

May 13, 2014

**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 13, 2014**

6:00 p.m. – Closed Session

7:00 p.m. – Regular Session

COUNCIL CHAMBERS, 1600 HUNTINGTON DRIVE, DUARTE, CALIFORNIA 91010

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**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*

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LIZ REILLY, MAYOR  
TZEITEL PARAS-CARACCI, MAYOR PRO TEM  
JOHN FASANA, COUNCILMEMBER  
MARGARET FINLAY, COUNCILMEMBER  
SAMUEL KANG, COUNCILMEMBER

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*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  
Jeffrey Melching, 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.

**Notice:** 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.

**Notice:** Duarte City Council meetings are videotaped for later broadcast on DCTV. Attendance at the meeting constitutes consent by members of the public to the City's and any third party's use in any media, without compensation or further notice, of audio, video, and/or pictures of meeting attendees.

**THE FOLLOWING ITEMS WILL BE HEARD AT 6:00 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 Labor Negotiators – Pursuant to Government Code Section 54957.6; Negotiators: Darrell George, Kristen Petersen; Regarding SEIU Local 721 Management and Professional Employees and General Employee Units
  - C. Conference with Real Property Negotiators – Pursuant to Government Code 54956.8; Negotiating parties: City of Duarte and Duarte Nissan Motor Group, LLC; City Negotiators: Darrell George, Craig Hensley; Under Negotiation: price and terms of payment; concerning property located at 1434 Buena Vista Street, Duarte

**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. 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.*
9. 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.*
10. ITEMS TO BE ADDED TO THE CONSENT CALENDAR
11. CONSENT CALENDAR – Page 1  
*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 22, 2014, and May 5, 2014 (CC/HA/SA/FA)
  - B. Approval of Warrants – May 13, 2014 (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. Notice of absences by Barbie Bylsma-Houghton from Parks and Recreation Commission meetings of May 12, 2014, and June 9, 2014 (Receive and File) (CC)
  - E. Council Bill 14-R-09 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. Council Bill 14-R-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE ENCOURAGING ALL DUARTE RESIDENTS AND BUSINESS OWNERS TO TAKE IMMEDIATE ACTION TO VOLUNTARILY REDUCE WATER USE BY TWENTY PERCENT (CC)
  - G. Proclamation – CalFresh Awareness Month (CC)
  - H. City Council/City Manager Conference Attendance (CC)
12. ITEMS REMOVED FROM CONSENT CALENDAR
13. ORDINANCE – Page 18  
Council Bill 14-O-02 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE REPEALING CHAPTER 9.74, “REGISTERED SEX OFFENDERS,” OF THE DUARTE MUNICIPAL CODE (First Reading)
14. 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.*
15. 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)
16. ADJOURNMENT

## MEMORANDUM

**TO:** City Council  
**FROM:** City Manager  
**DATE:** May 8, 2014  
**SUBJECT:** Comments on Agenda Items, Meeting of May 13, 2014

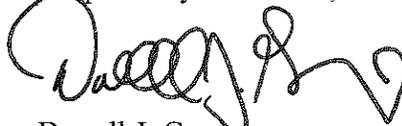
**ITEM 11.E (Consent Calendar).** Staff is recommending that the City Council adopt Resolution 14-09 establishing the City of Duarte's Gann Appropriations Limit for fiscal year 2014-15. California voters approved the Gann Spending Limitation Initiative (Proposition 4) establishing Article XIII B of the State Constitution in 1979. Annual adjustments are based on increases in population, the cost of living, and service responsibility transfers.

**ITEM 11.F (Consent Calendar).** The Upper San Gabriel Municipal Water District has asked all cities within its designated area to pass resolutions encouraging their residents and business owners to take immediate action to voluntarily reduce water use by 20%, by taking simple steps such as taking shorter showers, fixing leaks, and other conservation measures.

**ITEM 11.G (Consent Calendar).** In support of the L.A. County Supervisor's recent proclamation, the City of Duarte is also proclaiming May as CalFresh Awareness Month. The purpose of the CalFresh Program is to safeguard the health and well-being of low-income households by raising their levels of nutrition and increasing their food purchasing power. The awareness campaign also promotes the importance of nutrition education, as well as the long-term benefits of healthy exercise.

**ITEM 13.** In January, the California Court of Appeals rendered a decision that city ordinances regulating and restricting the access to parks and other public facilities by registered sex offenders are pre-empted by State law, and otherwise invalid. This ordinance reflects this recent change in State law, and brings the City into compliance.

