

September 9, 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, SEPTEMBER 9, 2014**

5:30 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 5:30 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 Real Property Negotiators pursuant to Government Code Section 54956.8; Negotiating parties: City of Duarte and Genton Property Group; City negotiators: Darrell George, Craig Hensley; Under negotiation: Price and terms of payment; Concerning properties at 1305, 1415, 1423, and 1427 Huntington Drive and 946-962 Huntington Drive (APNs 8530-013-902, 903 & 904; 8530-004-900-904)
  - C. Public Employee Performance Evaluation – Pursuant to Government Code Sections 54956(b)(1) and 54956.6; Annual evaluation of City Manager; Designated City representative: Jeff Melching, City Attorney

**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
  - A. Recognition – Duarte Library teen volunteers
  - B. Presentation – By Sam Esquenazi, Cal Trans – Connected Corridors/I-210 Pilot Presentation
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 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 – August 26, 2014 (CC/HA/SA/FA)
  - B. Approval of Warrants – September 9, 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. Proclamation – Freedom From Workplace Bullies Week (CC)

- E. Request by the Olympia Youth Orchestra for City co-sponsorship of concert to be held on December 6, 2014, at the Duarte Performing Arts Center (Continued from 8/26/14) (CC)
- F. City Council/City Manager Conference Attendance – National League of Cities Congress of Cities and Exposition, November 18-22, 2014, Austin, Texas (CC)
- 13. ITEMS REMOVED FROM CONSENT CALENDAR
- 14. BUSINESS ITEMS – Page 15
  - A. Authorization for City Manager to execute a contract with Creative Design Consultants (CD/A) in the amount of \$14,500 for preparation of an ADA Transition Plan, and approval of \$14,500 budget amendment
  - B. Approval of Exclusive Negotiating Agreement with Arbor Capital Group for property at 1263 Huntington Drive to establish a retail center
- 15. RESOLUTION – Page 34  
Council Bill 14-R-21 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, IMPLEMENTING THE STATEWIDE WATER CONSERVATION PROVISIONS IN THE CITY OF DUARTE
- 16. 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.*
- 17. 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)
- 18. ADJOURNMENT – In memory of Steven Sotloff

MEMORANDUM

TO: City Council  
FROM: Assistant City Manager  
DATE: September 4, 2014  
SUBJECT: Comments on Agenda Items, Meeting of September 9, 2014

ITEM 3B. (Closed Session) Property Negotiation with Genton Property Group on 902-904, 946-962 & 1305-1427 Huntington Drive.

ITEM 3C. (Closed Session) Annual Evaluation of City Manager.

ITEM 8A. The Council will be recognizing the teen volunteers at the Duarte Library.

ITEM 8B. A Cal Trans representative will provide an overview of the Connected Corridors Program. "Connected Corridors" is a collaborative effort to research, develop, and test a framework for future corridor traffic operations in California. The I-210 corridor was selected as a pilot program and would be a collaboration between CalTrans, LA Metro, LA County, San Gabriel Valley COG, and the cities of Duarte, Monrovia, Arcadia, and Pasadena.

ITEM 12D. (Consent Calendar) The California Workplace Advocates has requested that the City Council declare the week of October 19-25 as "Freedom From Workplace Bullies Week". Its goal is to ensure civility and professionalism within the workplace by increasing awareness on this topic.

ITEM 12E. (Consent Calendar) This item was continued from the last meeting at the request of Council so that the Maestro Fung Ho could be present at the meeting. The Olympia Youth Orchestra, a nonprofit organization founded in 1988, is requesting that the City of Duarte co-sponsor a concert on Saturday, December 6<sup>th</sup> at the Duarte Performing Arts Center. The orchestra is asking that the City allow them to use one of its "no-cost uses" of the Performing Arts Center as allowed under the 1991 agreement with the Duarte Unified School District. The City is allowed ten "no-cost uses" per year according to the agreement.

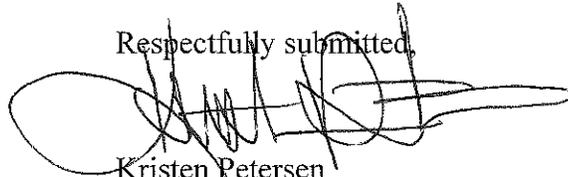
ITEM 14A. As part of the 2014-15 adopted budget, the City Council allocated \$30,000 for the development of an ADA Transition Plan. The ADA Transition Plan will evaluate accessibility issues in all City facilities and with all City programs and services. The intent of this comprehensive analysis is to provide an evaluation of compliance with the American's with Disabilities Act and other applicable accessibility laws. The City distributed a Request for Proposals and received two qualified proposals. Staff is asking Council to authorize the City Manager to execute a contract with the selected proposer, Creative Design Consultants, in the amount of \$44,500 for the preparation of an ADA Transition Plan and to amend the 2014-15 budget for this item by \$14,500.

ITEM 14B. This item is an authorization for the City Manager to enter into an Exclusive Negotiating Agreement (ENA) with Arbor Capital Group for the development of a retail center on the northwest corner of Huntington Drive and Buena Vista Street. The Developer has a letter of

intent from a National coffee retailer for a retail shop, and also proposes one or two additional retail tenant spaces. The City Council considered several proposals at a closed session on July 22, 2014, and felt that the proposal by Arbor Capital Group allowed the best site development and the highest sale price for the property. During the 180-day negotiating period, staff will work with the developer to achieve a concept development plan that meets City standards, complete a detailed pro forma, complete a property appraisal, and work with the adjacent property owner on a reciprocal access agreement.

ITEM 15. Staff is recommending that City Council adopt Resolution 14-R-21 which affirms the City's authority and commitment to locally enforce the four mandatory water conservation measures adopted by the CPUC on August 14, 2014. The resolution also identifies the warning procedure that could be employed by the City's Code Enforcement Division. Specifically, the City is proposing to treat violations as an infraction with written warning that allows sufficient time for the violation to be corrected. If warnings fail, the City would rely on the long established administrative citation process to enforce penalties i.e.: a fine of \$75 for a first offense, \$150 for a second, and \$300 for a third.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kristen Petersen', written over a horizontal line.

Kristen Petersen  
Assistant 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 – AUGUST 26, 2014

RECEPTION - City of Duarte's 57<sup>th</sup> Anniversary Celebration At 6:00 p.m., a Reception was held in celebration of the City of Duarte's 57<sup>th</sup> year of incorporation.

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 7:06 p.m.

RECORDATION OF ATTENDANCE The following were in attendance:  
PRESENT: Fasana, Finlay, Paras-Caracci, Reilly  
ABSENT: Kang  
ADMINISTRATIVE STAFF PRESENT: City Manager George, City Attorney Melching

ADOPTION OF AGENDA Paras-Caracci moved, Finlay seconded to adopt the Agenda, as amended to consider Item 13 (Business Item) after Item 6 (Special Items), and carried with Kang absent.

PLEDGE TO THE FLAG David Gardner led the Pledge of Allegiance to the Flag.

MOMENT OF REFLECTION Congratulatory certificates in celebration of the City's 57<sup>th</sup> Anniversary were presented from State Senator Carol Liu and Congressmember Grace Napolitano.

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

SPECIAL ITEMS  
Introduction – Mayor's Youth Council Cesar Monsalve introduced members of the Mayor's Youth Council, and Mayor Reilly presented them with Certificates of Appointment.  
Presentation – Mandatory Water Conservation Measures Karen Herrera presented an overview of the mandatory water conservation measures from the State Public Utilities Commission, steps that the City has taken during past years, water utility requirements, local agency requirements to enforce mandatory regulations, violation notification/citation process, simple conservation suggestions, and availability of water conservation information. Brian Villalobos answered questions pertaining to enforcement, and received comments from City Council about preparation of a resolution pertaining to water conservation for consideration at an upcoming meeting.

Public Safety update Brian Villalobos presented a public safety update, and discussed recent applications for grant funds.

Redevelopment dissolution update Jeff Melching provided an update on redevelopment issues, and noted many items are waiting to be determined in the Court of

8/26/14

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BUSINESS ITEM  
Report from Edison Company  
TRTP and access road

Appeals.

Fasana declared a conflict of interest, and left the building.

Ahmad Solomon, Southern California Edison, introduced Kevin Cini, who presented an overview of the TRTP project, including segments, transmission lines, access road, retaining wall, projected completion date, and voltage. Don Wright provided information and responded to questions from Councilmembers pertaining to product to be applied to retaining wall, and signage.

Steve Hernandez stated improvements are needed, we will get past this, and undergrounding is an unproven technology.

John Willis stated the picture shown is not a true representation, there are many marker balls, there is a rock wall in Bradbury, and the one is Duarte is chrome.

Victoria Bartoli inquired about homes that were purchased by Edison.

Kevin Cini stated the marker balls are required by the FAA, and the decision about purchasing homes was internal, based on the height and proximity of the towers.

Nick Zigic stated he attended meetings about the project, these towers are less obstructive to the view than the lattice ones, and he hopes the wall will be integrated so we do not see it.

Steven Carter stated he sees scars on the mountain and towers, inquired if Edison or the City contacted home owners in advance, and feels this needs to be changed.

Kevin Cini stated PUC scoping meetings were held before the project was started, and Edison also provided notification in advance.

Stacie Tang stated the picture does not look like the way it looks, and the Edison speaker did not sound confident.

Karen Vance stated the access road is not minor, she thinks the City has been bamboozled, one tower this size is too much for homes and this City, and requested an internal audit.

Charles Tipple stated he sees this daily, asked what if the wall is not approved, and asked when will we see the benefits.

Yolanda Bowers stated the two homes purchased are now for sale at a lower price than when purchased.

Charmin Warner stated the mountains and views have been destroyed, she doesn't know how it got approved, asked why dirt wasn't hauled out and the wall indented into the hillside, and asked if they considered taking it underground.

Mary Jacobs stated she is concerned about the value of property

and health of residents, and people have been endangered with these volts.

There was discussion about how the community feels about the issue, need to review the steps, need for sessions with SCE and Councilmembers, reason for marker balls, need for the wall to be completed, homes purchased because they were impacted, Chino Hills, inverse condemnation, ugly towers, negative impacts for the City, and undergrounding.

Ahmad Solomon stated undergrounding of towers in Chino Hills was not an Edison decision, the 150-mile overhead project was approved by the PUC, Edison is regulated by the PUC, the least environmentally impacted route is to use an existing corridor, Edison is trying to meet the State's goals, and the license was issued in 2009 for this type of route.

Fasana returned to the building and resumed his chair.

#### ANNOUNCEMENTS

Joanna Gee, Duarte Library, announced upcoming programs, story times, and classes.

Sheryl Lefmann announced upcoming Chamber of Commerce events, and Duarte Education Foundation Music Matters event on October 11.

Karen Herrera announced upcoming community activities, programs, and meetings in September and October.

Kevin Morris, DUSD, announced his new position is Director of College, Career, and Community Services, and provided an update on new staff assignments, partnerships, and programs.

Mayor Reilly announced Amazing Family Race on October 18.

#### ORAL COMMUNICATIONS

The following spoke on items not on the Agenda.  
Steve Hernandez – Surgery, Edison.

#### CONSENT CALENDAR

Fasana moved, Finlay seconded to approve the Consent Calendar as follows, and carried with Kang absent.  
Approve Items A, B, C, D, G, H, I, J, K.  
Receive and File Item E.  
Remove Item F.

