City of Duarte's total costs would equal to approximately \$65,712. Cost-share payments will be split into a base fee and over three years with the base fee of \$10,164 and the following years of \$18,516.

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT,
THE COUNTY OF LOS ANGELES, AND
THE CITIES OF ARCADIA, AZUSA, BRADBURY, DUARTE, MONROVIA
AND SIERRA MADRE

REGARDING THE ADMINISTRATION AND COST SHARING FOR DEVELOPMENT
OF THE ENHANCED WATERSHED MANAGEMENT PROGRAM (EWMP) FOR THE
RIO HONDO/SAN GABRIEL RIVER WATER QUALITY GROUP'S WATERSHED

This Memorandum of Understanding (MOU), made and entered into as of the date of the last signature set forth below by and between the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT (LACFCD), a political subdivision of the State of California, the COUNTY OF LOS ANGELES (LA COUNTY), a political subdivision of the State of California, and the CITIES OF ARCADIA, AZUSA, BRADBURY, DUARTE, MONROVIA, AND SIERRA MADRE. Collectively, these entities shall be known herein as "PARTIES" or individually as "PARTY."

WITNESSETH

WHEREAS, the Regional Water Quality Control Board, Los Angeles Region (Regional Board) adopted National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit Order No. R4-2012-0175 Municipal Separate Storm Sewer System (MS4 Permit); and

WHEREAS, the MS4 Permit became effective on December 28, 2012 and requires that the LACFCD, LA COUNTY, and 84 of the 88 cities (excluding Avalon, Long Beach, Palmdale, and Lancaster) within the County of Los Angeles comply with the prescribed elements of the MS4 Permit; and

WHEREAS, the PARTIES have agreed to collaborate on the compliance of certain elements of the MS4 Permit and have agreed to a cost sharing formula set forth in Table 2 of Exhibit A, which is attached and made part of this MOU; and

WHEREAS, the PARTIES agree that each shall assume full and independent responsibility for ensuring its own compliance with the MS4 Permit despite the collaborative approach of this MOU; and

WHEREAS, the PARTIES collaboratively prepared a final Scope of Work and Request for Proposal to obtain a Consultant to assist the PARTIES in complying with certain elements of the MS4 Permit, as specified in the Scope of Work, which is incorporated into this MOU by reference; and

WHEREAS, the PARTIES propose for the Consultant to prepare and deliver a Final Work Plan, Draft Enhanced Watershed Management Program (EWMP) plan, Coordinated Integrated Monitoring Plan (CIMP), Final EWMP plan, and Environmental Review as appropriate to the EWMP and CIMP (collectively, PLANS) in compliance with certain elements of the MS4 Permit, at a total cost of approximately \$790,537; and

WHEREAS, the PARTIES have determined that hiring a Consultant to prepare and deliver the PLANS will be beneficial to the PARTIES and they desire to participate and will provide funding in accordance with the cost allocation in Table 2 of Exhibit A; and

WHEREAS, the PARTIES have agreed to establish an Oversight Committee (comprised of City Managers and/or designated staff from each PARTY) to provide technical oversight and project management for the development of the PLANS, and

WHEREAS, the CITY OF ARCADIA will act on behalf of the PARTIES in the administration of the Consultant services agreements for the preparation of the PLANS .

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the PARTIES, and of the promises contained in this MOU, the PARTIES agree as follows:

- (1) Recitals: The recitals set forth above are incorporated into this MOU.
- (2) Purpose: The purpose of this MOU is to cooperatively fund the preparation of the PLANS and the submittal of the PLANS to the Regional Board.
- (3) Voluntary: This MOU is voluntarily entered into for the purpose of preparing the PLANS and submitting the PLANS to the Regional Board.
- (4) Terms: This MOU shall become effective the last date of execution by all Parties hereto ("Effective Date"), and shall remain in effect until the CITY OF ARCADIA has provided written notice of completion of the Scope of Work described herein, and payment by all Parties of their allocated pro-rata share hereunder. .
- (5) Responsibilities of the CITY OF ARCADIA:
 - a. The CITY OF ARCADIA shall act as the contract manager on behalf of, and for the benefit of, PARTIES, and as such agrees to invoice the PARTIES for their pro-rata share of the cost for the preparation and delivery of the PLANS as described in Tables 2 and 3 of Exhibit A.
 1. Payments to Third Parties – The CITY OF ARCADIA shall have no obligation to pay vendors or consultants any funds other than those owed for its proportional share as set forth in Table 2 of Exhibit A, and those funds remitted to the CITY OF ARCADIA following invoice. In the event

the CITY OF ARCADIA elects to make a payment on behalf of a Delinquent Party, the Delinquent Party and/or the remaining Parties shall reimburse the CITY OF ARCADIA the funds expended making the payment as described below.