Respectfully submitted,



Darrell J. George  
City Manager

**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 22, 2014**

**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 Reilly called the meeting to order at 6:00 p.m.

**RECORDATION OF ATTENDANCE** The following were in attendance:  
**PRESENT:** Fasana (arrived prior to Closed Session), Finlay, Kang, Paras-Caracci, Reilly  
**ABSENT:** None  
**ADMINISTRATIVE STAFF PRESENT:** City Manager George, City Attorney Slater, City Attorney Melching

**ADOPTION OF AGENDA** Finlay moved, Kang seconded to adopt the Agenda, and carried with Fasana not present for the vote.

**CLOSED SESSIONS**  
1) Conference–Labor Negotiators  
2) Conference – Real Property

There was no public input. Slater announced 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 549-56.8; Conference with Real Property Negotiators; Negotiating parties: City of Duarte and Cortel for AT&T Wireless; City Negotiators: Darrell George, Craig Hensley; Under negotiation: Price and terms of payment; Concerning City-leased properties in the 1300 block of Bloomdale Street and the 1200 block of Galen Street. The Closed Sessions concluded at 7:00 p.m. City Council reconvened at 7:06 p.m., with all members present.

**PLEDGE TO THE FLAG** Dan Slater led the Pledge of Allegiance to the Flag.

**MOMENT OF REFLECTION** A moment of reflection was observed.

**FITNESS/MENTAL WARM-UP** Slater and Finlay provided the warm-up.

**PUBLIC REPORT OF CLOSED SESSION ITEMS** Slater announced during the first Closed Session, City Council unanimously directed the City negotiators to continue negotiations with the Union toward the conclusion of a draft MOU, with no reportable action taken. During the second Closed Session, City Council received a report, and unanimously directed the negotiators to continue negotiating on a proposed agreement, price, and terms, with no reportable action taken.

SPECIAL ITEMS  
Public Safety Update

Brian Villalobos presented the monthly Public Safety update, provided crime statistics, and announced Joint Traffic and Public Safety Commission Meeting on May 20 to consider a Citywide street sweeping ordinance.

Fasana requested periodic updates about Fire Department issues. Kang stated the back of the billboard at the entrance to the 605 freeway has been tagged.

Jason Golding provided information about the Mountain Avenue upcoming street closure, and answered questions from City Councilmembers about notification.

Steve Hernandez stated there is a feeling of pride in our community.

Redevelopment Dissolution  
Update

Dan Slater provided an update on the dissolution of redevelopment, including interpretation of recent legislation.

Retirement–City Attorney Slater  
Council Bill 14-R-07  
Updating City Attorney/Assistant  
City Attorney designations

George read by title Council Bill 14-R-07:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
DUARTE UPDATING CITY ATTORNEY AND ASSISTANT  
CITY ATTORNEY DESIGNATIONS

RESOLUTION NO. 14-07

Finlay moved, Paras-Caracci seconded to adopt Resolution No. 14-07, and carried unanimously.

City Councilmembers expressed their appreciation and gratitude to Dan Slater for his patience, knowledge, respect, excellent work on the City's behalf, sense of humor, intellect, and professional and personal advice.

Steve Hernandez stated he appreciated Mr. Slater's willingness to work with people, and appreciated Mr. Melching's efforts with Vulcan.

Mayor Reilly presented Dan Slater with a tile plaque in recognition and appreciation of his providing 23 years of legal counsel to the City of Duarte, and for serving as City Attorney for 10 years (December 1990 – April 2014).

Slater invited Jeffrey Melching to sit on the dais as the new City Attorney, thanked City Council and City staff for their support, respect, and ethics, thanked the residents of Duarte, and presented the City with an original ink painting by Milford Zornes.

Lino Paras stated he feels Mr. Slater is the best City Attorney so far, and respects him for his knowledge.

RECESS

Mayor Reilly called a Recess at 8:10 p.m. for a "Welcome and Farewell" reception in honor of Dan Slater and Jeffrey Melching. City Council reconvened at 8:28 p.m. with all members present.

ANNOUNCEMENTS

Joanna Gee, Duarte Library, announced upcoming story times, clubs, and programs in April and May.

Karen Herrera announced upcoming community activities, meetings, and events in April and May.

ORAL COMMUNICATIONS

The following spoke on items not on the Agenda.