Item H – Ordinance No. 852  
Tobacco/Cigarette/Vaping and  
Paraphernalia (MCA 14-1)  
(Second Reading)

Council Bill 14-O-05 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, TO: **(1)** AMEND TABLE 2-5, "ALLOWED USES AND PERMIT REQUIREMENTS," OF SECTION 19.12.020, "LAND USES AND PERMIT REQUIREMENTS," OF CHAPTER 19.12, "COMMERCIAL ZONES (C-P, C-G, C-F)," OF ARTICLE 2, "ZONES, ALLOWABLE USES, AND DEVELOPMENT STANDARDS," TO TITLE 19, "DEVELOPMENT CODE," OF THE DUARTE MUNICIPAL CODE; **(2)** ADD SECTION 19.60.165, "TOBACCO SHOPS," OF CHAPTER 19.60, "STANDARDS FOR

SPECIFIC LAND USES AND ACTIVITIES,” OF ARTICLE 4, “STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES,” TO TITLE 19, “DEVELOPMENT CODE,” OF THE DUARTE MUNICIPAL CODE; (3) ADD SECTION 19.60.167, “ACCESSORY RETAIL SALES OF TOBACCO PRODUCTS, ELECTRONIC CIGARETTE AND VAPING DEVICES, AND ASSOCIATED PARAPHERNALIA,” OF CHAPTER 19.60, “STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES,” OF ARTICLE 4, “STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES,” TO TITLE 19, “DEVELOPMENT CODE,” OF THE DUARTE MUNICIPAL CODE; AND (4) AMEND CHAPTER 19.160, “DEFINITIONS,” OF ARTICLE 9, “DEFINITIONS,” TO TITLE 19, “DEVELOPMENT CODE,” OF THE DUARTE MUNICIPAL CODE TO REGULATE TOBACCO SHOPS AND THE ACCESSORY RETAIL SALE OF TOBACCO PRODUCTS, ELECTRONIC CIGARETTE AND VAPING DEVICES, AND ASSOCIATED PARAPHERNALIA (MCA 14-1) (Second Reading)

Item I – Ordinance No. 852  
Tobacco Retailer License  
(MCA 14-2)  
(Second Reading)

Council Bill 14-O-06 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, AMENDING CHAPTER 5.09, “TOBACCO RETAILER LICENSE,” TO TITLE 5, “BUSINESS LICENSES AND REGULATIONS,” OF THE DUARTE MUNICIPAL CODE TO REQUIRE A TOBACCO RETAILER LICENSE TO SELL E-CIGARETTES AND VAPING DEVICES (MCA 14-2) (Second Reading)

ITEM REMOVED  
Item F – Olympia Youth Orchestra  
(Continued to 9/9/14)

Finlay moved, Fasana seconded to continue this item until the next meeting, and to have Fung Ho attend the meeting, and carried with Kang absent.

RESOLUTIONS  
Council Bill 14-R-19  
Grant – Fish Canyon Falls Trail

Mayor Reilly read by title Council Bill 14-R-19:  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE LOS ANGELES COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT FOR FIFTH SUPERVISORIAL DISTRICT EXCESS FUNDING FOR DUARTE FISH CANYON FALLS TRAIL REHABILITATION

RESOLUTION NO. 14-19

Fasana moved, Finlay seconded to adopt Resolution No. 14-19, and carried with Kang absent.

Council Bill 14-R-20  
Grant – Sr. Center Computer Lab

Mayor Reilly read by title Council Bill 14-R-20:  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE LOS ANGELES COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT FOR FIFTH SUPERVISORIAL DISTRICT EXCESS FUNDING TO DEVELOP A DUARTE SENIOR CENTER COMPUTER LAB/TECHNOLOGY CENTER

RESOLUTION NO. 14-20

Fasana moved, Paras-Caracci seconded to adopt Resolution No. 14-20, and carried with Kang absent.

ITEMS FROM CITY COUNCIL/  
CITY MANAGER

FINLAY: Stated the Amazing Family Race to the Finish sounds great, Frank Haynes was a tremendous person, Rick Elliott was a Vietnam vet, and both will be missed.

FASANA: Stated to the best of his recollection, he has not been in the room when SCE items have been discussed, he receives direction from the City Attorney, inquired about the Cal Am consolidated district plan (Melching responded), he appreciates the things going on at DUSD, inquired about downloading of AQMD data, stated he has seen a few scorpions at his home, congratulated staff on the active transportation grant, stated Frank Haynes will be missed, and asked that the meeting also be adjourned in memory of James Foley.

PARAS-CARACCI: Stated school is back in session, there is a need to watch driving and traffic commutes, our City comes together and finds ways to keep things positive, invites all to communicate, and stated Frank Haynes never saw the negative and really helped the community.

REILLY: Stated Frank Haynes was a wonderful spirit and will be missed, attended memory/aging seminar at Senior Center and New Hope Church and Public Safety Operation Makeover, took a tour of Huy Fong Foods, and announced toxic waste roundup on September 13 at City of Hope.

ADJOURNMENT

Finlay moved, Fasana seconded to adjourn the meeting at 9:30 p.m., in memory of Frank Haynes, Richard Elliott, and James Foley, and carried with Kang absent.

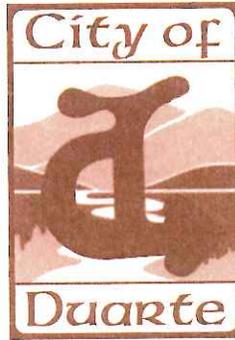
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Mayor Elizabeth Nowak Reilly

ATTEST:

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City Clerk



## Proclamation

### **FREEDOM FROM WORKPLACE BULLIES WEEK**

**WHEREAS**, the City of Duarte has an interest in promoting the social and economic well-being of its citizens, employees, and employers; and

**WHEREAS**, that well-being depends upon the existence of healthy and productive employees working in safe and abuse-free working environments; and

**WHEREAS**, surveys and studies have documented the stress-related health consequences for individuals caused by exposure to abusive work environments; and

**WHEREAS**, abusive work environments are costly for employers, resulting in consequences such as reduced productivity, absenteeism, turnover, employee dissatisfaction, and injuries; and

**WHEREAS**, protection from abusive work environments should apply to every worker, and not be limited to a legally protected class status based only on race, color, gender, national origin, religion, age, or disability; and

**WHEREAS**, California Healthy Workplace Advocates is a statewide coalition of citizens dedicated to ensuring civility and professionalism within the workplace, and is working with the Workplace Bullying Institute to increase public awareness of the impacts of workplace bullying in California and the United States, and to offer solutions to prevent abusive work environment in both the public and private sectors; and

**WHEREAS**, California Healthy Workplace has invited all California cities to help raise awareness to correct and prevent workplace bullying;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Duarte hereby proclaims October 19-25, 2014, as **FREEDOM FROM WORKPLACE BULLIES WEEK**, and encourages all citizens to recognize this special observance.

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

ATTEST:

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

September 9, 2014



**From:** [info@bullyfreeworkplace.org](mailto:info@bullyfreeworkplace.org)

**Date:** August 25, 2014 10:47:51 PM PDT

**To:** undisclosed-recipients.;

**Subject:** Request item to be placed on the next City Council agenda...

## REQUEST ITEM TO BE PLACED ON THE AGENDA OF THE NEXT MEETING

Good Morning,

This email is a request to put a very important issue on the upcoming agenda of your next City Council meeting. If you are not the best person to contact about this, please forward this email to the correct person. Thank you.

We are all becoming increasingly aware of the wide-spread problem of bullying in our schools. While this epidemic is deserving of the nation's immediate attention, another phenomenon is concurrently sweeping this nation with severe social and economic consequences: Bullying in the Workplace.

The California Healthy Workplace Advocates is a coalition of citizens dedicated to ensuring civility and professionalism within the workplace. Our group has members statewide who are working to increase awareness of this growing problem that affects both the public and private sectors.

We request that the attached proclamation (see below), declaring October 19 - 25, 2014 as "Freedom from Workplace Bullies Week", be placed on your upcoming City Council agenda for adoption. Last year, 94 cities and counties participated with signed Proclamations.

Following adoption, we would appreciate receipt of a signed copy of the Proclamation. It can be emailed to [info@bullyfreeworkplace.org](mailto:info@bullyfreeworkplace.org) or mailed to our webmaster and co-founder, Michelle Smith, 6387 Mother Lode Drive #33, Placerville, CA 95667.

The Proclamation will be posted on our website at [www.bullyfreeworkplace.org](http://www.bullyfreeworkplace.org), our facebook page, our blog, and on Drs. Gary & Ruth Namie's, authors of The Bully at Work and The Bully Free Workplace, nationwide website at [www.workplacebullying.org](http://www.workplacebullying.org) with Proclamations from other states.

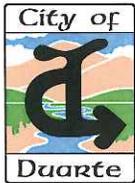
More information about the problem of Workplace Bullying can be found by visiting: <http://workplacebullying.org> and <http://healthyworkplacebill.org/>. To see the events planned across the U.S., be sure visit the Freedom from Bullies Week website: <http://www.workplacebullying.org/freedom-week/>

We count on you and your city to join our efforts to raise awareness about workplace bullying. We have also attached a flier to be shared and posted in your office.

Thank you,

Michelle Smith and Carrie Clark, Co-founders  
California Workplace Advocates

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



# AGENDA MEMO

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**TO:** MAYOR REILLY & MEMBERS OF THE DUARTE CITY COUNCIL

**FROM:** Karen A. Herrera, Deputy City Manager

**SUBJECT:** Olympia Youth Orchestra Co-Sponsorship Request

**DATE:** 8/18/14

**RECOMMENDATION:** That the Duarte City Council, by motion, co-sponsor the Olympia Youth Orchestra concert on Saturday, December 6, 2014.

**BACKGROUND:** The Olympia Youth Orchestra is requesting the City of Duarte officially co-sponsor its upcoming concert on Saturday, December 6, 2014 at Duarte Performing Arts Center.

Professional musicians from the greater Los Angeles area founded the Olympia Philharmonic Society, a nonprofit organization, in 1988. The mission of the organization is to promote musical talents via orchestral, chamber and solo recital concerts.

**DISCUSSION:** The Orchestra has now grown to a point where it can offer musical experiences and instruction to youth in the Duarte community. Specifically, the program they are proposing will offer youth an opportunity to gain pride and musical experience in a performance setting utilizing the talents of Maestro Fung Ho.

In terms of co-sponsorship, in addition to the City providing volunteers, access to City marketing venues, etc. which generally comes with a co-sponsorship designation, they would like to use one of the City's ten, no-cost uses of the DUSD's Performing Arts Center consistent with the 1991 agreement with the District. Traditionally, the City does not use all of these dates thus it should not conflict with any City previously scheduled programs.

**FISCAL IMPACT:** None

**ATTACHMENT:** Letter from Olympia Youth Orchestra

# OLYMPIA YOUTH ORCHESTRA

1191 Huntington Drive #230, Duarte, CA 91010

Tel: 818-217-5856 – Email: [rkd@mail.com](mailto:rkd@mail.com)

Mr. Darrell George, City Manager  
City of Duarte  
1600 Huntington Drive  
Duarte, CA 91010

July 7, 2014

Dear Darrell,

As we indicated during our meeting on July 1, 2014, with Cesar Monsalve and Fung Ho, The Olympia Youth Orchestra has grown to a point where it can offer experiences in music instruction and performance to the youth in Duarte schools and the greater Duarte community. To this end we propose to perform in the Duarte Unified School District's Performing Arts Center on December 6 of this year

As you learned, Maestro Ho, is a celebrated concertmaster and dedicated music instructor of young people in the San Gabriel Valley. This letter outlines the scope of a proposal to effect his commitment to a program to bring to young music performers in Duarte an opportunity to gain pride and experience in music performance. And, further, this will be an opportunity for parents and siblings to enjoy an enriching family experience together.