- b. The CITY OF ARCADIA shall solicit proposals for, award, and administer a Consultant contract(s) for the preparation and delivery of the PLANS in accordance with the Scope of Work.
- c. The CITY OF ARCADIA shall utilize the funds deposited by the PARTIES only for payment of the Consultant for the preparation and completion of the PLANS.
- d. The CITY OF ARCADIA shall provide the PARTIES with an electronic copy of the draft and final PLANS within 5 days of receipt from the Consultant.
- e. Upon execution of this MOU, each Party shall provide the name or names of those persons from within the Party's organization who is/are to be representing said Party on the Oversight Committee. Within thirty (30) days from the Effective Date, the CITY OF ARCADIA shall notice all parties hereto of the members of the contact information for the Oversight Committee.
- f. All draft and final Plans shall be reviewed by the Oversight Committee for further revision and/or completion. No PLAN OR PLANS shall be submitted to the Regional Board unless and until it/they have been approved, in writing, for submittal by all PARTIES hereto, excepting only a Party or Parties whose involvement in this MOU has been terminated.
- g. The CITY OF ARCADIA shall provide an accounting upon the early termination of this MOU pursuant to paragraph (6)t.1 or 60 days after the date the Regional Board gives final approval to the last outstanding portion of the PLANS. The CITY OF ARCADIA shall return the unused portion of all funds deposited with the CITY OF ARCADIA in accordance with the cost allocation formula set forth in Table 2 of Exhibit A.

(6) THE PARTIES FURTHER AGREE:

- a. The PARTIES shall make a full faith effort to cooperate with one another to achieve the purposes of this MOU by providing information about project opportunities, reviewing deliverables in a timely manner, and informing their respective administrators, agency heads, and/or governing bodies.
- b. The PARTIES shall fund the cost of the preparation and delivery of the PLANS and pay the CITY OF ARCADIA for the preparation and delivery of the PLANS based on the cost allocation set forth in Table 2 of Exhibit A within 60 days of receiving an invoice.

- c. Delinquent Payments – A PARTY's payment is considered delinquent 180 days after being invoiced by the CITY OF ARCADIA. The following procedures may be implemented to attain payments from the delinquent PARTY per instructions from the PARTIES: 1) verbally contact/meet with the manager from the delinquent PARTY or PARTIES; and 2) submit a formal letter to the delinquent PARTY OR PARTIES from the City of Arcadia's legal counsel. If the PARTY or PARTIES remain delinquent after the above procedures, then the CITY OF ARCADIA may notify the Regional Board that the delinquent PARTY OR PARTIES are no longer a participating member of the PLANS, and said PARTY or PARTIES shall then be deemed to have terminated its participation as a PARTY to this MOU ("EXCLUDED PARTY") and their name(s) may be removed from the PLANS. Any EXCLUDED PARTY'S delinquent amount(s) will be paid in accordance with the remaining PARTIES pro-rata share pursuant to Table 2 of Exhibit A, as adjusted to remove the EXCLUDED PARTY from the allocation. The CITY OF ARCADIA will revise Table 2 of Exhibit A to show the recalculated costs for each remaining participating PARTY; these revised exhibits will be included with the next invoice to the PARTIES. The PARTIES shall retain all contractual, legal, and equitable rights and causes of action to recover any delinquent amounts paid that were owed by an EXCLUDED PARTY or PARTIES who failed to make such payments.
- d. Interest Accrual - Any interest accrued on the funds collected per this MOU during the term of this MOU shall be refunded or credited toward any amount owed at the time of the final accounting. The CITY OF ARCADIA shall report to the PARTIES the amount of the interest accrued by the collected funds at the time of the final accounting.
- e. Excess Funds - Any collected funds not spent in any annual period shall be refunded or credited toward any amount owed at the time of the final accounting.
- f. Each PARTY shall allow reasonable access and entry to the Consultant, on an as needed basis, during the term of this MOU to the PARTY's storm drains, channels, catch basins, and similar properties (FACILITIES) to achieve the purposes of this MOU, provided, however, that prior to entering any PARTY's facilities, the Consultant shall secure a permit of entry from the applicable PARTY.
- g. To the maximum extent permitted by law, the CITY OF ARCADIA shall require the Consultant(s) retained pursuant to this MOU to agree to indemnify, defend, and hold harmless each PARTY, its special districts, elected and appointed officers, employees, and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees,

costs, and expenses (including attorney and expert fees), arising from or connected with the Consultant's performance of its agreement with the CITY OF ARCADIA. In addition, the CITY OF ARCADIA shall require the Consultant(s) to carry, maintain, and keep in full force and effect an insurance policy or policies, and each PARTY, its officers, employees, attorneys, and designated volunteers shall be named as additional insureds on the policy(ies) with respect to liabilities arising out of the Consultant's work. These requirements will also apply to any subcontractors hired by the Consultant(s).