Lino Paras – Welcomed new City Attorney, pending legislation.

Steve Hernandez – Welcomed new City Attorney.

CONSENT CALENDAR

Fasana moved, Paras-Caracci seconded to approve the Consent Calendar as follows, and carried unanimously.

Approve Items A, B, C, F, G.

Remove Items D, E.

RESOLUTION NO. 14-08  
Intent to Levy Assessments  
2014/15 Citywide Landscape and  
Lighting Maintenance District  
Sets Public Hearing – 6/10/14

Item F – Council Bill 14-R-08 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR FISCAL YEAR 2014-2015 WITHIN THE CITYWIDE LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT, PURSUANT TO THE LANDSCAPE AND LIGHTING ACT OF 1972; AND FIXING A TIME AND PLACE FOR THE PUBLIC HEARING TO HEAR OBJECTIONS THERETO

ITEMS REMOVED

Item D – Award of Contract  
Concrete Repair Program

Hensley presented a staff report about this item, and answered questions from City Council about location of the work, and stated concrete will be repaired at various locations Citywide.

Item E – Award of Contract  
Removal of Barriers (ADA)

Hensley presented a staff report about this item, and named a number of intersections within the City where curb ramps will be installed to meet ADA requirements.

ITEMS D and E – Approved  
D) Gentry Brothers, Inc.  
E) Martinez Concrete, Inc.

Finlay moved, Kang seconded to approve Item D, awarding a contract to Gentry Brothers, Inc., in the amount of \$49,818.00 for Concrete Repair Program, and to approve Item E, awarding a contract to Martinez Concrete, Inc., in the amount of \$86,707.50 for Removal of Architectural Barriers for ADA Improvements, and carried unanimously.

ITEMS FROM CITY COUNCIL/  
CITY MANAGER

MELCHING: Thanked City Council, and stated it is a source of pride for him to represent the City of Duarte.

KANG: Apologized for missing the last meeting, stated there are shrubs hiding some of the words on some monument signs on Huntington Drive, stated the back of the billboard at the entrance to the 605 freeway has been tagged, he and the Mayor visited a recycling center, and stated he met the Vice President of Taiwan.

FINLAY: Welcomed Jeff Melching, stated he did an outstanding job with the Vulcan situation, she looks forward to working with him, and announced Relay For Life event.

FASANA: Thanked Dan Slater for his service to the residents of Duarte and welcomed Jeff Melching, received a call from a resident during the last rain storm about a leaking roof and inquired if there are any grants or programs that are available to residents for that type of repair, stated the SGVCOG endorsed Congressman Chu's legislation to establish a recreation area adjacent to the river and hillside, and provided information to the City Manager about upcoming seminars presented by Congressman Napolitano.

PARAS-CARACCI: Stated she respects Dan Slater for what he brought to the Council meetings regarding the Brown Act, as it keeps the City out of bad news, welcomed Jeff Melching as part of the Duarte team, attended the Rotary breakfast, and provided candy suggestions from the youth who attended the Easter egg hunt.

REILLY: Thanked Dan Slater for his service to the City, welcomed Jeff Melching, attended Congressman Napolitano's Unsung Heroines event, stated the Earth Day events and projects were fantastic, attended the Showcase of Talent, stated with the closing of Mountain Avenue, residents need to find alternative routes now, stated she and Councilmember Kang attended the West Valley Material Recovery and Transfer Station event, and announced tomorrow is Denim Day.

ADJOURNMENT

Finlay moved, Fasana seconded to adjourn the meeting at 9:10 p.m., in memory of George Magnusson, Virginia Reyes, and Adrian Castro, to the Budget Workshop, May 5, 2014, at 5:00 p.m., and carried unanimously.

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Mayor Elizabeth Nowak Reilly

ATTEST:

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City Clerk





RECEIVED

APR 28 2014

CITY OF DUARTE

# MEMORANDUM



TO: CITY COUNCIL

FROM: COMMISSIONER <sup>Bylsma</sup> Houghton, Barbie

SUBJECT: NOTICE OF ABSENCE FROM PARKS & RECREATION COMMISSION MEETING

DATE: May 1, 2014

REASON FOR ABSENCE:

ACCIDENT     
  VACATION     
  OTHER\*  
 SICKNESS     
  DEATH IN FAMILY

DATE OF MEETING ABSENCE June 9, 2014

\* EXPLANATION OF ABSENCE Care for parents in Ohio - with Alzheimer's

[Signature]  
SIGNATURE

ABSENCE NOTED BY CITY COUNCIL

\_\_\_\_\_  
DATE

# MEMORANDUM

**TO:** Darrell J. George, City Manager  
**FROM:** Kristen Petersen, Assistant City Manager  
**DATE:** May 13, 2014  
**SUBJECT: GANN APPROPRIATIONS LIMIT**

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## 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 2014-15 appropriations limit is presented in Attachment 1. The City's appropriations limit for FY 2013-14 was \$27,286,029. Please note that this amount was originally reported as \$27,275,718 in the initial report due to a rounding of the cumulative compound change (1.0581% vs. 1.0585%) and has since been identified and corrected. The change allowed by Proposition 111, due to population change and the increase in the cost of living, is 1.0055%. This results in a FY 2014-15 appropriations limit of \$27,436,102.

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 (.78% vs. .47%). 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 14-09 establishing the City of Duarte's Appropriations Limit for the fiscal year 2014-15.

**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 2014-15 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 2014-15 is \$27,436,102.

**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 13<sup>th</sup> day of May, 2014.

\_\_\_\_\_  
Mayor Elizabeth Nowak Reilly

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

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 14-09 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 13th day of May, 2014, by the following vote:

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

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City Clerk Marla Akana  
City of Duarte, California

Resolution 14-09

Attachment 1

**CITY OF DUARTE  
COMPUTATION OF APPROPRIATIONS LIMIT**

<b>FY 2013-14 Appropriations Limit</b>	\$27,286,029*
Change in per capita personal income	.9977%
Change in County population (Change in City population = .47%)	1.0078%
Cumulative compound change (.9977 x 1.0078)	1.0055
<b>FY 2014-15 Appropriations Limit</b>	\$27,436,102

\* Please note that this amount was increased by a nominal amount due to a rounding correction in the cumulative compound change

Source: State of California, Department of Finance, Price and Population Information, May 2014

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE  
ENCOURAGING ALL DUARTE RESIDENTS AND BUSINESS OWNERS  
TO TAKE IMMEDIATE ACTION TO VOLUNTARILY REDUCE  
WATER USE BY TWENTY PERCENT**

**WHEREAS**, the San Gabriel Valley is experiencing a third consecutive dry year; and

**WHEREAS**, 2013 was the driest year on record; and

**WHEREAS**, the level of the Main San Gabriel Basin as measured at the Key Well is approaching the historical low level of 189 feet above mean sea level recorded in December 2009, and is projected to fall below the historic low level by June of 2014; and

**WHEREAS**, the Governor of the State of California declared a drought emergency and called on Californians to reduce water by twenty percent; and

**WHEREAS**, the State Water Project allocation is currently at an unprecedented level of 0 percent; and

**WHEREAS**, the Metropolitan Water District of Southern California is drawing upon a significant portion of its regional drought storage reserves to meet demand, and has adopted a Water Supply Alert as a first step in implementing its Water Supply Allocation Plan, and has called upon all Southern Californians to reduce water use by twenty percent; and;

**WHEREAS**, the Main San Gabriel Basin Watermaster is required by the Environmental Protection Agency to meet rates of water production from the operable units that treat contaminated groundwater, and imported water is required to sustain such operations; and

**WHEREAS**, the health and safety of over 1.8 million people living in the San Gabriel Valley depends upon the long-term sustainable management of the Basin; and

**WHEREAS**, a reduction in current water use by twenty percent will result in less of a need to withdraw water from storage, preserving water in storage to maintain a reliable supply in the event the drought continues through 2015; and

**WHEREAS**, in order to continue to meet the water needs of residents and businesses in the City of Duarte, and to protect the public from potential health hazards, the City is encouraging its citizens and business owners to voluntarily conserve water whenever and wherever possible; and;

**WHEREAS**, Duarte residents are being asked to voluntarily take simple steps to save water, including taking shorter showers, not leaving water running, checking for leaks, washing only full laundry loads, not washing vehicles at home, promptly fixing defective plumbing or sprinklers, watering only when landscaping needs it during early morning hours, avoid causing

or allowing water to run off landscaped areas into adjoining streets, sidewalks, or other paved areas due to incorrectly directed sprinklers or excessive watering, and using a broom instead of the hose to clean driveways, gutters, and walkways;

**NOW, THEREFORE, BE IT RESOLVED** that the Duarte City Council hereby determines that voluntary water conservation is needed, and encourages all Duarte residents and business owners to take immediate action to voluntarily reduce water use by 20%, to conserve water for all of its uses, and to make every reasonable effort to conserve this precious natural resource.