## SCOPE OF SERVICES

- Olympia Youth Orchestra will offer one concert in the PAC on December 6, 2014.

## IDENTIFICATION OF RESPONSIBILITIES

*To be supplied by City of Duarte :*

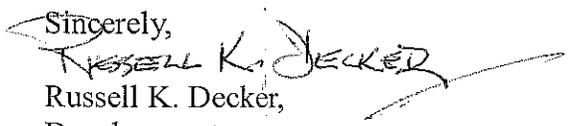
- Access and use of Performing Arts Center on designated date or dates
- Expenses relating to use of the PAC, including custodial, technical labor
- Management of volunteers, if any

*Expenses to be met by Olympia Youth Orchestra*

- Costs and expenses of the orchestra, including travel
- Programs

We submit this proposal with the confidence that the above -described project will result in a community event of mutual benefit for the City of Duarte and the Olympia Youth Orchestra.

Sincerely,

  
Russell K. Decker,  
Development

Approved \_\_\_\_\_

Darrell George  
City Manager

Date \_\_\_\_\_

**MEMORANDUM**

**TO:** Mayor and Councilmembers

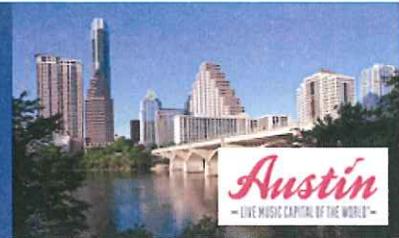
**FROM:** Darrell J. George, City Manager

**DATE:** September 4, 2014

**SUBJECT:** Conference Attendance – City Council Meeting of September 9, 2014



National League of Cities  
Congress of Cities and Exposition  
November 18-22, 2014  
Austin Convention Center, Austin, Texas  
Registration: \$610 (until 9/30/14) – \$720 (from 10/1/14 – 11/17/14)  
Hotel: \$149 – \$239/night



NOVEMBER 18-22, 2014 | AUSTIN CONVENTION CENTER

## Registration Fees

Registration Fees:	Early Early Bird	Early Bird	Advance	Onsite
	Valid Until 7/18/14	Valid Until 9/30/14	Valid Until 11/17/14	Valid Starting 11/18/14
NLC Member City	\$520	\$610	\$720	\$820
SML Member City	\$620	\$730	\$840	\$940
Non- Member/Other	\$670	\$805	\$980	\$1,080
First Time Attendee	\$435	\$435	\$435	\$435
Student	\$175	\$175	\$175	\$175
Groups	See below for details.			

## Special Conference Rates

Spouse/Guest (non-refundable)	\$95
Children (12 years and younger)	Free
Youth Chaperone (may not be elected officials)	\$110
Youth Delegate (high school students)	\$110
State of Texas city officials	\$99 (one-day special rate for Friday, November 21) or discount on the full conference registration (Member: \$500; SML Member: \$600; Non-Member: \$700)

**Group Registration Option:** With so many sessions, seminars, meetings, networking events and other opportunities, it's impossible to take in all the conference has to offer just on your own. Consider attending with a group from your city to cover all areas and get the best return on your conference experience for your city. Groups of 5 or more will receive a **complimentary 6th registration**, provided the registrations are paid in full. To receive the group incentive, all individuals must register at the same time. View more details on the [registration homepage](#).

[Register Now](#)

NATIONAL  
LEAGUE  
of CITIES

CONGRESS  
OF CITIES  
AND EXPOSITION

AUSTIN, TX | 2014



NOVEMBER 18-22, 2014 | AUSTIN CONVENTION CENTER

## Hotels & Travel

The Congress of Cities will be held at the [Austin Convention Center](#), a LEED® Gold certified building located in the heart of downtown Austin between the shores of Lady Bird Lake and historic Sixth Street. The Convention Center is about 11 miles from the [Austin-Bergstrom International Airport \(AUS\)](#), which offers direct flights to more than 40 U.S. cities and connecting flights throughout the country.

### Hotels

NLC has negotiated with nine hotels to hold rooms at special rates for conference attendees. To get the rooms and rates NLC has negotiated you must book through the [NLC registration provider, Experient](#). The Congress of Cities hotels and rates are:

- Hilton Austin (Headquarter)- \$239/night
- Hyatt Place Austin Downtown- \$185/night
- Courtyard Austin Downtown – \$195/night
- Residence Inn Austin – \$205/night
- Hilton Garden Inn Austin – \$169/night
- Hyatt Regency Austin – \$195/night
- Radisson Hotel & Suites – \$169/night
- Embassy Suites Austin – \$149/night
- Omni Austin – \$209/night

### Book Your Room!



Experient is the Official Housing Provider for the NLC Congress of Cities & Exposition. The National League of Cities has worked diligently with the hotels in Austin, TX to establish room blocks for attendees and exhibitors. Improper solicitation of hotel reservations from any company or housing provider other than Experient is not approved by the National League of Cities. Reservations offered by unaffiliated organizations may appear to be for lower rates, however they may be illegitimate, have unreasonable cancellation or change penalties, or be completely non-refundable. Please be aware of, and report any unauthorized solicitation to Experient.

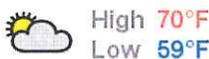
### Weather

The average temperatures in Austin in November are a high of 72 degrees Fahrenheit and a low of 51 degrees.

Currently



Tomorrow



forecast provided by WEATHER UNDERGROUND

[Click for weather forecast](#)

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OF CITIES  
AND EXPOSITION

AUSTIN, TX | 2014



NOVEMBER 18-22, 2014 | AUSTIN CONVENTION CENTER

## Schedule

### Tuesday, November 18, 2014

3:00 p.m. – 5:00 p.m. Registration Open

### Wednesday, November 19, 2014

7:00 a.m. – 7:30 p.m. Registration Open

8:30 a.m. – 12:00 p.m. City of Austin Mobile Workshops

9:00 a.m. – 12:00 p.m. National League of Cities University Seminars (*additional fee*)

9:00 a.m. – 12:00 p.m. Board of Directors Meeting

1:00 p.m. – 5:00 p.m. City of Austin Mobile Workshops

1:00 p.m. – 4:00 p.m. National League of Cities University Seminars (*additional fee*)

1:30 p.m. – 3:00 p.m. Advisory Council Meeting

1:30 p.m. – 4:00 p.m. Policy and Advocacy Committee Meetings

4:00 p.m. – 5:30 p.m. New Member/First-Time Attendee Orientation

5:30 p.m. – 7:00 p.m. Welcome Reception in the Exhibit Hall

### Thursday, November 20, 2014

7:00 a.m. – 5:30 p.m. Registration Open

8:30 a.m. – 12:30 p.m. Solutions Sessions

9:00 a.m. – 12:00 p.m. City of Austin Mobile Workshops

9:00 a.m. – 12:00 p.m. National League of Cities University Seminars (*additional fee*)

9:00 a.m. – 12:00 p.m. Council Meetings

9:00 a.m. – 12:00 p.m. Constituency Group Meetings

9:00 a.m. – 1:30 p.m. Expo Open

12:00 p.m. – 1:15 p.m. National League of Cities University Leadership Luncheon (*additional fee*)

12:00 p.m. – 1:15 p.m. Delegates Lunch in Exhibit Hall

1:30 p.m. – 3:00 p.m. Opening General Session

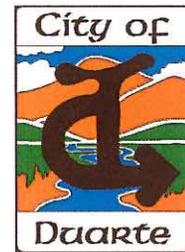
3:00 p.m. – 5:00 p.m.	Resolutions Committee Meeting
3:15 p.m. – 5:00 p.m.	Expo Open
3:30 p.m. – 5:00 p.m.	Conference Workshop Sessions
5:30 p.m. – 10:00 p.m.	State League and Other Group Events
5:30 p.m. – 10:00 p.m.	Constituency Group Events
6:30 p.m. – 8:00 p.m.	Nominating Committee Hearing

**Friday, November 21, 2014**

7:00 a.m. – 5:30 p.m.	Registration Open
8:30 a.m. – 10:00 a.m.	General Session
10:30 a.m. – 12:00 p.m.	Conference Workshop Sessions
10:00 a.m. – 1:30 p.m.	Expo Open
10:15 a.m. – 5:00 p.m.	Nominating Committee Meeting
12:00 p.m. – 1:15 p.m.	Lunch in Exhibit Hall
1:30 p.m. – 3:00 p.m.	Conference Workshop Sessions
3:30 p.m. – 5:00 p.m.	Conference Workshop Sessions
5:00 p.m. – 10:00 p.m.	State League and Other Group Events
5:00 p.m. – 10:00 p.m.	Constituency Group Events

**Saturday, November 22, 2014**

7:30 a.m. – 2:30 p.m.	Registration Open
8:00 a.m. – 12:00 p.m.	Council Meetings
8:00 a.m. – 12:00 p.m.	Constituency Group Meetings
9:00 a.m. – 10:30 a.m.	Conference Workshop Sessions
11:00 a.m. – 12:30 p.m.	Conference Workshop Sessions
12:30 p.m. – 2:00 p.m.	Lunch and Closing General Session
2:30 p.m. – 4:00 p.m.	Annual Business Meeting
6:00 p.m. – 9:00 p.m.	City of Austin Closing Event



# MEMORANDUM

**TO: Mayor and City Council**  
**FROM: Craig Hensley, Community Development Director**  
**DATE: September 9, 2014**  
**SUBJECT: Award of Contract for Preparation of an ADA Transition Plan to Creative Design Consultants (CD/A) and a Budget Amendment of \$14,500 to the 2014-15 FY General Fund Operating Budget**

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Staff recommends that the City Council approve a \$14,500 budget amendment to the 2014-2015 FY Budget and authorize the City Manager to execute a standard professional services agreement with Creative Design Consultants (CD/A) for the preparation of an ADA Transition Plan.

The ADA Transition plan will evaluate accessibility issues in all City facilities and with all City programs and services. The intent of this comprehensive analysis is to provide an evaluation of compliance with the American's with Disabilities Act and other applicable accessibility laws.

CD/A has extensive experience in accessibility compliance and in preparation of ADA Transition Plans. The end product will be a plan that will address each building used by the City, all parks and all programs and services. The plan will include consultant recommendations for compliance that will include a priority for barrier removal and an estimated budget to accomplish the accessibility upgrades.

The ADA Transition Plan is important as it will address potential insurance related risk, an issue that has been focused on by JPIA; and will also allow City Staff to plan and budget for necessary accessibility upgrades as funds become available for facility maintenance.

The project manager for the project will be Glenn Dea who is also a Principal of CDA. It is anticipated that the project will take about 17 weeks. The proposal amount for the project is \$40,480 plus an approximate 10% contingency (\$4,020) to allow a buffer for unknown conditions that may occur in some City facilities where the evaluation is unique. The Council approved a budget of \$30,000 for this project as part of the 2014-15 Operating Budget. As a result, staff is requesting a budget amendment of \$14,500.