- h. To the maximum extent permitted by law, each PARTY shall indemnify, defend, and hold harmless each other PARTY, including its special districts, elected and appointed officers, employees, and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the respective acts of each PARTY under this MOU; provided, however, that no PARTY shall indemnify another PARTY for that PARTY's own negligence or willful misconduct.
- i. In light of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement (as defined in Section 895 of said Code), each of the PARTIES hereto, pursuant to the authorization contained in Section 895.4 and 895.6 of said Code, shall assume the full liability imposed upon it or any of its officers, agents, or employees, by law for injury caused by any act or omission occurring in the performance of this MOU to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above stated purpose, each PARTY indemnifies, defends, and holds harmless each other PARTY for any liability, cost, or expense that may be imposed upon such other PARTY solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.
- j. The PARTIES are, and shall at all times remain as to each other, wholly independent entities. No PARTY to this MOU shall have power to incur any debt, obligation, or liability on behalf of any other PARTY unless expressly provided to the contrary by this MOU. No employee, agent, or officer of a PARTY shall be deemed for any purpose whatsoever to be an agent, employee, or officer of another PARTY.
- k. Any notices, bills, invoices, or reports relating to this MOU, and any request, demand, statement, or other communication required or permitted hereunder shall be in writing and shall be delivered to the representatives of the

PARTIES at the addresses set forth in Exhibit B attached hereto and incorporated herein by reference.

- l. This MOU shall be binding upon, and shall be to the benefit of the respective successors, heirs, and assigns of each PARTY; provided, however, no PARTY may assign its respective rights or obligations under this MOU without the prior written consent of the other PARTIES.
- m. This MOU is governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.
- n. If any provision of this MOU shall be determined by any court to be invalid, illegal, or unenforceable to any extent, the remainder of this MOU shall not be affected, and this MOU shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in this MOU.
- o. All PARTIES have been represented by counsel in the preparation and negotiation of this MOU. Accordingly, this MOU shall be construed according to its fair language. Any ambiguities shall be resolved in a collaborative manner by the PARTIES and shall be rectified by amending this MOU as described in paragraph (6)r.
- p. Each of the persons signing below on behalf of a PARTY represents and warrants that he or she is authorized to sign this MOU on behalf of such PARTY.
- q. No PARTY shall have any financial obligation to any other PARTY to this MOU, except as herein expressly provided.
- r. The terms and provisions of this MOU may not be amended, modified, or waived, except by an instrument in writing signed by all PARTIES who have not terminated their interests herein or whose involvement has not terminated by reason of non-payment. This paragraph applies to any changes proposed as a result of the following circumstances: 1) changes to the MS4 Permit terms with regards to compliance through an EWMP or CIMP; or (2) changes in the number of parties to this MOU. This list is not intended to be exhaustive.
- s. This MOU may be signed in multiple counterparts with the same force and effect as if all original signatures appeared on one copy; and in the event this MOU is signed in counterparts, each counterpart shall be deemed an original and all of the counterparts shall be deemed to be one agreement.
- t. Early Termination or Withdrawal

1. This MOU may be terminated upon the express written agreement of all PARTIES. If this MOU is terminated, any remaining funds not due and payable or otherwise legally committed to a Consultant(s) shall be distributed to the remaining PARTIES (not including any EXCLUDED or WITHDRAWN PARTY or PARTIES) so that all such remaining PARTIES have paid no more than their pro-rata share (in accordance with the most current allocation set forth in Table 2 of Exhibit A). Completed work shall be owned by all PARTIES at the time of completion of the work who are not EXCLUDED or WITHDRAWN PARTIES. Similarly, rights to uncompleted work by the Consultant still under contract is to be owned by the PARTY or PARTIES who are not EXCLUDED or WITHDRAWN PARTIES at such time.