PASSED, APPROVED, AND ADOPTED this 13th day of May, 2014.

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Mayor Elizabeth Nowak Reilly

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

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 14-10 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 13<sup>th</sup> day of May, 2014, by the following vote:

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

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City Clerk Marla Akana  
City of Duarte, California



## Proclamation

### CALFRESH AWARENESS MONTH

**WHEREAS**, one of Los Angeles County's highest priorities is to reduce food insecurity and encourage healthy food choices by increasing access and participation in CalFresh, the federally-funded supplemental nutrition food benefit formerly known as the Food Stamps Program; and

**WHEREAS**, Los Angeles County has experienced some of the highest unemployment rates in the Nation, and many residents who are financially impacted are unaware that they may qualify for CalFresh; and

**WHEREAS**, since May 2011, the County Department of Public Social Services has collaborated with various government agencies, community groups, faith-based organizations, food banks, school districts, supermarkets, and farmer's markets to educate residents about the CalFresh Program, and to remove many of the barriers that were discouraging eligible families and individuals from applying for the program; and

**WHEREAS**, since the City of Duarte is also known as the "City of Health," we heartily agree with the County Department of Public Social Services about the importance of sharing valuable information about nutrition education and promoting the long-term benefits of healthy exercise;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Duarte hereby proclaims May 2014 as CALFRESH AWARENESS MONTH, and encourages all residents to learn about the CalFresh Program and to share information about its valuable benefits with those who need it most.

\_\_\_\_\_  
Mayor Liz Reilly

ATTEST:

\_\_\_\_\_  
City Clerk Marla Akana  
Duarte, California

May 13, 2014



County of Los Angeles  
**CHIEF EXECUTIVE OFFICE**

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA  
Chief Executive Officer

April 30, 2014

City of Duarte  
1600 Huntington Drive  
Duarte, CA 91010

Dear City Manager/Clerk:

I am pleased to inform you that on Tuesday, May 6, 2014, the Los Angeles County Board of Supervisors will proclaim May as "CalFresh Awareness Month" throughout the County. CalFresh is the new name for the federally-funded supplemental nutrition food benefit formerly known in California as the Food Stamps Program.

One of the County's highest priorities is to reduce food insecurity and encourage healthy food choices by increasing access and participation in the program, administered by the Department of Public Social Services (DPSS). In California, the monthly CalFresh benefit is transferred to the participant's Electronic Benefit Transfer or (EBT) card.

On behalf of DPSS and its 40 community partners, I am requesting your participation in this education and outreach effort by proclaiming May "CalFresh Awareness Month" in your city.

While the economy continues to show signs of improvement, many local residents are still financially impacted by the recent "Great Recession." Los Angeles County experienced some of the highest unemployment rates in the nation. Unfortunately, many still in need of immediate food assistance are unaware that they may qualify for CalFresh. Only 59 percent of those eligible are receiving CalFresh, even though a record high of 1,179,471 individuals received the benefit in January this year.

The purpose of the CalFresh Program is to promote and safeguard the health and well-being of low-income households by raising their levels of nutrition and increasing their food purchasing power. The amount of CalFresh benefits depends on the household size and income. The less income in a household, the more CalFresh benefits a household will be eligible for. Those in need of assistance can apply on-line, in person at any DPSS District Office, or at contracted partner sites.

*"To Enrich Lives Through Effective And Caring Service"*

*Please Conserve Paper – This Document and Copies are Two-Sided  
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MAY - 7 2014

CITY OF DUARTE

Board of Supervisors  
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First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

016

City Manager/Clerk  
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For your convenience, attached is the proposed resolution language that you can use to develop your city's CalFresh proclamation and/or resolution. If your city agrees to participate, or would like additional information, please contact James Bolden in the DPSS Intergovernmental Relations Office at (562) 908-8521, or via email at [jamesbolden@dpss.lacounty.gov](mailto:jamesbolden@dpss.lacounty.gov).

Thank you in advance for your help in informing residents in your city about the valuable benefits of the CalFresh Program.