Typically, ADA Transition Plans also include city right-of-way areas (sidewalks, curb ramps and etc.) in the analysis. The analysis of sidewalks and curb ramps are not a

part of this proposal because the City already has a well established program to address accessibility in these areas. For many years, the City has conducted a sidewalk replacement program where there is an annual analysis of risk locations followed by construction to address the hazards. Recently, the City has initiated an annual program, using CDBG funds, to replace non-compliant curb ramps. These two programs are great examples of implementation of a plan to address accessibility.

To select CDA, Staff requested proposals from four firms. Proposals were received from CDA and MIG. The CDA proposal was a lower cost and CDA was given positive recommendations from other agencies.

Request for Proposal

# ADA Transition Plan

CITY OF DUARTE

August 13, 2014



Duarte Town Center

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CD/A Assessment Team*

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*Preliminary Schedule.....A/SCH-1*

*Fee Proposal .....FP-1-FP-4*

## *CD/A Assessment Team*

CREATIVE DESIGN ASSOCIATES

KOA CORPORATION

MASSEY VILLAGE ENTERPRISES



August 13, 2014

**City of Duarte**

Proposal for ADA Transition Plan  
1600 Huntington Drive  
Duarte, CA 91010  
ATTN: Craig Hensley, Community Development Director

Dear Mr. Hensley,

Creative Design Associates, Inc. (CD/A), appreciates the opportunity to resubmit qualifications to the City of Duarte for professional services to provide an ADA Self Evaluation and Transition Plan. CD/A has the expertise and resources required to assist the City in a timely and efficient manner. We are committed to working seamlessly with your staff and project team to ensure the successful delivery of this project.

CD/A team members have assisted numerous California public entities in bringing their facilities into compliance with State and Federal accessibility standards. CD/A's team includes three (3) California Certified Access Specialists (CASp's), all who have been accessibility plan review consultants to California's Division of the State Architect – Los Angeles Basin Region Office and have reviewed over \$900 million of construction to ensure that construction drawings and specifications comply with accessibility standards based on the California Building Code and ADA Accessibility Guidelines. CD/A's present work includes ADA consulting services on behalf of the City of Rancho Palos Verdes, the City of Anaheim, the County of San Bernardino, Cal Poly Pomona, Cal State LA, the Riverside Community College District, and the Los Angeles County Metropolitan Transit Authority (METRO).

**CD/A is in full agreement with the project Scope of Work as clarified in its meeting with the City on July 29.** All assessments will be performed in accordance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG), as adopted into the federal ADA Standards for Accessible Design, and the California Code of Regulations / Title 24. Our Findings and Implementation Report will be customized to meet your requirements.

CD/A's project team is headed by Mr. Glenn Dea, Architect/ CASp/ ICC, who will be the point of contact and contracting principal to execute agreements with the City. In addition to CD/A staff, we have partnered with a highly experienced team of consultants, including KOA Corporation and Massey Village Enterprises, Inc., to provide services under this RFP. We assure you that our key personnel will be assigned to the project for its duration and will not be removed or replaced by us without concurrence from the City. Every member of our proposed team is available to be committed to this project from the beginning.

Thank you for the opportunity to submit our qualifications to the City of Duarte. We hope that our proposal communicates our interest and the strengths of our firm. We look forward to partnering with the City as it seeks to enhance accessibility of its programs and facilities.



Respectfully Submitted,

Glenn Dea, Architect C-26299, CASp-023, ICC Accessibility Inspector/ Plans Examiner  
1063102  
Vice President  
**Creative Design Associates**  
17528 Rowland Street, 2<sup>nd</sup> Floor, City of Industry, CA. 91748  
Telephone: (626) 913-8101 · Fax: (626) 913-8102  
Email: [gdea@cda-arc.com](mailto:gdea@cda-arc.com) Twitter: [twitter.com/ADAConsultant](https://twitter.com/ADAConsultant) Website: [www.cda-arc.com](http://www.cda-arc.com)

**FIRM NAME AND ADDRESS**

**Creative Design Associates, Incorporated**  
17528 Rowland Street, 2nd Floor  
City of Industry, CA. 91748

**CONTACT PERSON**

Glenn Dea, Architect/ CASp/ ICC  
Vice President  
T: (626) 913-8101  
M: (714) 470-5475  
E: [gdea@cda-arc.com](mailto:gdea@cda-arc.com)

**STRUCTURE OF FIRM**

California Corporation # C2604018  
Federal I.D. # 34-1977567  
Dun & Bradstreet # 148752327  
Creative Design Associates, Incorporated is  
owned by its President, Eric Chen,  
Architect, LEED AP

**SUB-CONSULTANTS**

**KOA Corporation**  
1411 W. 190<sup>th</sup> Street, Suite 525  
Gardena, CA 90248  
Contact: Chuck Stephan, PE  
Principal Civil Engineer  
T: (310)329-0102  
M: (310)525-0678  
E: [cstephan@koacorp.com](mailto:cstephan@koacorp.com)

**Massey Village Enterprises**

6129 Hayter Ave  
Lakewood, CA 90712  
Contact: Bob Massey  
Principal  
M: (562)209-3182  
E: [masseyent@aol.com](mailto:masseyent@aol.com)

**SIGNATURE**

*I hereby attest that all information submitted with the Proposal is true and correct.*

Signature:

Date: 8/13/2014



Response to Interview  
 City of Duarte  
 Proposal for ADA Transition Plan

REVISION 1  
 PRELIMINARY SCHEDULE

	<b>DELIVERABLES</b>	<b>DELIVERY DATE (PERIOD AFTER START OF CONTRACT)</b>
<b>PHASE 1</b>	<b>PROJECT INITIATION</b> <ul style="list-style-type: none"> <li>• Project Initiation Meeting</li> <li>• Finalize scope of work</li> <li>• Obtain city documents, drawings, and standards for review</li> </ul>	Week 1 (October 1, 2014)
	<b>INITIAL INVENTORY / FINALIZE INVENTORY APPROACH</b> <ul style="list-style-type: none"> <li>• Complete initial list of buildings, parks, sidewalks and intersections, transit operations, City policies and procedures to review</li> <li>• Finalize list guidelines and approach</li> </ul>	Weeks 2-3
	<b>CONDUCT INVENTORY</b> <ul style="list-style-type: none"> <li>• Review buildings and parks</li> </ul>	Weeks 3-13
<b>PHASE 2</b>	<b>PRELIMINARY INVENTORY FINDINGS REVIEW MEETING</b> <ul style="list-style-type: none"> <li>• Submit preliminary inventory findings, opportunities for improvement, cost estimates, and transition plan</li> <li>• Review meeting to discuss findings and format/content of Final Report and presentation</li> <li>• Review Facility Management System</li> </ul>	Weeks 13-14
<b>PHASE 3</b>	<b>DRAFT FINAL REPORT &amp; REVIEW MEETING</b> <ul style="list-style-type: none"> <li>• Submit DRAFT Final Report</li> <li>• Submit DRAFT presentation</li> <li>• DRAFT Final Report Review Meeting</li> <li>• Present final Facility Management System</li> </ul>	Weeks 15-16
	<b>FINAL REPORT</b> <ul style="list-style-type: none"> <li>• Submit Final Report</li> <li>• Submit final presentation</li> </ul>	Week 17 (January 30, 2015)



**CD/A Acknowledgement of Contract Requirements:** CD/A is prepared to complete a contract containing all the information submitted in its fee proposal, which will become part of the contract between the City and CD/A, should our firm be selected to assist the City.

**A: Hourly Rates**

<b>Labor Rates (minimum unit of time: 15 minutes)</b>	
Principal Licensed Architect / CASp	\$160 per hour
Principal Engineer	\$160 per hour
Accessibility Surveyor / CASp	\$120 per hour
Senior Engineer	\$120 per hour
Sidewalk Assessment Technician	\$80 per hour
Technician	\$80 per hour
Database Consultant	\$120 per hour
Administrative	\$70 per hour

**B: Phase 1: Site, Facility and Program Audit**

	<b>FACILITY</b>	<b>ROLE</b>	<b>HOURS</b>	<b>RATE</b>	<b>FEES</b>
1	CITY HALL 1600 E HUNGINTON DR.	CASp	8	\$120.00	\$960.00
		Technician	8	\$80.00	\$640.00
2	COMMUNITY CENTER 2436 E HUNTINGTON DR.	CASp	8	\$120.00	\$960.00
		Technician	8	\$80.00	\$640.00
3	FITNESS CENTER AND SWIMMING POOL 1600 HUNTINGTON DR.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
4	SENIOR CENTER 1610 HUNTINGTON DR.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
5	TEEN CENTER 1400 BUENA VISTA ST	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
6	MAINTENANCE YARD	CASp	6	\$120.00	\$720.00
		Technician	6	\$80.00	\$480.00
7	TRANSIT YARD	CASp	6	\$120.00	\$720.00
		Technician	6	\$80.00	\$480.00
8	OLD CITY HALL	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00



Response to Interview  
 City of Duarte  
 Proposal for ADA Transition Plan

REVISION 1  
 FEE PROPOSAL

9	PUBLIC SAFETY OFFICE	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
10	VARIOUS PARK BUILDINGS	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
	<b>PUBLIC PARKS</b>	<b>ROLE</b>	<b>HOURS</b>	<b>RATE</b>	<b>FEES</b>
1	BEARDSLEE PARK 2000 BUENA VISTA ST.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
2	DUARTE PARK 1344 BLOOMDALE ST.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
3	ENCANTO PARK 751 ENCANTO PARKWAY	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
4	HACIENDA PARK 2695 HACIENDA DR.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
5	LENA VALENZULA PARK 2120 MOUNTAIN AVE.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
6	MOORE PARK 1100 DUARTE RD.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
7	NORTHVIEW PARK 1433 HIGHLAND AVE.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
8	OTIS GORDON SPORTS PARK 2351 CENTRAL AVE.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
9	ROYAL OAKS PARK 2627 ROYAL OAKS DR.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
10	ROYAL OAKS PARK EXTENSION 2701 ROYAL OAKS DR.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
11	SPORTS PARK 1401 CENTRAL AVE.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
12	THIRD STREET PARK 1626 THIRD ST.	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00



Response to Interview  
 City of Duarte  
 Proposal for ADA Transition Plan

REVISION 1  
 FEE PROPOSAL

13	GLENN MILLER PARK	CASp	4	\$120.00	\$480.00
	205 MELCANYON DR.	Technician	4	\$80.00	\$320.00
14	ENCANTO PARK NATURE WALK	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
15	CLASS 1 BIKE PATH	CASp	6	\$120.00	\$720.00
		Technician	6	\$80.00	\$480.00
	<b>PROGRAMS AND SERVICES</b>	CASp	4	\$120.00	\$480.00
		Technician	4	\$80.00	\$320.00
	<b>CITY TRANSIT</b>	CASp	10	\$120.00	\$1,200.00
		Technician	10	\$80.00	\$800.00

Phase 1 Fee \$25,600.00

**C: Phase 2: Presentation of Compliance Audit Findings**

	Presentation of Findings	HOURS	RATE	FEES
	Public Buildings/Facilities and Sites	50	\$120.00	\$6,000.00
	Public Buildings/Facilities and Sites Drawings & Photo	50	\$120.00	\$6,000.00
	Programs and Services	4	\$120.00	\$480.00

Phase 2 Fee \$12,480.00

**D: Phase 3: Presentation of proposed ADA Self-Evaluation, Transition Plan and Final Report**

	Presentation of Self-Evaluation, Transition Plan, and Final Report	HOURS	RATE	FEES
	Final Report	16	\$120.00	\$1,920.00
	Presentation and Q&A Session	4	\$120.00	\$480.00