2. A PARTY may withdraw from this MOU ("WITHDRAWN PARTY") upon 60 days written notice to the other PARTIES, subject to payment of any invoice received from the CITY OF ARCADIA prior to or during the 60-day notice period for its share of the cost of the work completed as of the date of its notice of withdrawal, calculated in accordance with the cost-sharing percentages set forth in Table 2 of Exhibit A. The effective withdrawal date shall be the sixtieth (60th) day after the CITY OF ARCADIA receives the withdrawing PARTY's notice to withdraw from this MOU. The CITY OF ARCADIA shall refund to the WITHDRAWN PARTY any unused funds paid by the WITHDRAWN PARTY's effective withdrawal date. All PARTIES understand, acknowledge, and agree that withdrawal from this MOU will terminate any responsibility, liability, or obligation of the WITHDRAWN PARTY under this MOU commencing on the effective withdrawal date and that the WITHDRAWN PARTY shall remain liable for its share of any loss, debt or liability incurred prior to the withdrawal date, and for any work which could not be suspended. Withdrawal from this MOU does not release any PARTY from the obligations set forth in MS4 Permit.

3. If a PARTY fails to substantially comply with any of the terms or conditions of this MOU, that PARTY shall forfeit its rights to work completed through this MOU, but no such forfeiture shall occur unless and until the defaulting PARTY has first been given notice of its default and a reasonable opportunity to cure the alleged default.

IN WITNESS WHEREOF, the PARTIES hereto have caused this MOU to be executed by their duly authorized representatives and affixed as of the date of signature of the PARTIES:

COUNTY OF LOS ANGELES,

By _____
GAIL FARBER

Date

APPROVED AS TO FORM:

John F. Krattli
County Counsel

By _____
Deputy

Date

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

By _____
Chief Engineer

APPROVED AS TO FORM:

John F. Krattli
County Counsel

By _____
Deputy

Date

CITY OF _____

By _____
NAME, POSITION

Date

ATTEST:

By _____
NAME, City Clerk

Date

APPROVED AS TO FORM:

By _____
NAME, City Attorney

Date

EXHIBIT A

**Rio Hondo/San Gabriel River Water Quality Group EWMP
Funding Contributions**

Table 1. Total Contract Costs

Work Scope	Cost
Project Management	\$111,231
EWMP Work Plan	\$146,234
CIMP	\$136,464
Final EWMP	\$ 394,816
Notice of Intent Review	\$1,792
Total Contract Cost	\$ 790,537.00

Table 2. Cost Allocation Formula

Party	Base Fee (10%)	Acres (Developed Land)	Percent of Area⁽²⁾	Cost based on Acres (90%)	Total Cost
City of Arcadia	\$10,164.05	11	26.51%	\$169,727.34	\$179,891.39
City of Azusa	\$10,164.05	9.3	22.41%	\$143,496.75	\$153,660.80
City of Bradbury	\$10,164.05	1.9	4.58%	\$29,316.54	\$39,480.59
City of Duarte	\$10,164.05	3.6	8.67%	\$55,547.13	\$65,711.18
City of Monrovia	\$10,164.05	8	19.28%	\$123,438.07	\$133,602.11
City of Sierra Madre	\$10,164.05	2.8	6.75%	\$43,203.32	\$53,367.37
County of Los Angeles	\$10,164.05	4.9	11.81%	\$75,605.82	\$85,769.86
Los Angeles County Flood Control District(1)	\$79,053.70	-	-	-	\$79,053.70
Total	\$150,202.03	41.5	100%	\$640,334.97	\$790,537.00

(1) Los Angeles County Flood Control District's cost share equals 10% of total contracted costs; the remaining costs are then divided by the 10% base fee and land area (90%).

(2) - Based on percent of developed land in each Party area of the total watershed area (excludes Angeles National Forest land)

On or before June 30th of each year, the Oversight Committee shall review the Cost Allocation Formula and may adjust the formula as deemed necessary for such reasons including, but not limited to, revision in Contracted Costs, Scope of Work, scheduling of work, and/or costs related to environmental review.

Table 3. Invoicing Schedule

Invoice #	Invoice Date	Percent of Cost Share Allocation
------------------	---------------------	---

1	on or before July 2013	10% Base
2	July 2013	1/3 of land Area Allocation
3	July 2014	1/3 of land Area Allocation
4	July 2015	1/3 of land Area Allocation

On or before June 30th of each year, the Oversight Committee shall review the Invoicing Schedule may adjust the percent of Cost Share Allocations due each year as deemed necessary for such reasons including, but not limited to, revision in Contracted Costs, Scope of Work, scheduling of work, and/or costs related to environmental review.