Sincerely,



WILLIAM T FUJIOKA  
Chief Executive Officer

WTF:AJ:ljp

Attachment

CalFresh.l

## MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council of the City of Duarte  
**FROM:** Jeffrey T. Melching, Rutan & Tucker, LLP, City Attorney  
**DATE:** May 7, 2014  
**FILE NO.:** 012225-0101  
**RE:** ORDINANCE REPEALING CHAPTER 9.74, "REGISTERED SEX OFFENDERS," OF THE DUARTE MUNICIPAL CODE

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### RECOMMENDATIONS

1. That the City Council introduce and conduct a first reading of Ordinance 14-O-02, repealing Chapter 9.74, "Registered Sex Offenders" of the Duarte Municipal Code (the "Ordinance") in order to comply with the final ruling of the California Court of Appeal in *People v. Nguyen* (2014), No. G048228. Fourth Dist., Div. Three, filed January 10, 2014.
2. That the City Council schedule the second reading and adoption of the Ordinance for the City Council meeting of May 27, 2014.

### BACKGROUND

In the recent California Court of Appeal decision in *People v. Nguyen* (2014), No. G048228. Fourth Dist., Div. Three, filed January 10, 2014, the Court held that city ordinances regulating and restricting the access to parks and other public facilities by registered sex offenders are preempted by State law. The Court reached this conclusion because of the comprehensive regulatory scheme set forth in the California Penal Code [including Penal Code §§290 through 294 (*i.e.*, Chapter 5.5, "Sex Offenders," of Title 9 of Part I of the California Penal Code), and Penal Code §§626.81, 653b, 653c, 3000.07, 3003.5, 3004, and 3053.8] effectively "occupies the field" for the regulation of sex offenders. Because city ordinances regulating registered sex offenders are preempted by State law, the Court of Appeal held that such city ordinances are invalid.

The Orange County District Attorney sought review of *People v. Nguyen* from the California Supreme Court. However, on April 23, 2014, the California Supreme Court denied review. That action effectively rendered the Court of Appeal decision final and precedential.

Chapter 9.74, "Registered Sex Offenders" of the Duarte Municipal Code currently contains many provisions that are similar to those invalidated in *People v. Nguyen*. Therefore, it is both appropriate and necessary to repeal the that portion of the Municipal Code.

Upon completion of the repeal, it will be necessary to rely upon enforcement by the Los Angeles County Sheriff's Department of applicable State laws (including those recited above) with respect to registered sex offenders. For the City Council's reference, those State law obligations include the following:

- (1) a lifetime duty to register with local law enforcement for each city or county in which the offender resides and to update that registration annually or upon any relevant change (Penal Code §§ 290-290.024);
- (2) a state-maintained Web site that discloses information about the offender to the public (Penal Code §§ 290.4, 290.45, 290.46);
- (3) a sex offender's duty to submit to monitoring with a global positioning device while on parole and potentially for the remainder of the offender's life if the underlying sex offense was one of several identified felonies (Penal Code §§ 3000.07, 3004, subd. (b));
- (4) a prohibition against the offender "enter[ing] any park where children regularly gather without the express permission of his or her parole agent" if the victim of the underlying sex offense was under 14 years of age (Penal Code § 3053.8, subd. (a));
- (5) a prohibition against the offender residing with another sex offender while on parole and within 2,000 feet of a school or park for the rest of the offender's life (Penal Code § 3003.5);
- (6) a prohibition against the offender entering any school without "lawful business" and written permission from the school (Penal Code § 626.81);
- (7) enhanced penalties for the offender remaining at or returning to "any school or public place at or near which children attend or normally congregate" after a school or law enforcement official has asked the offender to leave (Penal Code § 653b, italics added);
- (8) a prohibition against the offender entering a day care or residential facility for elders or dependent adults without registering with the facility if the victim of the underlying sex offense was an elder or dependent adult (Penal Code § 653c);

Honorable Mayor and Members of the City  
Council of the City of Duarte  
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- (9) a duty to disclose the offender's status as a sex offender when applying for or accepting a job or volunteer position involving direct and unaccompanied contact with minor children (Penal Code § 290.95, subds. (a) & (b));
- (10) a prohibition against the offender working or volunteering with children if the victim of the underlying sex offense was under 16 years of age (Penal Code § 290.95, subd. (c)); and
- (11) a prohibition against the offender receiving publicly funded prescription drugs or other therapies to treat erectile dysfunction (Penal Code § 290.02).