Phase 3 Fee \$2,400.00

**E: ADA Database Installation and Training included with proposed Fee.**

**F: Reimbursable Expenses**

**All Project Tasks: All Reimbursable Expenses for this project are included in the proposed rates. Includes mileage, vehicle, phone, camera, measuring equipment, prints, and reports.**



Response to Interview  
City of Duarte  
Proposal for ADA Transition Plan

REVISION 1  
FEE PROPOSAL

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**G: Rate Adjustments: Proposed rates are guaranteed for the term of the contract.**

**TOTAL FEE PROPOSAL:**

Phase 1: Site, Facility and Program Audit	\$25,600.00
Phase 2: Presentation of Compliance Audit Findings	\$12,480.00
Phase 3: Presentation of Proposed ADA Self-Evaluation, Transition Plan and Final Report	\$2,400.00
<hr/>	
<b>TOTAL – CREATIVE DESIGN ASSOCIATES (CD/A) – ADA SELF-EVALUATION AND TRANSITION PLAN – FEE PROPOSAL:</b>	<b>\$40,480.00</b>



# MEMORANDUM

**TO:** Mayor and City Council  
**FROM:** Craig Hensley, Community Development Director   
**DATE:** September 9, 2014  
**SUBJECT:** Exclusive Negotiating Agreement with Arbor Capital Group for the Property at 1263 Huntington Drive to Establish a Retail Center

---

Staff recommends that the City Council authorize the City Manager to enter into an Exclusive Negotiating Agreement (ENA) with Arbor Capital Group for development of the property at 1263 Huntington Drive (northwest corner of Huntington Drive and Buena Vista Street). The intent of the ENA is to allow the developer adequate time to finalize a development plan and purchase and sale agreement.

Arbor Capital Group has received a letter of intent from a national coffee retailer to locate a retail use on the property and also plans to build additional retail on the property. The property has adequate size for two or three retail uses.

During the negotiating period, Staff and Arbor Capital Group will work on a concept development plan that meets City standards, the Arbor Capital Group will provide the City a detailed pro forma, the City will have the property appraised to determine value, and the parties will work the adjacent property owner on a reciprocal access agreement.

Arbor Capital Group was selected as the best choice to develop this site as a result of being able to provide a letter of intent from a national retailer. The City Council determined this in its closed session on July 22, 2014. The adjacent property owner WRI Golden State LLC was offered the opportunity to submit a reasonable proposal that could have resulted in a gasoline service station for Ralph's, one of its tenants but chose not to do so. Another developer proposed a retail location for a national donut chain but did not include additional retail as part of its proposal. The Council determined that the proposal by Arbor Capital Group allowed the best site development that would result in the highest sale price for the property.

This property is controlled by the Successor Agency to the Dissolved Duarte Redevelopment Agency and the process outlined substantially conforms to the approved Long Range Property Management Plan.

## EXCLUSIVE NEGOTIATING AGREEMENT

**THIS EXCLUSIVE NEGOTIATING AGREEMENT** (the “Agreement”) is made and entered into as of \_\_\_\_\_, 2014, by and between the **CITY OF DUARTE**, a public body corporate and politic (“City”), and **ARBOR CAPITAL GROUP, INC.**, a California Corporation (“Developer”), referred to as the “Parties” and individually, a “Party.”

### *RECITALS*

The following recitals are a substantive part of this Agreement.

A. The Developer desires to develop approximately 24,366 square feet of real property in the City of Duarte commonly known as 1263 Huntington Drive, Duarte, California 91010. The Site is comprised of two parcels of real property, which are currently owned by the City in its capacity as Successor Agency to the Dissolved Duarte Redevelopment Agency: (1) APN # 8530-003-930 and (2) APN # 8530-003-931 (the “City Parcels”). The Site is shown on the attached an incorporated Site Map (Exhibit “A”). The area of the Site may be adjusted by mutual agreement of the Parties during the Negotiating Period.

B. Developer desires to negotiate the terms and provisions of a Purchase and Sale Agreement (the “PSA”) with the City to acquire the City Parcels for the purpose of developing on the Site.

C. The Parties agree and acknowledge that the purpose of this Agreement is to establish a period during which the Developer shall have the exclusive right to negotiate with the City the terms of the PSA, which will include, without limitation, the site plan and the specific uses of the Development Project.

D. The Parties intend that during the Negotiating Period (as the term is hereinafter defined) each will perform certain actions and responsibilities under this Agreement.

**NOW, THEREFORE**, the Parties mutually agree as follows:

1. **Negotiating Period.** For the purposes herein, the City agrees to exclusively negotiate with the Developer and the Developer agrees to negotiate with the City for one hundred eighty (180) days from the date of this Agreement (the “Negotiating Period”). In the event that the City of Duarte (“City”) or the City determines, after preparation of an initial study for a project that includes the Development Project pursuant to the CEQA, that an environmental impact report is required to be prepared, then the Negotiating Period shall be extended to the date that is the earlier of (a) approval of the PSA or (b) eighteen (18) months from the date of completion of the initial study; provided, however, that the aforescribed eighteen (18) month period shall be extended due to any delays that are not the fault of Developer. The initial study shall be prepared within thirty (30) days after the City’s receipt of Developer’s submission of the information listed in clause (a) of Section 5 hereof. If, on the basis of the completed initial study, the City determines that an EIR is required to be prepared, the Parties agree that the City shall contract with a consultant to be chosen by City (“EIR Consultant”) to prepare the EIR on behalf of City and the City. Costs associated with the preparation of the EIR shall be divided,

upon entering into the PSA, as specified in Section 2, below. City and Developer shall negotiate diligently in good faith to carry out all the obligations of this Agreement on or before the times established in this Agreement, to establish development plans and concepts, and to establish the value of the Site. Except as the Negotiating Period is extended pursuant to this Section 1, if at the end of the Negotiating Period, the Parties have not completed the negotiations of the terms and provisions of the PSA, then this Agreement shall automatically terminate without further written notice. Upon such automatic termination of the Agreement and expiration of the Negotiating Period, both Parties knowingly agree that neither Party shall have any further rights or remedies to the other, except to the extent of City's obligation to return or reimburse to Developer those amounts City is required by this Agreement to be returned or reimbursed to Developer. The Parties may mutually agree to extend the Negotiating Period, in their sole and absolute discretion. The City undertakes no commitment or obligation to the Developer to consider or grant any extension. If by the end of the term of the Negotiating Period a form of PSA is mutually agreed upon between the City and Developer, and the City states in writing that he or she will recommend approval of the PSA to be forwarded to the City Board and City Council, then this Agreement shall not automatically terminate, but shall be extended for forty-five (45) days to enable the City Board and City Council to take the actions necessary to (i) duly notice and hold hearings, as legally required; (ii) consider the PSA, and take action to approve or disapprove the PSA; and (iii) if approved, execute the PSA and deliver it to Developer.

2. **Deposit.** Within ten (10) days of the date of this Agreement, the Developer shall deliver to the City cash, federal wire transfer, or a cashier's or certified check in the amount of twenty thousand dollars (\$20,000) (the "Deposit") as a good faith deposit. The Deposit may be drawn down and used by the City and/or the City for its/their costs associated with the Development Project, including third party costs for real property appraisals, and related consulting and legal services undertaken at the direction of the City and/or the City. There shall be no obligation to invest the Deposit funds, and if invested such funds may be in a general passbook account, any interest, if any, shall be retained in such account and accrue to the benefit of such account and be added to the amount of the Deposit. The City shall maintain accurate documentation of any accrued interest (if any) and the expenditures of Deposit funds, which information shall be made available to the Developer upon request. In the event that the term of this Agreement expires or is terminated without the negotiation and approval of a mutually acceptable PSA, the Deposit and accrued interest (if any) remaining at the time of expiration or termination shall be returned by the City to the Developer within ten (10) days after such expiration or termination. In the event that the Parties enter into a mutually acceptable PSA, the full amount of the Deposit (including accrued interest, if any), without deductions for City expenditures, shall be applied in the PSA as a good faith deposit toward the purchase price of the Site.

3. **Developer's Negotiators.** The Developer represents to the City that Tristan Harris and James Righeimer are the persons with whom the City staff shall work with on a day-to-day basis concerning the negotiations toward the execution of the PSA for the development of the Development Project. If the Developer desires to designate other individuals as the lead negotiators on the Development Project, then it shall provide written notification to the City in a timely manner.

4. **Developer Submissions.** Developer agrees that within sixty (60) days following the date of this Agreement it shall submit to the City the following documents, reports, and information in a form reasonably satisfactory to the City that will provide the City with the following information (the “Developer Submissions”):

(a) A project description sufficient for the preparation of the initial study, including a tentative designation of parking, pedestrian, and landscape areas, vehicular circulation system, and height of all buildings.

(b) A proposed schedule for development of the Development Project.

(c) Estimates of the Development Project’s income and pro forma statement of the Development Project’s return adequate to enable the City to evaluate the economic feasibility of the Development Project, including, with limitation, the proposed economic terms for the acquisition of the Site to be conveyed to the Developer under the PSA. The economic pro forma shall be in a form typically submitted to a construction lender, and shall include, without limitation, hard and soft costs relating to construction and development.

(d) Descriptions of the proposed equity and debt and method of construction financing.

The City agrees that all financial and economic information submitted by Developer to City shall be treated as confidential and as proprietary to the Developer and shall not be released to the public or treated as a public record unless consented to by the Developer in writing or required to be treated as a public record by applicable law after consultation with Developer’s legal counsel.

5. **Supplemental Progress Reports.** In addition to the information required in Section 4 above, at sixty (60) day intervals from the date of this Agreement (including all extended periods), the City may request, in writing, that the Developer provide to the City written reports regarding its progress in meeting the terms and obligations of this Agreement. The City may also request additional verbal reports of such matters from the Developer.

6. **City Consideration of Developer Submittals.** Within thirty (30) days after Developer has submitted each item of the information described in Section 4 hereof, the City shall notify Developer in writing of its approval or disapproval of each such submittal(s) (and if disapproved, a reasonable statement of the reasons thereof). The Developer’s Submissions pursuant to Section 5 hereof shall not be deemed approved by the City as a result of the City’s failure to timely approve or disapprove such submissions.

7. **City Cooperation.** City agrees to cooperate with the Developer in supplying financial institutions with appropriate information, if available and not otherwise privileged, to facilitate the obtaining of financing for the development of the Development Project. City shall also cooperate with Developer’s professional consultants and associates in providing them with any information and assistance reasonably within the capacity of the City to provide in connection with the preparation of the Developer’s submissions to the City pursuant to this Agreement or as required by state or local laws and regulations. City agrees to cooperate with and assist Developer in negotiations to obtain a reciprocal access agreement with an adjacent

property owner. City makes no warranty or guarantee that such a reciprocal access agreement will be obtained from the adjacent property owner.

8. **Design and Development Objectives.** The design and development objectives for the Development Project shall be specified in the PSA and the actual development shall be in conformity therewith. All design, architectural, and building plans for development shall be subject to review and approval of the City and the City.

9. **Change in Developer.** The qualifications of the Developer are of particular interest to the City. It is because of the qualifications that the City has entered into this Agreement with the Developer. Consequently, no person or entity, whether a voluntary or an involuntary successor of Developer, shall acquire any rights or powers under this Agreement nor shall the Developer assign all or any part of this Agreement without City approval. Any purported transfer, voluntary or involuntary or by operation of law, without City approval, shall be absolutely null and void and shall confer no rights whatsoever under this Agreement or relating in any respect the Development Project upon any purported assignee or transferee. Notwithstanding anything in this Agreement, including this Section 9, to the contrary, Developer may assign its rights, obligations, and interests in this Agreement to (i) another entity in which Developer maintains both an interest and management control, and (ii) a lender for financing purposes related to the Development Project.