EXHIBIT B

Rio Hondo/San Gabriel River Watershed Quality Group EWMP Responsible Agencies Representatives

1. City of Arcadia
240 W. Huntington Dr.
Arcadia, CA 91006
Representative: Vanessa Hevener
E-mail: VHevener@ci.arcadia.ca.us
Phone: (626) 359-7028

2. City of Azusa
213 E. Foothill Blvd.
Azusa, CA 91702-1395
Representative: Carl E. Hassel
E-mail: CHassel@ci.azusa.ca.us
Phone: (626) 812-5064

3. City of Bradbury
600 Winston Ave.
Bradbury, CA 91008
Representative: Michelle Keith
E-mail: MKeith@CityofBradbury.org
Phone: (626)358-3218 ext. 300

4. City of Duarte
1600 Huntington Drive
Duarte, CA 91010
Party Representative: Rafael Casillas
E-mail: RCasillas@accessduarte.com
Phone: (626)386-6833

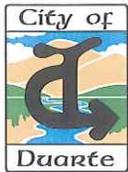
5. City of Monrovia
415 S. Ivy Ave.
Monrovia, CA 91016
Representative: Heather Maloney
E-mail: HMaloney@ci.monrovia.ca.us
Phone: (626) 932-5577

6. City of Sierra Madre
232 W. Sierra Madre Blvd
Sierra Madre, CA 91024
Representative: James Carlson
E-mail: JCarlson@cityofsierramadre.com

Phone: (626) 355-7135 ext. 803

7. County of Los Angeles
Department of Public Works
Watershed Management Division, 11th Floor
900 South Fremont Avenue
Alhambra, CA 91803-1331
Representative: Gary Hildebrand
E-mail: GHILDEB@dpw.lacounty.gov
Phone: (626) 458-4300

8. Los Angeles County Flood Control District
Department of Public Works
Watershed Management Division, 11th Floor
900 South Fremont Avenue
Alhambra, CA 91803-1331
Representative: Gary Hildebrand
E-mail: GHILDEB@dpw.lacounty.gov
Phone: (626) 458-4300



MEMORANDUM

To: Mayor and City Council

From: Craig Hensley, Community Development Director 

Date: May 14, 2013

Subject: Adoption of Friendship City Policy

The City Council requested that the Economic Development Commission (EDC) review the idea of establishing a Friendship City program. EDC discussed the item at its April and May meetings and on May 1 voted unanimously to recommend approval of the attached Friendship City Policy.

The City Council, as it sees fit, may take action to approve, amend or take some other action to address the recommended policy.

The Friendship City Policy is the first step in establishing an official friendship relationship with another city or cities in the world. If the policy is adopted, the next steps would be: the City Council or Councilperson would recommend a possible friendship city; contact would be made with the political leaders of the potential friendship city and a draft Friendship City Agreement would be developed that met the criteria in the Friendship City Policy; the EDC would review the proposed Friendship City Agreement and make a recommendation to City Council; the City Council would take unanimous action; and the Mayor would sign the final agreement. When an initial friendship city relationship is made, the City Manager would also draft an administrative policy to address issues such as designating an official City representative and developing a process for setting meetings and monitoring costs.

What is a Friendship Cities Program?

A Friendship Cities Program (FCP) is a way for a city to initiate relationships on a municipal government to municipal government basis with international cities on a less formal basis than through a sister city relationship. Friendship city engagement with foreign municipalities are said to foster increased global cooperation and communication at the municipal level for the benefit of participating cities. A FCP allows a city to form flexible ties with international cities without having to apply the more formal process proscribed under the guidelines of Sister Cities International. While funding limitations may preclude travel or more formal program activities, a FCP can provide the opportunity to initiate information exchanges and the ability to generate community interest and support.

A primary goal of a friendship city relationship is to open lines of communication between the home city (i.e. City of Duarte) and the friendship (international) city. Friendship City programs are generally designed to establish an informal relationship

between the home city and a participating international city or cities, creating an atmosphere of goodwill.

How is a Friendship City Different from a Sister City Program?

Although the terms Sister City and Friendship City are often used interchangeably, a Friendship City relationship generally means a partnership has a less formal arrangement. Sister Cities International (SCI) certifies both types of relationships, although forming a Sister or Friendship relationship does not require SCI membership.

How Does a City Initiate a Friendship City Program?

Many cities that operate FCPs have adopted formal policies and guidelines for forming a Friendship City partnership. Friendship City Program guidelines address topics such as: administration and coordination of the program; program mission and goals; level of community involvement; criteria for selecting a friendship city; tool that will be used to formalize the friendship; and program needs and funding. In some cases, a citizens ad hoc committee has been formed for the purpose of recommending the structure and organization of a Friendship Cities Program and to develop the program guidelines. For Duarte, the EDC provided this input in its review of the issue and development of a policy.

What does the Friendship City Policy Address?

The Friendship City Policy sets forth a process for developing a Friendship City. It also establishes a set of issues to consider when selecting a Friendship City. The policy is an important starting point in developing a Friendship City program. It is important to set controls for this process since there may be monetary and staffing costs associated with establishing an official friendship city relationship. So in a sense, if the City were to choose a Friendship City, it would be important for Duarte to give that City preference over other cities.

