

LAST RESOLUTION NO. 11-885  
LAST ORDINANCE NO. 11-298

**REGULAR MEETING OF THE SOLVANG CITY COUNCIL  
COUNCIL CHAMBERS  
1644 OAK STREET  
Monday  
January 9, 2012  
7:00 P.M.**

Please be advised that, pursuant to State Law, any member of the public may address the Council concerning any item on the Agenda. Please be aware that Items on the Consent Calendar are considered to be routine and are normally enacted by one vote of the Council.

**If you wish to speak on Items 3, 4, or 5 please do so during Public Communications.**  
Regular City Council meetings are broadcast live on **Channel 23** in the Santa Ynez Valley

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**CITY MANAGERS REPORT**

**1. PUBLIC COMMUNICATIONS - WRITTEN OR VERBAL**

At this time, please direct comments to the City Council regarding Consent Calendar Items or matters NOT on the agenda but within the jurisdiction of the Council. (Speakers are limited to five (5) minutes).

**2. COUNCIL COMMENTS AND REQUESTS**

Comments from City Council Members. No action will be taken at this meeting.

3. **APPROVAL OF AGENDA AS PRESENTED**

4. **DECEMBER 12, 2011 CITY COUNCIL MINUTES**

Approval of minutes.

5. **CONSENT AGENDA**

- a. Approval of warrant register and pre-issues dated December 27, 2011 and January 9, 2012
- b. Receive and file Sheriff's Department report for November 2011
- c. Community Development Block Grant Project funding (CDBG):
  1. Approve the project funding contracts with the County of Santa Barbara to provide CDBG funding for Solvang's proposed accessibility improvements
  2. Authorize the City Manager to execute the current and future contracts and other funding related documents as required upon approval of City Attorney
- d. Approval of Budget Appropriation Revision to fund vehicle replacement with Santa Barbara County

**REGULAR AGENDA**

6. **PROFESSIONAL SERVICES AGREEMENT WITH CARNEY ASSOCIATES LLC FOR PREPARATION OF AN ECONOMIC DEVELOPMENT STRATEGIC PLAN**

1. Approve Professional Services Agreement with Carney Associates LLC and authorize Mayor to execute upon approval as to form by the City Attorney
2. Approve Budget Appropriation Transfer

7. **ORDINANCE FORBIDDING THE USE OF ELECTRONIC PERSONAL MOBILITY DEVICES ON SIDEWALKS IN THE DOWNTOWN AREA**

Introduce for first reading, by title only, Ordinance No. 12-\_\_\_\_, an Ordinance of the City Council of the City of Solvang forbidding the use of electronic personal mobility devices on sidewalks in the downtown area, and excepting from that ban authorized law enforcement personnel and disabled persons.

8. **COUNCIL MEMBER REPORTS (Oral reports: Each Council Member will give oral reports on their activities in relation to the following committee or agencies. In addition, each member may report on items that will be included on the agenda for such committee or agency and seek guidance from the Council as a whole on such items, including on what position to take on behalf of the City)**

**CITY COUNCIL AGENDA REGULAR MEETING**

**January 9, 2012**

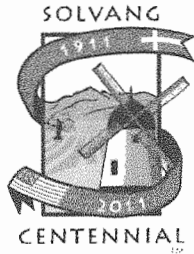
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- Centennial Organizing Committee
- Santa Barbara County Association of Governments
- Air Pollution Control Board
- Joint Wastewater Committee
- Finance Committee
- Water Committee

**9. ADJOURNMENT**

*Copies of staff reports and supporting documentation pertaining to each item on this agenda are available for public viewing and inspection at City Hall, 1644 Oak Street, Solvang, during regular business hours and on the City's website [www.cityofsolvang.com](http://www.cityofsolvang.com), in addition, any writings relating to an open session agenda item provided to a majority of the Council that is distributed within 72 hours of the meeting, after the posting of the agenda, will be identified and available separately at City Hall and may be posted to the website.*

**In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of Administrative Services at 688-5575 or the California Relay Service. Notification 48 hours prior to the meeting would enable the City to make reasonable arrangements to ensure accessibility to this meeting.**



**MINUTES OF THE REGULAR MEETING OF THE  
SOLVANG CITY COUNCIL**

Council Chambers  
1644 Oak Street  
Solvang, Ca. 93463

December 12, 2011  
7:00 p.m.