10. **Non-Discrimination.** Developer shall not discriminate against nor segregate any person or group of persons on account of sex, race, color, marital status, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development Project, nor shall the Developer establish or permit any such practice or practices of discrimination or segregation in the selection, location, number, use, or occupancy of tenants, lessees, subtenants, subleases or vendees of the properties.

11. **No Predetermination of City Discretion.** The Parties agree and acknowledge that nothing in this Agreement in any respect does or shall be construed to affect or prejudice the exercise of the City's and/or the City's discretion concerning consideration of any submittal by the Developer. Further, nothing in this Agreement in any respect does or shall be construed to affect or prejudice the City's and/or the City's discretion to consider, negotiate, or undertake the acquisition and/or development of any portion of the Site, or shall affect the City's compliance with the laws, rules, and regulations governing the acquisition and disposition of property.

12. **Agreement Does Not Constitute Development Approval.** The City and City reserve final discretion and approval as to any PSA and all proceedings and decisions in connection therewith. This Agreement shall not be construed as a grant of development rights or land use entitlements to construct the Development Project or any other project. All design, architectural, and building plans for the Development Project shall be subject to the review and approval of the City and the City. By its execution of this Agreement, the City is not committing itself to or agreeing to undertake the disposition of the Site or other real property to the Developer, or any other acts or activities requiring the subsequent independent exercise of discretion by the City, the City or any agency or department thereof.

13. **Address for Notices.** Any notices pursuant to this Agreement shall be in writing and sent by (a) Federal Express (or other established express delivery services which maintains

delivery records); or (b) by hand delivery; or (c) by certified or registered mail postage prepaid, return receipt requested, to the following addresses:

To City: City of Duarte  
1600 Huntington Drive  
Duarte, California 91010  
Attention: Craig Hensley

To Developer: Arbor Capital Group, Inc.  
4040 MacArthur Blvd., Suite 250  
Newport Beach, California 92660  
Attention: Tristan Harris

Notices delivered by delivery service or hand delivered shall be effective upon receipt. Mailed notices shall be effective upon the earlier of actual receipt or the third business day following deposit with the United States Postal Service.

14. **Default.** Failure by either Party to negotiate in good faith or to perform any other of its duties as provided in this Agreement shall constitute an event of default under this Agreement. The non-defaulting Party shall give written notice of a default to the defaulting Party, specifying the nature of the default and the action required to cure the default. If the default remains uncured fifteen (15) days after the date of such notice, the non-defaulting Party may exercise the remedies set forth in Section 16 of this Agreement.

15. **Remedies for Breach of Agreement.** In the event of an uncured default under this Agreement, the nondefaulting Party may terminate this Agreement. The Developer knowingly agrees that it shall have no right to specific performance for conveyance of the Site, nor to claim any right of title or interest in the Site or any portion thereof, nor to claim any right to damages beyond the return of the Deposit. City, in the event of a default by Developer, shall not have any right to claim any loss beyond the amount of the Deposit and any interest accrued thereon.

16. **Attorneys' Fees.** In the event any action is taken pursuant to this Agreement, the prevailing Party shall be entitled to recover its actual and reasonable attorneys' fees and costs.

17. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement of the Parties, integrates all the terms and conditions mentioned herein or incidental hereto, and supercedes all negotiations or previous agreements mentioned herein or incidental hereto, and supercedes all negotiations or previous agreements between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

18. **Time of Essence.** Time is of the essence of every portion of this Agreement in which time is a material part.

19. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of California.

20. **Broker's Commission.** Each Party represents that it has not engaged any broker, agency, or finder in connection with this Agreement, and agrees to hold the other Party harmless from any claim by any broker, agent, or finder retained by the Party making the above representation.

21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

22. **Days.** The term "days" means calendar days. The term "business days" means days that Duarte City Hall is open for business to the general public. Developer acknowledges that Duarte City Hall is closed on Fridays and for holidays designated by the State of California or by ordinance or resolution of the City Council of the City. If the date on which City or Developer are required to take any action pursuant to the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

23. **No Third-Party Beneficiaries.** None of the terms or provisions of this Agreement are intended to benefit any person or entity other than City, City, or Developer. No affiliate, joint venturer, or partner of Developer has any rights pursuant to this Agreement.

24. **Entity City.** The person(s) executing on behalf of each of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the date and year first appearing above.

**CITY:**

**CITY OF DUARTE**, a public  
body, corporate and politic

By: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

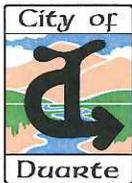
**DEVELOPER:**

**ARBOR CAPITAL GROUP, INC.**, a California  
Corporation

By: \_\_\_\_\_

Its \_\_\_\_\_





# AGENDA MEMO

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**TO:** MAYOR REILLY & MEMBERS OF THE DUARTE CITY COUNCIL

**FROM:** Brian Villalobos; Director of Public Safety

**SUBJECT:** Resolution 14-R-21 Adopting Mandatory Statewide Water Conservation Measures

**DATE:** September 3, 2014

## **BACKGROUND:**

In January, Jerry Brown proclaimed a drought State of Emergency and called for statewide water conservation. The Governor's announcement followed a series of actions the administration had taken to ensure that California was prepared for record dry conditions. In response, the City's water utility, California American Water, activated voluntary conservation measures. In May of 2014, the Duarte City Council passed Resolution 14-10, calling for a citywide 20% "Voluntary Reduction" of water use.

Water conservation efforts transitioned from voluntary to mandatory when, on August 14, 2014, the California Public Utilities Commission (CPUC) issued a resolution requiring all water agencies to inform their customers about four statewide water restrictions and potential fines arising from violations. The restrictions include prohibitions against: (1) using potable water on outdoor landscapes causing runoff into adjacent properties, roadways, parking lots, or private/public walkways; (2) using a hose to wash a vehicle except when the hose is fitted with a shut-off nozzle; (3) using water on driveways and sidewalks; and (4) using potable water in a fountain or other decorative water feature except where water is part of a recirculating system. The resolution further provided that violations may result in fines.

## **DISCUSSION:**

**California American Water:** Based on the aforementioned statewide actions, Duarte residents can expect the following information to be forthcoming from our local water company, California American Water. Within 10 days, water utilities shall publish notice of the Emergency Regulation in both local newspapers and on their respective websites. Within 20 days, water utilities shall provide direct notice to their customers by either posted mail or email of the newly enacted emergency regulation. They are then required to continue publicizing the restrictions throughout the duration of the restriction by using either bill inserts or bill messages.

Additionally, all water utilities shall assist in assuring compliance by working with local law enforcement or public agencies charged with enforcing the mandatory restrictions.

Water companies must also establish procedures and mechanisms to facilitate employee and customer identified violations and provide the information to the designated enforcement officials. Utilities must also track and record reports of violations, action taken to assist the local agency, and the result of such actions. This information must be made available to the CPUC on an as requested basis.

Finally, water utilities must provide a monitoring report to the Water Board by the 15<sup>th</sup> of each month from and after October illustrating progress toward the 20% statewide water reduction goal.

**City of Duarte:** Based on the actions by the CPUC, City staff has consulted with both California American Water and the City Attorney's office. Based on those consultations, staff recommends that City Council adopt Resolution 14-R-21 which affirms the City's authority and commitment to locally enforce the four mandatory water conservation measures adopted by the CPUC. The resolution also identifies the warning procedure that could be employed by the City's Code Enforcement Division. Specifically, the City is proposing to treat violations as an infraction with written warning that allows sufficient time for the violation to be corrected. If warnings fail, the City would rely on the long established administrative citation process to enforce penalties i.e., a fine of \$75 for a first offense, \$150 for a second, and \$300 for a third.

**FISCAL IMPACT:** Unknown at this time.

**ATTACHMENT:** Resolution 14-R-21

**RESOLUTION NO.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
DUARTE, CALIFORNIA, IMPLEMENTING THE STATEWIDE  
WATER CONSERVATION PROVISIONS IN THE CITY OF  
DUARTE**

WHEREAS, on January 17, 2014, Governor Edmund G. Brown Jr. issued Governor's Proclamation No. 1-17-2014 declaring a State of Emergency to exist in California due to severe drought conditions; and

WHEREAS, on April 25, 2014, Governor Brown issued an executive order to strengthen the State of California's ability to manage water and habitat effectively in drought conditions, and called for all Californians to redouble their efforts to conserve water; and

WHEREAS, on July 15, 2014, the State Water Resources Control Board ("State Water Board") approved Resolution No. 2014-0038 To Adopt An Emergency Regulation For Statewide Urban Water Conservation, which added Sections 863, 864 and 865 to Title 23 to the California Code of Regulations as an emergency regulation to address the severe drought conditions (the "Emergency Regulation"); and

WHEREAS, among other things, the Emergency Regulation prohibits the following activities: (1) using potable water on outdoor landscapes causing runoff into adjacent properties, roadways, parking lots, or private/public walkways; (2) using a hose to wash a vehicle except when the hose is fitted with a shut-off nozzle; (3) using water on driveways and sidewalks; and (4) using potable water in a fountain or other decorative water feature except where water is part of a recirculating system; and

WHEREAS, on July 28, 2014, the State of California Office of Administrative Law approved the State Water Board's Emergency Regulation; and

WHEREAS, the Emergency Regulation took effect on July 28, 2014, and will remain in effect for 270 days (*i.e.*, until April 4, 2015) unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the Emergency Regulation due to continued drought conditions pursuant to Water Code Section 1058.5; and

WHEREAS, a copy of the State Water Board's Emergency Regulation is attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, on August 14, 2014, the California Public Utilities Commission ("CPUC") adopted Resolution No. W-5000 Ordering Water Utility Compliance With the State Water Resource Control Board's Resolution No. 2014-0038 Adopting An Emergency Regulation For Statewide Urban Water Conservation, As Codified in the California Code of Regulations, Title 23, Article 22.5, Sections 863, 864 and 865, which ordered all water utilities subject to the CPUC's jurisdiction to, among other things, track and record their progress in assisting local enforcement agencies responsible for enforcing compliance with the Emergency Regulation's water restrictions; and

WHEREAS, a copy of the CPUC's Resolution is attached hereto as Exhibit "B" and incorporated herein; and

WHEREAS, Section 1.04.110 of the City of Duarte Municipal Code states that "[i]t shall be a violation of this code for any person or entity to engage in any act, activity, business, or use within the city that is in violation of any city, county, state, or federal law, ordinance, rule, or regulation . . . "; thus, failure to comply with the State Water Board's Emergency Regulation is both a violation of State law and a violation of the City's Municipal Code; and

WHEREAS, the City of Duarte has historically applied Section 1.04.110, by initially providing warnings to non-compliant individuals and entities, followed by, if necessary, graduated fines in the amounts of \$75 for a first offense, \$150 for a second offense and \$300 for a third offense;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Duarte, California, as follows:

1. This City Council hereby finds and determines that the foregoing recitals are true and correct.
2. This City Council hereby confirms that the City has pre-existing authority to enforce the Emergency Regulation, and therefore authorizes and directs City staff and its Code Enforcement Officers to treat violations of the Emergency Regulation in a manner consistent with other infractions, and to thereby ensure its residents, visitors, businesses, and water utilities comply with the State Water Board's Emergency Regulation.
3. This resolution shall take effect upon its adoption and remain in effect while the State Water Board's Emergency Regulation is in effect.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 2014.