In addition to the Draft Friendship City Policy, Staff has also attached a matrix of other cities with friendship and sister city relationships.

Attachments:

Draft Friendship City Policy
Example Friendship City partnerships



City of Duarte Friendship City Policy

Purpose

To promote greater understanding, respect, and mutual exchange of information between the City of Duarte and an international city or cities.

Goals of a Friendship Cities Program

The Friendship City program will promote goals set forth in the City of Duarte's Economic Development Strategy. The program will promote the City of Duarte as a City of global significance, through the exchange of information that focus on: preparing an educated workforce, creating a business friendly environment, enhancing Duarte's Quality of Life, Smart Land Use, and Building 21st Century Infrastructure. In addition, the relationship shall provide knowledge sharing and cultural enrichment experiences.

Friendship Cities Agreement

A Friendship City relationship shall only occur on a municipal government to municipal government level. A "Friendship City Agreement" must be unanimously approved by Resolution by the Duarte City Council and signed by the Mayors of both cities in order to be valid. The proposed Friendship City Agreement shall include the following provisions:

- Language focusing on each city's commitment to foster understanding, cooperation, and mutual benefit to the precise, with particular areas of interest, specific activities, or more concrete goals related to anything from number of exchanges to economic development.
- Identify specific tasks or programs between friendship cities, which shall be attached to the Friendship City Agreement as an Exhibit.
- Language that states that both cities will strive to learn from one another through information sharing opportunities to promote the goals of the Friendship Cities Program.
- Language stating that the Friendship City Agreement may be terminated, in whole or in part, when such action is deemed to be in the City's interest.

Procedures

1. The Friendship Cities Program is coordinated and managed through the City Manager's Office.
2. Selection and adoption of friendship cities shall be based upon, but not limited to the following:
 - a. Careful consideration of Duarte's current and prospective ties to the country; relevant political, cultural and economic issues; human rights issues; and an appraisal of the benefits that would accrue from the friendship relationship (*Discussion: human rights, language, time zone*).
 - b. Support from individuals, groups, or organizations in the Duarte community with a demonstrated interest in the friendship relationship.

- c. Strong consideration will be given to cities comparable to Duarte in areas such as population, demographics, time zone, official language, business industries, culture, and economic development goals.
3. Requests for Friendship City Relationships
 - a. A friendship city proposal will require sponsorship and recommendation by a member of the City Council or potential friendship city.
 - b. All proposals shall be submitted in writing and shall provide evidence the potential friendship city will meet the selection criteria and that the friendship city agreement will meet the goals of the friendship city program.
 - c. All friendship city proposals shall be processed through the City Manager's Office.
4. Proposed friendship city agreements shall be reviewed by the Economic Development Commission which shall make a recommendation to the City Council. City Council shall take unanimous approval of a friendship city agreement prior to enactment and signature by the Mayor. A friendship city agreement shall be deemed approved when approved by the Duarte City Council and signed by the Mayor and when signed by the participating friendship city.
5. A translation of the agreement (if not in English) shall be provided to the City Council.
6. City of Duarte funding for the Friendship Cities Program shall be limited to the following:
 - a. Visitors' gifts, City staff time to coordinate meetings for visiting dignitaries with City Council and City staff, and securing appropriate City facilities for such meetings.
 - b. Any additional cost beyond that referenced above, including costs for travel by City representatives to friendship cities, shall require separate and formal City Council approval.
 - c. Funding limitations may preclude travel or more formal program activities such as visitation by delegations to each other's home country. However, should funding become available, the City Council may choose to fund a delegation visit or activities that provide an opportunity to exchange information consistent with the goals of the friendship city program.
7. Delegates (to represent the City of Duarte), shall be selected by the City Council, and shall include at least one Council Member, and other delegates may include but are not limited to other government officials, San Gabriel Valley Economic Partnership, Duarte Chamber of Commerce representative(s), Los Angeles Economic Development Corporation, Duarte Unified School District, doctors, nurses, students, etc.
8. The City Manager shall have authority to develop and implement administrative policies and practices deemed necessary to support City Council approved friendship city agreements.