**CALL TO ORDER** Mayor Richardson called the meeting to order at 7:00 pm.

**ROLL CALL**

PRESENT: Mayor Richardson, Council Members Duus, Jamieson, Palmer and Wood

STAFF: Brad Vidro, City Manager; Roy Hanley, City Attorney; Arleen Pelster, Planning/Economic Development Director; Matt van der Linden, Public Works Director; Lt. Julie McCammon; Mary Ellen Rio, City Clerk

**PLEDGE OF ALLEGIANCE** Led by Council Member Duus.

**PRESENTATIONS**

Susan Williams, Co-Chair of Third Wednesday provided an update on the success of Third Wednesday and reported on plans for its continuance; plans are underway for bringing back some of the previous events as well as adding new ones.

**CITY MANAGERS REPORT**

Informational report only.

**1. PUBLIC COMMUNICATIONS - WRITTEN OR VERBAL**

Tracy Farhad

- Many comments received about how beautiful the town looks
- Grant received from the Santa Ynez Valley Hotel Association was used to produce a 30 second commercial
- Special thanks also to Z Folio Gallery and Valley Hardware as well as the many businesses which took part in the Christmas Tree project
- Great musical entertainment this year and a great parade
- Attended a convention in Las Vegas and met with over 25 tour operators; obtained a company that will be bringing in a bus load of approximately 45 people to spend the night during the week in Solvang for the next seven months

**CITY COUNCIL MINUTES REGULAR MEETING**

**December 12, 2011**

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- New event this year as part of Julefest is a 2 day Passport Wine Event
- Time Magazine featured Solvang as one of the most Christmasy towns
- 2012 Visitors Guide being unveiled as well as four destination videos
- Final Heritage Trail Event will be held at Centennial Plaza on January 6<sup>th</sup> for placement of the Time Capsule and recognition of the donors for the Plaza
- Statistics from the tourism study have produced some very positive numbers

**2. COUNCIL REQUESTS**

None.

**3. APPROVAL OF AGENDA AS PRESENTED**

No changes.

**4. NOVEMBER 28, 2011 CITY COUNCIL MINUTES**

**Motion** was made by Council Member Wood, seconded by Council Member Duus to approve the minutes as presented. **Motion carried** with a verbal response of 5 ayes.

**5. CONSENT AGENDA**

Consent Agenda read by the City Clerk.

- a. Approval of pre-issued warrants dated November 23, 28, 29, and December 7, 2011
- b. Approval of warrant register dated December 12, 2011
- c. Approve Budget Adjustment for water Scada System backup computer
- d. Adopt City Ethics Policy
- e. Approval of payment plan for Water and Wastewater Connection Fees for 937/939 Askov Place and authorize City Manager to execute Promissory Note
- f. Recordation of tract map 30.074 for Santa Barbara Trust for Historic Preservation
- g. Approval of revised agreement for Electric Charging Stations
- h. Adopt Resolution No. 11-\_\_\_\_, a Resolution of the City Council of the City of Solvang authorizing the City Manager to execute a FTA Section 5311 Grant Agreement with the California Department of Transportation for operations assistance for the Santa Ynez Valley Transit System
- i. Approve new job description for Utility Billing Clerk position

City Manager reported meeting with the union and an agreement was reached to increase the salary step for **item 5i** from 108 to 109.

**Motion** was made by Council Member Duus, seconded by Council Member Jamieson to approve the Consent Agenda as presented with the addition of the step increase for **item 5i**. **Motion carried** with a roll call vote of 5 ayes.