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

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

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Resolution No. 14-21 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 9<sup>th</sup> day of September, 2014, by the following vote:

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

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

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2014-0038**

**TO ADOPT AN EMERGENCY REGULATION  
FOR STATEWIDE URBAN WATER CONSERVATION**

WHEREAS:

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an [executive order](#) to strengthen the state's ability to manage water and habitat effectively in drought conditions and called on all Californians to redouble their efforts to conserve water. The executive order finds that the continuous severe drought conditions present urgent challenges across the state including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity if drought conditions continue into 2015. The [National Integrated Drought Information System](#) reported that nearly 80% of the state was reported to be under "extreme" drought conditions at the end of June;
2. The executive order refers to the [Governor's Proclamation No. 1-17-2014](#), issued on January 17, 2014, declaring a State of Emergency to exist in California due to severe drought conditions. The January Proclamation notes that the state is experiencing record dry conditions, with 2014 projected to become the driest year on record. Since January, state water officials indicate that reservoirs, rainfall totals and the snowpack remain critically low. This follows two other dry or below average years, leaving reservoir storage at alarmingly low levels. The January Proclamation highlights the State's dry conditions, lack of precipitation and the resulting effects on drinking water supplies, the cultivation of crops, and the survival of animals and plants that rely on California's rivers and streams. The January Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. There is no guarantee that winter precipitation will alleviate the drought conditions that the executive orders address, which will lead to even more severe impacts across the state if the drought wears on;
4. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";
5. Over 400,000 acres of farmland are expected to be fallowed, thousands of people may be out of work, communities risk running out of drinking water, and fish and wildlife will suffer.

6. Many Californians have taken bold steps over the years and in this year to reduce water use; nevertheless, the dire nature of the current drought requires additional conservation actions from residents and businesses. Some severely affected communities have implemented water rationing, limiting water use in some cases to only 50 gallons per person per day, foregoing showers, laundry, toilet flushing, and all outdoor watering.
7. Water conservation is the easiest, most efficient and most cost effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available next year, giving water suppliers the flexibility to manage their systems efficiently. The more water that is conserved now, the less likely it is that a community will experience such dire circumstances that water rationing is required ;
8. Most Californians use more water outdoors than indoors. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes would not suffer greatly from receiving a decreased amount of water;
9. Public information and awareness is critical to achieving conservation goals and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>).
10. Enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
11. The emergency regulations set a minimum standard requiring only modest lifestyle changes across the state. Many communities are already doing more and have been for years. They should be commended, but can and should do more. Others are not yet doing so and should at least do this, but should do much more given the severity of the drought;
12. On July 8, 2014, the State Water Board issued public notice that the State Water Board would consider the adoption of the regulation at the Board's regularly-scheduled July 15, 2014 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
13. On April 25, 2014, the Governor suspended the California Environmental Quality Act's application to the State Water Board's adoption of emergency regulations pursuant to Water Code section 1058.5 to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation;
14. As discussed above, the State Water Board is adopting the emergency regulation because of emergency drought conditions, the need for prompt action, and current limitations in the existing enforcement process;

15. Disadvantaged communities may require assistance in increasing water conservation and state agencies should look for opportunities to provide assistance in promoting water conservation;
16. Nothing in the regulations or in the enforcement provisions of the regulations, preclude a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulations adopted by this resolution and local agencies retain their enforcement discretion in enforcing the regulations, to the extent authorized, and may develop their own progressive enforcement practices to encourage conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, sections 863, 864, and 865, as appended to this resolution as an emergency regulation;
2. The State Water Board staff will submit the regulation to the Office of Administrative Law (OAL) for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes;
4. These regulations shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulations due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulations and their effect;
6. Directs State Water Board staff to condition funding upon compliance with the emergency regulations, to the extent feasible;
7. Directs State Water Board staff to work with the Department of Water Resources and the Save Our Water campaign to disseminate information regarding the emergency regulations; and
8. Directs State Water Board staff in developing an electronic reporting portal to include data fields so that local agencies may provide monthly reporting data on (i) conservation-related implementation measures or enforcement actions taken by the local agency and (ii) substitution during the drought of potable water with recycled water to extend water supplies.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board commends water suppliers that have increased conservation messaging and adopted innovative strategies to enhance customer awareness of water use, such as applications that let customers compare their water use to water use by others; reduce system losses, such as fixing system leaks which can deplete supplies by 10 percent or more; and establish incentives to reduce demand, such as tiered or drought rate structures. The State Water Board also commends all Californians that have already been working to maximize their conservation efforts, both at home and at work;
10. The State Water Board calls upon water suppliers to take the following actions:

*Educate customers and employees*

- Retail water suppliers should provide notice of the regulations in English and Spanish in one or more of the following ways: newspaper advertisements, bill inserts, website homepage, social media, notices in public libraries;
- Wholesale suppliers should include reference to the regulations in their customer communications;
- All water suppliers should train personnel on the regulations;
- All water suppliers should provide signage where recycled or reclaimed water is being used for activities that the emergency regulations prohibit with the use of potable water, such as operation of fountains and other water features;
- All water suppliers should redouble their efforts to disseminate information regarding opportunities and incentives to upgrade indoor fixtures and appliances;
- All water suppliers should use education and the tools available through the Save Our Water website (<http://saveourwater.com>); and
- All water suppliers should educate and prepare their boards and councils on the drought response actions contained in the emergency regulations and in this resolution, and to make sure that drought response items are placed on agendas as early as possible;

*Increasing local supplies*

- All water suppliers should accelerate the completion of projects that will conserve potable water by making use of non-potable supplies, such as recycled water, "greywater," and stormwater collection projects;
- All water suppliers should improve their leak reporting and response programs and request that police and fire departments and other local government personnel report leaks and water waste that they encounter during their routine duties/patrols;
- Smaller water suppliers – those with fewer than 3,000 service connections – should take proactive steps to secure their communities' water supplies and educate their customers about water conservation and the status of their supply reserves;
- All water suppliers should conduct water loss audits and make leak detection and repair a top priority for the duration of the drought; and
- All urban water suppliers should evaluate their rate structures and begin to implement needed changes as part of planning for another dry year. Information and assistance on setting and implementing drought rates is available from the Alliance for Water Efficiency. (<http://www.allianceforwaterefficiency.org/>).

11. The State Water Board calls on all Californians to take the following additional actions:
  - Further reduce water demand, whether by using less water in daily routines indoors and out, retrofitting appliances and installing greywater and rainwater catchment systems; and
  - Check residential and business water bills to see if there are high charges that may indicate a leak and to fix the leak, if they are able, or contact their local water utility if they need assistance.
12. The State Water Board encourages its staff, the Department of Water Resources, the Public Utilities Commission, urban water suppliers, and other local agencies to look for opportunities to encourage and promote new technologies that reduce water usage, including through timely access to water usage information and behavioral response.
13. The State Water Board encourages all state and local agencies to look for additional opportunities to minimize potable water use in outdoor spaces.
14. The State Water Board encourages investor-owned utilities to expeditiously submit applications for implementation of the regulations to the California Public Utilities Commission.

#### CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 15, 2014.

AYE:           Chair Felicia Marcus  
                  Vice Chair Frances Spivy-Weber  
                  Board Member Steven Moore  
                  Board Member Dorene D'Adamo

NAY:           None

ABSENT:       Board Member Tam M. Doduc

ABSTAIN:      None

  
\_\_\_\_\_  
Jeanine Townsend  
Clerk to the Board

# PROPOSED TEXT OF EMERGENCY REGULATIONS

## Article 22.5. Drought Emergency Water Conservation

### Sec. 863 Findings of Drought Emergency

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;

(4) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(5) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

### Sec. 864 Prohibited Activities in Promotion of Water Conservation

(a) To promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(3) The application of potable water to driveways and sidewalks; and

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

(b) The taking of any action prohibited in subdivision (a) of this section, in addition to any other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

## PROPOSED TEXT OF EMERGENCY REGULATIONS

### Sec. 865 Mandatory Actions by Water Suppliers

(a) The term "urban water supplier," when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water.

(2) As an alternative to subdivision (b)(1), an urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within thirty (30) days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

(d) In furtherance of the promotion of water conservation each urban water supplier shall prepare and submit to the State Water Resources Control Board by the 15<sup>th</sup> of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. Beginning October 15, 2014, the monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within thirty (30) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105; 350; 10617; 10632.

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AGENDA ID #13219 (Rev. 3)  
ITEM #89

### PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS  
Water and Sewer Advisory Branch

RESOLUTION W-5000  
August 14, 2014

### RESOLUTION

**(RES. W-5000) RESOLUTION ORDERING WATER UTILITY COMPLIANCE WITH THE STATE WATER RESOURCES CONTROL BOARD'S RESOLUTION NO. 2014-0038 ADOPTING AN EMERGENCY REGULATION FOR STATEWIDE URBAN WATER CONSERVATION AS CODIFIED IN THE CALIFORNIA CODE OF REGULATIONS, TITLE 23, ARTICLE 22.5, SECTIONS 863, 864, AND 865.**

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### SUMMARY

On July 15, 2014 the State Water Resources Control Board (Water Board) adopted an Emergency Regulation for Statewide Water Conservation (Emergency Regulation). The Emergency Regulation is available on the Water Board's website at:  
[http://www.swrcb.ca.gov/waterrights/water\\_issues/programs/drought/docs/emergency\\_regulations/oal\\_app2014071810e.pdf](http://www.swrcb.ca.gov/waterrights/water_issues/programs/drought/docs/emergency_regulations/oal_app2014071810e.pdf)

The Emergency Regulation went into effect on July 28, 2014, after approval by the Office of Administrative Law, and it will expire on April 25, 2015. Within ten (10) days of the effective date of this Resolution, all water utilities subject to the Commission's jurisdiction shall publish notice of the Emergency Regulation in the local newspaper and on their respective website. Within twenty (20) days of the effective date of this Resolution, all water utilities subject to the Commission's jurisdiction shall provide direct notice to their customers by either posted mail or e-mail of the Emergency Regulation. The notice shall list the Water Board's mandatory restrictions and the potential fines arising from violations of these prohibited water uses. All Commission jurisdiction water utilities are ordered to comply with the Water Board's requirements codified in Title 23, Article 12.5, Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively,

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mandatory water conservation measures. Utilities shall include notice of the implementation of either the mandatory outdoor irrigation restrictions or mandatory water conservation measures as required in Sections 865(b) through (e) as part of the required customer notification.

In addition, Class A and B water utilities are to track and record their progress in assisting local enforcement agencies responsible for enforcing compliance with the enumerated mandatory water use restrictions.

### **BACKGROUND**

On January 17, 2014, Governor Edmund G. Brown Jr. issued an executive order declaring a drought state of emergency (Emergency Drought Declaration). In response to this executive order, the Commission on February 28, 2014 issued Resolution W-4976 wherein it adopted drought procedures for water conservation. The Commission ordered Class A and B water utilities with Tariff Rule 14.1 for voluntary conservation to activate this Tariff Rule 14.1 calling for a voluntary reduction in water use. Those utilities that did not have an existing Tariff Rule 14.1 were required to file an advice letter adding this rule to its tariff. All Class A and B water utilities are in compliance with Resolution W-4976. Utilities were also provided an opportunity to add memorandum accounts to their preliminary statements in the tariffs to track the incremental costs associated with drought compliance efforts. Finally, the Commission directed water utilities to comply with future directives under the Emergency Drought Declaration for either additional voluntary conservation measures or requirements for mandatory rationing.