EXAMPLE
FRIENDSHIP CITY PARTNERSHIPS

Cities with Program	Friendship City, Country	Friendship City Population and Size	History Behind Friendship City Program	Program Contact:
Burnaby, B.C. Population: 212,218 6,380 sq. mi.	Tai Chung, Taiwan Dongcheng District (formerly Chongwen District) of Beijing, P.R. China Dongli District of Tianjin Changshu, P.R. China Kunming, Yunnan Province, P.R. China Also has Sister City(ies)	Population: 2.6 million; 3,100 sq. mi. Population: 535,558; 9.5 sq. mi. Population: 1,800 sq. mi. Population: 1,047,700; 2,100 sq. mi. Population: 6,432,212; 4,000 sq. mi.	In early 2007, the provincial government released its Asia Pacific Initiative, a plan designed to help develop the strategies necessary to better integrate British Columbia with Asia Pacific. The Province's goal called for B.C. to be recognized internationally as North America's capital for Asia Pacific commerce and culture. Under the Asia Pacific program, the City of Burnaby was selected to receive one-time funding in support of Friendship City initiatives with Asia Pacific cities. The City matched these funds and, over a two year period.	The International Relations and Friendship Cities Committee has been appointed by Council to advise and assist with matters relating to Sister & Friendship Cities. The International Relations & Friendship Cities Committee (IR&FCC) advises and assists in: - Review and consideration of all matters pertaining to Sister/Friendship City relationships - Policy and program recommendations to City Council - Engaging the Burnaby community and its Sister/Friendship Cities in projects and exchanges that promote cultural awareness, joint learning opportunities, trade and economic development. Committee staffed by Office of the Mayor and Administrative Officer
Olathe, KS Population: 138,563 60.42 sq. mi.	Maebashi, Japan Also has Sister City(ies)	Population: 304,871; 2,866 sq. mi.	Olathe's relationship with Maebashi began through the efforts of Mr. Aho Fukushima, a member of the Maebashi West Rotary Club. Mr. Fukushima's interest in Olathe started in 1952, when he first visited Olathe as a guest of Diane and Jerry Daugherty of the Olathe Rotary Club. Olathe and Maebashi have enjoyed numerous student and adult exchanges since that time. In 2007, Olathe marked the tenth anniversary of the "Trees of Friendship" project with Maebashi, celebrating Mr. Fukushima's gift of 500 cherry trees to the Olathe community.	The Olathe Sister Cities Committee serves as an advisory committee to the Olathe City Council, promoting Olathe's international ties and friendships, establishing goals and objectives, and implementing plans for Olathe's sister cities. The Committee also serves as the governing body for the Olathe Sister Cities Association. The Committee, which meets monthly, is comprised of ten members appointed by the Mayor and City Council, including a representative of Olathe District Schools.
Boulder, CO Population: 97,385 3,947 sq. mi.	Jalapa, Nicaragua Also has Sister City(ies)	Population: 54,691; 886 km2	The people of Boulder have worked with the people of Jalapa for more than thirty years (since 1984) on sustainable, cooperative projects that have brought clean water to destitute rural communities, have empowered women through co-op programs, fostered education programs for adults and children, and many other projects.	FCP, Friendship City Projects PO Box 7452 Boulder, Colorado, 80506-7452 email info@boulderfajapa.org
Freemont, MI Population: 4,081 1,193 sq. mi.	Yahaba, Japan Also has Sister City(ies)	Population: 26,842; 67.28 sq. mi.	Delegations from Boulder have visited the Jalapa region every year since the Friendship City Projects program began. Members of the delegations assist with the projects, interact with the community members, and learn firsthand about the people and the region. The Friendship Cities Program operates as a 501(c)3 non profit entity. The Fremont-Yahaba Friendship City Program has been in formal existence since the signing of the Friendship City Charter July 23, 1995. Previously, the respective mayors of Yahaba, Iwate and Fremont, Michigan recognized the start of their relationship with Fremont hosting the first exchange of students, teachers, and community representatives January 6, 1992. In 1995, a Friendship City Board of Directors was formed to create and carry out the mission and goals of the Friendship City Program. In 2002, the program became incorporated. And in 2005 the program became a 501(c)3 nonprofit entity. The overall purpose of the program is for the community to experience the Japanese or American "way of life" through a reciprocal exchange of delegations. Students and faculty of Fremont Middle School and Yahaba Junior High have participated in this exchange since 1992. The inclusion of students and faculty from Yahaba's new junior high school (Yahaba North) and Koukai High School (located in Yahaba) have been involved in this ongoing exchange since 1999.	Fremont/Yahaba Friendship City Advisory Board of Directors: City of Fremont, Fremont Public Schools, Fremont Mutual, Attorney at Law, Financial Consultant, Student, Fremont High School, Century 21 Real-estate, Newwego County Council for the Arts, Self-employed Architect Fremont/Yahaba Friendship City Action Committee: City of Fremont, Century 21 Real-estate, Attorney at Law, Fremont Public Schools