**PUBLIC HEARING**

**6. LICENSE FOR USE OF CITY STREETS FOR SEGWAY TOURS**

Staff report by the Planning/Economic Development Director

- Council heard proposal at the meeting of November 14, 2011 by Adventures Out West for Segway tours in the City
- Applicant was asked to meet with the Sheriff's Department to discuss the route; this was done and the route is acceptable. Staff was requested to prepare an ordinance amendment which will be done to prohibit Segways on public sidewalks, staff is now recommending a license agreement which is being presented tonight to allow the operator to begin without a change to the ordinance
- Two minor changes have been requested; removal of one of the owners on the agreement as he is only a consultant and a change in the age of the operator from 14 to 18 years of age

Public Comment:

Chris Cyr

- Excited about getting the business started in Solvang
- Many people have stopped us and expressed an interest in the Segways
- When in use, will be obeying all traffic signals

Claudia Orona

- As the Trolley owners, we are always thrilled with new attractions here in Solvang however we have a couple of concerns, our research has shown that people can fall off of the Segways very easily and also that it is very easy to lose control
- We are concerned about how the Trolley horses will react to the Segways
- We would like to make sure that the Segway route is different from that of the Trolley

Sheila Benedict

- Segway representatives inquired about coming onto the Mission Santa Ines property, but due to liability issues the Mission turned down their request
- They then inquired if the participants could walk onto Mission property, and naturally that would be allowed as the Mission is open to any one walking as long as they are individuals and not part of a tour

Council Members discussed supporting the tours and suggested that the Segway representatives meet with the Solvang Trolley representatives and discuss and work out their concerns.

**Motion** was made by Council Member Duus, seconded by Council Member Jamieson to approve the license for Adventures Out West Segway tours with the two minor changes and to allow staff to make typo corrections in the agreement. **Motion carried** with a roll call vote of 5 ayes.

7. **ORDINANCE REVISING WATER AND WASTEWATER CODES IN REGARDS TO CONNECTION FEES AND RESOLUTION SETTING CONNECTION FEES**

Staff report by the City Manager

- Second reading for this ordinance, however just wanted to summarize the rates being established
- Will be modifying the ordinance and be setting the fees by resolution also with this action

Public Comment: None

**Motion** was made by Council Member Duus, seconded by Council Member Wood to:

1. Adopt on second reading, by title only, Ordinance No. 11-\_\_\_\_, an Ordinance of the City Council of the City of Solvang revising the water and wastewater codes in regards to connection fees.
2. Adopt Resolution No. 11-\_\_\_\_, a Resolution of the City Council of the City of Solvang setting water and wastewater connection fees.

**Motion carried** with a roll call vote of 5 ayes.

8. **COUNCIL REORGANIZATION**

Staff report by the City Clerk

- Protocols call for reorganization at first meeting in December
- This includes designation of Mayor Pro Tem for the 2012 term and any changes to assignments on boards and committees

Public Comment: None

Council Member Palmer asked to yield his option to Council Member Duus.

**Motion** was made by Council Member Palmer, seconded by Council Member Wood to appoint Council Member Duus to serve as Mayor Pro Tem for the 2012 Council term. **Motion carried** with a verbal response of 5 ayes.

Council Member Wood requested the opportunity to serve on the California JPIA which was agreeable with the previous primary representative, Council Member Palmer.

**Motion** was made by Council Member Duus, seconded by Council Member Wood to appoint Council Member Jamieson as the primary representative on California JPIA and Council Member Wood as alternate. **Motion carried** with a verbal response of 5 ayes.

Remaining assignments were unchanged.

9. **COUNCIL MEMBER REPORTS (Oral reports: Each Council Member will give oral reports on their activities in relation to the following committee or agencies. In addition, each member may report on items that will be included on the agenda for such committee or agency and seek guidance from the Council as a whole on such items, including on what position to take on behalf of the City)**

**CITY COUNCIL MINUTES REGULAR MEETING**

**December 12, 2011**

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- Centennial Organizing Committee
- **Santa Barbara County Association of Governments**  
**Mayor Richardson** reported that discussions took place on improvements to Highway 166, Santa Maria Corridor, Measure A safe routes to school bike program and my appointment to the north county regional board chairman assignment
- Air Pollution Control Board
- Joint Wastewater Committee
- Finance Committee
- Water Committee

**10. CLOSED SESSION**

Public Comment: None

Council entered into Closed Session at 7:49 pm.

GC 54956.9 (b) 2 Potential Litigation and CG 54956.9 (3) e

Council adjourned to Open Session with Mayor Richardson announcing no reportable action.