On April 25, 2014, Governor Brown issued a second executive order to strengthen the state's ability to manage water in drought conditions. The executive order recognizes the need for additional expedited actions to reduce the harmful

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impacts from the drought. In this regard, Governor Brown ordered California residents to refrain from wasting water and directs the Water Board to adopt emergency regulations as it deems necessary, pursuant to Water Code Section 1058.5, to implement called for reductions in outdoor irrigation and wasteful water practices.

The Emergency Regulation is the Water Board's response to the April 25, 2014 executive order. The Water Board adopted amendments to the California Code of Regulations by adding Sections 863, 864, and 865 to Title 23, Article 12.5. Section 864 outlines prohibited activities intended to promote water conservation. The following actions are prohibited except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency.

1. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadway, parking lots, or structures.
2. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
3. The application of potable water to driveways and sidewalks.
4. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

Section 864(b) provides that violation of any of the four prohibited actions is an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Section 865 outlines mandatory actions required of all water suppliers. All Class A and B utilities that meet the definition of an urban water supplier set forth in Water Code Section 10617 shall implement all requirements and actions of the stage of their water shortage contingency plans that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water (Section 865(b)(1)). As an

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alternative, the Water Board provides that Class A and B utilities that are classified as urban water suppliers can request approval of an alternate plan that achieves a level of conservation superior to that achieved above (Section 865(b)(2)).

All Class A and B utilities that meet the definition of an urban water supplier and that do not have water shortage contingency plans or have been notified by the Department of Water Resources that their water shortage contingency plans do not meet the requirements of Water Code Section 10632 shall, within 30 days, limit outdoor irrigation of ornamental landscapes or turf with potable water by customers they serve to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption relative to the amount consumed in 2013 (Section 865(c)).

All Class B, C, and D utilities that do not meet the definition of an urban water supplier shall take one or more of the following actions within 30 days. Utilities are either to: (1) limit outdoor irrigation of ornamental landscapes or turf with potable water by customers they serve to no more than two days per week; or (2) implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the customers they serve relative to the amount consumed in 2013 (Section 865(e)).

Finally, the Emergency Regulation, as it pertains to Commission-jurisdictional utilities, requires all Class A and B water utilities to prepare and submit monthly reports to the Water Board showing monthly water production in 2014 along with a comparison to the amount produced in the same calendar month in 2013. The Emergency Regulation was made effective on July 28, 2014 and will expire on April 25, 2015.

### **DISCUSSION**

With nearly 80% of the state reported to be under extreme drought conditions at the end of June 2014, all Californians need to be cognizant of and compliant with the

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mandatory restrictions enacted by the Water Board. If California experiences a fourth dry year in a row in 2014/ 2015, water needs for basic health and safety will be at risk. Commission-jurisdictional water utilities are integral and important players in California's water delivery system. As such, they serve an important role through interactions with their customers in assisting in complying with the Water Board's mandatory water use restrictions. By this Resolution, we are ordering all jurisdictional water utilities to take the following steps outlined below to assist in complying with the Water Board's mandatory water use restrictions.

The first component in achieving customer compliance is conveyance of what is expected from water consumers, as well as the consequences for non-compliance. Within ten (10) days of the effective date of this Resolution, water utilities shall publish notice of the Emergency Regulation in the local newspaper and on their respective website.

Within twenty (20) days of the effective date of this Resolution, water utilities shall provide direct notice to their customers by either posted mail or e-mail of the Emergency Regulation. The notice shall list the Water Board's mandatory restrictions and the potential fines arising from violations of these prohibited water uses. Following on regular intervals for the duration that the mandatory restrictions are in effect, utilities shall use either bill inserts or bill messages to remind customers of the continuing mandatory restrictions. A suggested draft notice is attached as Appendix A. This draft notice should be modified as necessary by the water utilities, but should contain the Emergency Regulation provisions and the potential fine for violations of the regulations.

Second, all Class A and B water utilities shall assist in assuring compliance with the restricted water uses by working with local law enforcement or public agencies

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charged with enforcing the mandatory use restrictions.<sup>1</sup> All Class A and B water utilities shall, at a minimum, establish procedures and mechanisms that facilitate employee- and customer-identified violations and the conveyance of this information to the appropriate enforcement officials. These utilities shall track and record reports of violations, actions taken to assist local law enforcement or public agencies, and the results of such actions. This information shall be made available to the Commission upon request.

Utilities also have in their tariffs rules to address the negligent or wasteful use of water, such as Tariff Rule 11.B.3 which provides for the discontinuance of service following proper notice to a customer. Short of this, utilities can also assist enforcement officials by placing flow restrictors on meters for premises where there has been shown a documented history of repeat violations.

All Class A, B, C, and D utilities shall comply with the Water Board's requirements outlined in Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively, mandatory water conservation measures. Utilities shall include notice of the implementation of either the mandatory outdoor irrigation restrictions or mandatory water conservation measures required in Section 865 as part of the customer notification requirements of the four prohibited water uses specified in Section 864.

Finally, Section 865(d) of the amended California Code of Regulations adopted by the Water Board requires all Class A and B utilities to provide a monitoring report to the Water Board by the 15<sup>th</sup> of each month beginning in October 2014. The monitoring reports are intended to show progress towards the objective of a 20% reduction in water usage called for in the Governor's Drought Emergency Proclamation dated January 17,

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<sup>1</sup> Water Code section 1058.5(d) provides that violations of the Water Board's emergency regulations are "infractions." In California, "infractions" are defined as criminal penalties. *See* Pen. Code Sections 16, 17, and 19.6.

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2014. All Class A and B Utilities are required to provide a copy of this monthly monitoring report to the Director of the Division of Water and Audits as long as this report is required by the Water Board.

### **COMMENTS ON PROPOSED RESOLUTION**

As provided by Rule 14.6(a) of the Commission's Rules of Practice and Procedure and Pub. Util. Code § 311(g)(2), the 30-day public review and comment period has been waived given the unforeseen emergency situation being addressed by this Resolution. This matter is added to the Agenda pursuant to Government Code Section 11125.3(a)(2).

### **FINDINGS AND CONCLUSIONS**

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order to strengthen the state's ability to manage water in drought conditions.
2. On July 15, 2014 the State Water Resources Control Board (Water Board) adopted an Emergency Regulation for Statewide Water Conservation (Emergency Regulation). In the Emergency Regulation, the Water Board adopted amendments to the California Code of Regulations in Title 23, Article 12.5, by adding Sections 863-865.
3. The Emergency Regulation went into effect on July 28, 2014, after approval by the Office of Administrative Law, and it will expire on April 25, 2015.
4. Cal. Code Regs. Tit. 23, § 864, enumerates four mandatory water use restrictions and fines for violation of the prohibited uses of up to five hundred dollars (\$500) for each day in which the violation occurs.
5. Cal. Code Regs. Tit 23, § 865(b) through (e), imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf using potable water.
6. Cal. Code Regs. Tit 23 § 865(b) through (e), provides for implementation of mandatory conservation measures as an alternative to mandatory restrictions on outdoor irrigation.

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7. Water needs for basic health and safety are at risk if California experiences another dry year in 2014/ 2015.
8. Local law enforcement and public agencies are charged with enforcing the mandatory water use restrictions.
9. Cal. Code Regs. Tit. 23, § 865(d), requires all Class A and B water utilities to prepare and submit monthly monitoring reports to the Water Board showing water production in 2014 along with a comparison to the amount of water produced in the same calendar month in 2013.
10. As provided by Rule 14.6(a) of the Commission's Rules of Practice and Procedure and Pub. Util. Code § 311(g)(2), the 30-day public review and comment period has been waived given the unforeseen emergency situation being addressed by this Resolution.
11. Within ten (10) days of the effective date of this Resolution, water utilities shall publish notice of the Emergency Regulation in the local newspaper and on their respective website listing the Water Board's mandatory restrictions and the potential fines arising from violations of the listed prohibited water uses.
12. Within twenty (20) days of the effective date of this Resolution, water utilities shall provide direct notice to their customers by either posted mail or e-mail of the Emergency Regulation listing the Water Board's mandatory restrictions and the potential fines arising from violations of the listed prohibited water uses.
13. All Class A and B water utilities shall assist in assuring compliance with the restricted water uses by working with local law enforcement or public agencies charged with enforcing the mandatory use restrictions.
14. All Class A and B water utilities shall, at a minimum, establish procedures and mechanisms that facilitate employee- and customer-identified violations and the conveyance of this information to the appropriate enforcement officials. These utilities shall track and record reports of violations, actions taken to assist local law enforcement or public agencies, and the results of such actions. This information shall be made available to the Commission upon request.

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15. All Class A and B water utilities should provide copies of the monthly monitoring report on water production, as called for by the Water Board, to the Director of the Division of Water and Audits so long as this report is required by the Water Board.
16. All Class A, B, C, and D utilities shall comply with the Water Board's requirements outlined in Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively, mandatory water conservation measures.

### **THEREFORE IT IS ORDERED THAT:**

1. All California Public Utilities Commission jurisdictional water utilities shall notify their customers, either by posted mail or email, as well as by a notice published in the local newspaper, and on their respective website, of the State Water Resources Control Board's enactment of mandatory water use restrictions and fines for violations as codified in Title 23, Article 12.5, Section 864 of the California Code of Regulations within ten to twenty days of the effective date of this Resolution.
2. All California Public Utilities Commission jurisdiction water utilities shall comply with the State Water Resources Control Board's requirements codified in Title 23, Article 12.5, Sections 865(b) through (e) in implementing either mandatory outdoor irrigation restrictions or, alternatively, mandatory water conservation measures. Utilities shall include notice of the implementation of either the mandatory outdoor irrigation restrictions or mandatory water conservation measures as required in Sections 865(b) through (e) as part of the customer notification required in Ordering Paragraph No. 1.
3. All Class A and B utilities are required to provide a copy of the monthly monitoring report on water production, as required by the State Water Resources

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Control Board's enactment of Section 865(d) in Title 23, Article 12.5 of the California Code of Regulations, to the Director of the Division of Water and Audits as long as these reports are required by the State Water Resources Control Board.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 14, 2014; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

## PROPOSED RESOLUTION

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### APPENDIX A

Date

Notice of State Water Resources Control Board Emergency Regulation to Control Water Use During Droughts

Water Utility (WU) has been ordered by the California Public Utilities Commission to notify its customers of the State Water Resources Control Board's (Board) restrictions and fines for violations of the Board's regulations. This notification is being sent because California is in a drought and your cooperation is needed to ensure reliable supplies of water for your comfort and necessary use *[for something that explains/reminds customers of the situation]*

The Board has determined that the following water use activities by *[insert water utility name]* customers are not allowed:

1. Watering outdoor landscapes in a way that causes water to "runoff" onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
2. Washing a vehicle, with a hose without a shut-off nozzle or other device that will immediately stop the flow of water when not in use.
3. Using drinking water to wash driveways and sidewalks.
4. Using drinking water in a fountain or other decorative water feature, except where the water is recirculated.
5. Violation of any of these four prohibited or restricted water use activities may be punished by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Further information may be obtained from the (WU) local business office.

**(END OF APPENDIX A)**