Los Angeles, CA	Durban, South Africa Other Friendship cities: Lodz, Poland Manchester, U.K. London, U.K. Also has Sister City(ies)	Population: 536,644; 87 sq. mi.	Durban is South Africa's third largest city, with a population of more than 3.5 million. It has Africa's busiest container port and is a popular tourist destination, featuring a beachfront known as the Golden Mile.	SISTER CITIES OF LOS ANGELES, INC Kamilla Blanche c/o Room 255, City Hall 200 N Spring St. Los Angeles, CA 90012 213-878-0638; FAX: 213-824-7810
Irvine, CA Population: 237,729 66 sq. mi.	Nowon-gu, Korea Seochu-gu, Korea Also has Sister City(ies)	Population: 620,000; 13.7 sq. mi. Population: 400,000; 18.2 sq. mi.	In addition, representatives from each respective community have also been delegation participants. Each delegate member is hosted by a "home-stay" family and is involved in a wide variety of educational, social and cultural activities. Participating students prepare a cultural presentation and activity to teach in their host school. Each visiting student presents up to eight times while attending their host school. The P.O. Box 19757 teachers have found it very instructional observing educational practices in another country and on a few occasions actually instructing a class. Since 1992, over 400 students, 100 teachers, and 150 community members from both cities have been part of exchange delegations traveling to their friendship city and hosted by local people in the communities.	Multicultural Affairs Coordinator, City of Irvine One Civic Center Plaza The P.O. Box 19757 Irvine, CA 92623-9575 Phone: (949) 724-6340 Fax: (949) 724-6045 E-mail: seowms@cityofirvine.org
Austin, Texas Population: 820,611 297 sq. mi.	London Borough of Hackney, United Kingdom Tehuacan, Mexico Villfranche-sur-mer, France Also has Sister City(ies)	Population: 247,200; 7.36 sq. mi. Population: 274,906; 150 sq. mi. Population: 6,244; 1.88 sq. mi.	Austin and the London Borough of Hackney have established a Friendship City agreement to foster exchange in the areas of high-tech and digital media, the creative industries, economic development, and sustainability. The Friendship City relationship between Austin and Tehuacan is focused on promoting trade, sharing best practices in public safety and social service delivery, and educational exchanges. Villfranche-sur-mer is a small town on the French Riviera and a haven for many artists. Its picturesque beauty has been featured in several Hollywood films.	Key Contact: Mariana Z. Martinez Position: Sister Cities/International Program Coordinator
Columbus, Indiana Population: 177,424 212 sq. mi.	Qingzhou City, Shandong Province, China Qikou District of Wuhan City, Hubei Province, China Ningde, Fujian Province, China Nannito City, Guangxi Zhuang Autonomous Region, China Huohou, Zhejiang Province, China Wuhan Economic Development Zone of Wuhan City, Hubei Province, China Also has Sister City(ies)	Population: 10,465,994; 8,488 km2 Population: 402,600; 54 km2	To promote cultural understanding, economic development and stimulate friendships, the City of Columbus has signed "Friendship City" agreements with:	
San Antonio, Texas Population: 1,359,758 412 sq. mi.	Suzhou, China Tel Aviv, Israel Also has sister city(ies)	Population: 137,454; 13 sq. mi. Population: 89,138; 1,404 sq. mi. Population: 37,926; 281 sq. mi.	Main industries: Electronic and Telecommunications, Smelting, Textiles Main industries: IT Industries, Wholesale/Retail, Banking/Finance, Tourism	International Relations Office - serves as San Antonio's front door to the rest of the world. Its roles include hosting international dignitaries, advising and training local agencies on international projects, and maintaining relationships. Sherry Dewiatshali, Chief of Protocol sdewiatsh@sanantonio.gov Mark Henderson, International Relations Specialist mark.henderson@sanantonio.gov Managed by the Morlaire Friendship Committee
Morland, Victoria Australia Population: 197,941 39.69 sq. mi. Also has Sister City(ies)	City of Canterbury, New South Wales, Australia Sparta, Laconia, Greece Aleo District, East Timor Also has Sister City(ies)	Population: 3.1 million; 1,497 sq. mi. Population: 2.3 million; 3,018 sq. mi.	The main aim of Friendship City contact is to create friendship and understanding between peoples and to lay a foundation of goodwill and exchange for future generations. Important ties are built on mutual friendship and respect and promote economic development and cultural exchange opportunities for both partners.	Mayor Wayne Wright 511 Royal Avenue New Westminster, BC V8L 1H9 Phone: 604-527-4522 Fax: 604-527-4594 Email: wwright@newwestcity.ca
New Westminster, B.C. Population: 58,549 7.1 sq. mi.	Zhenjiang, China Yunfu City, China Also has Sister City(ies)			