**11. ADJOURNMENT** Mayor Richardson adjourned the meeting at 7:58 pm.

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5a  
12/27/11  
and  
1/9/12

BANK ACC	MBT Check	Montecito Bank-Che	Amount
Check #	Vendor Name		
22982	CA State Disbursement Uni		\$ 202.50
22983	Employee Benefits Special		\$ 633.53
22984	ICMA Retirement Corporati		\$ 1,935.58
22985	Local Union 381		\$ 790.00
22986	Montecito Bank & Trust		\$ 19,350.69
22987	STATE OF CALIFORNIA		\$ 3,653.66
22988	Tax Deferred Services, In		\$ 100.00
22989	Jeff Morss		\$ 182.73
22990	Montecito Bank & Trust		\$ 26.08
22991	STATE OF CALIFORNIA		\$ 2.35
22992	PERS Retirement		\$ 19,839.28
22993	PERS Retirement		\$ 18,680.78
22994	PERS Retirement		\$ 18,439.23
22995	American Services & Produ		\$ 600.00
22996	Autosys, Inc.		\$ 603.00
22997	BAKER, MANOCK & JENSEN		\$ 197.00
22998	BMI		\$ 309.00
22999	BROTHER'S GLASS		\$ 64.65
23000	CAL-COAST IRRIGATION		\$ 38.60
23001	California Code Check, In		\$ 4,340.00
23002	CANNON ASSOCIATES		\$ 13,420.70
23003	CARRS BOOTS & WESTERN WEA		\$ 6.00
23004	CBM Consulting, Inc.		\$ 9,211.00
23005	CENCOM		\$ 507.50
23006	CITY OF BUELLTON		\$ 1,350.00
23007	CITY OF LOMPOC FINANCE DE		\$ 1,666.66
23008	CLEAN MACHINE LAUNDROMAT		\$ 64.00
23009	CLINICAL LAB OF SAN BERNA		\$ 760.00
23010	Das Manufacturing Inc.		\$ 161.04
23011	DEPARTMENT OF JUSTICE		\$ 153.00
23012	ENGEL & GRAY, INC.		\$ 3,159.01
23013	Fire Service Training		\$ 35,447.55
23014	Fisher Pump & Well Svc. I		\$ 892.00
23015	FCCCHR		\$ 120.00
23016	FERGUSON ENTERPRISES,INC		\$ 300.84
23017	FRAZIER'S AUTO REPAIR & T		\$ 370.00
23018	G-WILIKERS		\$ 106.87
23019	HACH COMPANY		\$ 721.29
23020	HANLEY & FLEISHMAN,LLP		\$ 7,530.00
23021	Johnson Excavation		\$ 2,900.00
23022	Lee Central Coast Newspaper		\$ 900.00
23023	LUNDE'S SOLVANG AUTO REPA		\$ 212.03
23024	MailFinance		\$ 149.77
23025	MUNICIPAL MAINTENANCE		\$ 1,359.74
23026	Kenneth and Lauren Nash		\$ 501.11
23027	NIELSEN BUILDING MATERIAL		\$ 325.19
23028	NU-TECH PEST MGMNT		\$ 285.00
23029	Ed Eyerman		\$ 53.10
23030	Pelster, Arleen T.		\$ 292.50
23031	PENFIELD & SMITH		\$ 4,131.00
23032	PETTY CASH		\$ 93.75
23033	PG&E		\$ 395.41
23034	PLATINUM PLUS BUSINESS		\$ 6,356.16