The repeal of Chapter 9.74 will not change sex offenders' obligations to comply with all of the foregoing laws, which will remain enforceable and in place.

#### CONCLUSION

In light of the foregoing, it is recommended that the City Council adopt Ordinance No. 14-O-2, which repeals Chapter 9.74, "Registered Sex Offenders," of the Duarte Municipal Code.

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE  
REPEALING CHAPTER 9.74, "REGISTERED SEX OFFENDERS," OF  
THE DUARTE MUNICIPAL CODE**

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

SECTION 1. The California Court of Appeal decision in *People v. Nguyen* (2014), No. G048228, Fourth Dist., Div. Three, filed January 10, 2014, held that city ordinances regulating and restricting the access to parks and other public facilities by registered sex offenders are preempted by State law because of the comprehensive regulatory scheme set forth in the California Penal Code [including Penal Code §§290 through 294 (*i.e.*, Chapter 5.5, "Sex Offenders," of Title 9 of Part I of the California Penal Code), and Penal Code §§626.81, 653b, 653c, 3000.07, 3003.5, 3004, and 3053.8]. Because city ordinances regulating registered sex offenders are preempted by State law, the Court of Appeal held that such city ordinances are invalid. In its published opinion, the Court of Appeal cited the multiple sections of the California Penal Code which regulate registered sex offenders:

- (1) a lifetime duty to register with local law enforcement for each city or county in which the offender resides and to update that registration annually or upon any relevant change (Penal Code §§ 290-290.024);
- (2) a state-maintained Web site that discloses information about the offender to the public (Penal Code §§ 290.4, 290.45, 290.46);
- (3) a sex offender's duty to submit to monitoring with a global positioning device while on parole and potentially for the remainder of the offender's life if the underlying sex offense was one of several identified felonies (Penal Code §§ 3000.07, 3004, subd. (b));
- (4) a prohibition against the offender "enter[ing] any park where children regularly gather without the express permission of his or her parole agent" if the victim of the underlying sex offense was under 14 years of age (Penal Code § 3053.8, subd. (a));
- (5) a prohibition against the offender residing with another sex offender while on parole and within 2,000 feet of a school or park for the rest of the offender's life (Penal Code § 3003.5);
- (6) a prohibition against the offender entering any school without "lawful business" and written permission from the school (Penal Code § 626.81);
- (7) enhanced penalties for the offender remaining at or returning to "any school or public place at or near which children attend or normally congregate" after a school or law enforcement official has asked the offender to leave (Penal Code § 653b, italics added);

- (8) a prohibition against the offender entering a day care or residential facility for elders or dependent adults without registering with the facility if the victim of the underlying sex offense was an elder or dependent adult (Penal Code § 653c);
- (9) a duty to disclose the offender's status as a sex offender when applying for or accepting a job or volunteer position involving direct and unaccompanied contact with minor children (Penal Code § 290.95, subds. (a) & (b));
- (10) a prohibition against the offender working or volunteering with children if the victim of the underlying sex offense was under 16 years of age (Penal Code § 290.95, subd. (c)); and
- (11) a prohibition against the offender receiving publicly funded prescription drugs or other therapies to treat erectile dysfunction (Penal Code § 290.02).

SECTION 2. The Orange County District Attorney, as the party that sought to enforce the local ordinance at issue in *People v. Nguyen*, filed a petition for review in the California Supreme Court seeking a further hearing on the Court of Appeal decision. On April 23, 2014, the California Supreme Court denied the petition for review of the Court of Appeal decision and thus the Court of Appeal decision is final. As a result, the City Council of the City of Duarte hereby adopts this Ordinance to conform to the Court of Appeal decision in *People v. Nguyen* and to avoid litigation against the City by the organization California Reform Sex Offender Laws (CA RSOL) which seeks repeal of city ordinances that are inconsistent with the Court of Appeal decision in *People v. Nguyen*.

SECTION 3. Chapter 9.74, "Registered Sex Offenders," of the Duarte Municipal Code is hereby repealed its entirety.

SECTION 4. In adopting this Ordinance the City Council declares that the City shall rely upon enforcement by the Los Angeles County Sheriff's Department within the City of Duarte of applicable State law with respect to registered sex offenders.

SECTION 5. 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 \_\_\_\_\_, 2014.

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Mayor Elizabeth Nowak Reilly

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

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

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

\_\_\_\_\_  
City Clerk Marla Akana  
City of Duarte, California