## BANK ACC MBT Check Montecito Bank-Che

Check #	Vendor Name	Amount
23035	PROCARE	\$ 2,845.25
23036	QUINCY ENGINEERING, INC.	\$ 20,732.96
23037	Siemens Water Tech. Corp.	\$ 343.26
23038	So. Calif. Municipal Athl	\$ 70.00
23039	Storer Transit Systems	\$ 20,410.47
23040	SANTA BARBARA CO. SHERIFF	\$ 3,047.35
23041	SCVB	\$ 122,500.00
23042	SOLVANG CHAMBER OF COMMER	\$ 450.00
23043	SYV ONLINE	\$ 75.00
23044	TW Telecom	\$ 832.60
23045	USA BLUEBOOK	\$ 255.06
23046	ValleyCrest Landscape	\$ 9,290.00
23047	VALLEY PARTS	\$ 36.27
23048	VERIZON CALIFORNIA	\$ 74.19
23049	WESTERN EXTERMINATOR/ CAL	\$ 68.25
23050	WESTERN NURSERY	\$ 21.55
23051	PERS	\$ 27,359.45
23052	Principal Financial Group	\$ 5,037.28
23053	The Advantage Group / TAG	\$ 4,540.78
23054	US POSTAL SERVICE	\$ 2,000.00
23055	ARAMARK-AUCA Los Angels	\$ 215.21
23056	ARROWHEAD	\$ 74.59
23057	Bengal Engineering, Inc.	\$ 3,260.00
23058	Budman, Bruce	\$ 2,800.00
23059	BRENNTAG PACIFIC, INC	\$ 1,019.82
23060	Coastal Copy, LP	\$ 110.38
23061	CANNON ASSOCIATES	\$ 990.00
23062	CCI Central, Inc	\$ 177.18
23063	CHANNEL COUNTIES DIVISION	\$ 70.00
23064	CLEAN MACHINE LAUNDROMAT	\$ 19.00
23065	Dietenhofer, Jaime	\$ 75.00
23066	DELL MARKETING L.P.	\$ 1,250.12
23067	DEPARTMENT OF JUSTICE	\$ 376.00
23068	ENDERLE, JAMES	\$ 300.00
23069	ENGEL & GRAY, INC.	\$ 1,336.99
23070	Flores, Maricela	\$ 50.53
23071	Ford, Dennis	\$ 250.00
23072	Fresh Coat Painting	\$ 450.00
23073	FRAZIER'S AUTO REPAIR & T	\$ 1,421.50
23074	GRAPHIC SYSTEMS	\$ 37.98
23075	Totalfunds by Hasler	\$ 500.00
23076	HANLEY & FLEISHMAN,LLP	\$ 6,060.00
23077	HARRISON HARDWARE	\$ 117.56
23078	INNER NATURE	\$ 1,800.00
23079	Lee Central Coast Newspaper	\$ 620.00
23080	LUNDE'S SOLVANG AUTO REPA	\$ 323.75
23081	More Office Solutions	\$ 25.30
23082	MNS ENGINEERS, INC.	\$ 1,050.00
23083	MOORE & ASSOCIATES	\$ 3,667.13
23084	NU-TECH PEST MGMNT	\$ 219.00
23085	Parkson Corporation	\$ 60,456.00
23086	PC MECHANICAL INC.	\$ 1,019.15
23087	PENFIELD & SMITH	\$ 11,673.00

Check #	Vendor Name	Amount
23088	PG&E	\$ 6,426.18
23089	POLYDYNE, INC.	\$ 1,144.31
23090	PRAXAIR	\$ 40.88
23091	PROCARE	\$ 2,228.05
23092	Satcom Global FZE	\$ 33.95
23093	SANTA BARBARA CO. SHERIFF	\$ 119,367.00
23094	SANTA MARIA TIRE, INC.	\$ 638.53
23095	SANTA YNEZ VALLEY HARDWAR	\$ 1,173.51
23096	SB Family Service Agency	\$ 250.00
23097	SO. CAL GAS/ACCTS PAYABLE	\$ 820.55
23098	SOLVANG SCHOOL	\$ 1,125.00
23099	SP MAINTENANCE SERVICES,	\$ 4,937.92
23100	SPRINT	\$ 57.19
23101	STAPLES CREDIT PLAN	\$ 631.89
23102	STERLING CODIFIERS	\$ 500.00
23103	SYV ONLINE	\$ 75.00
23104	Teplansky, Jeannie	\$ 112.00
23105	Transfirst Health & Gover	\$ 490.01
23106	Troxell, Candence Lynn	\$ 112.00
23107	TODD PIPE & SUPPLY	\$ 29.73
23108	UPS SOLVANG	\$ 25.91
23109	US POSTAL SERVICE	\$ 380.00
23110	Valley PC Repair	\$ 1,800.00
23111	VERIZON CALIFORNIA	\$ 1,049.44
23112	VERIZON WIRELESS	\$ 218.51
23113	VIKING PRESS	\$ 1,374.35
BANK 635	132 CHECKS	-----
		\$ 650,737.70

# MEMORANDUM

**Date:** December 19, 2011  
**To:** Solvang City Council  
**From:** Senior Deputy Charlie Uhrig  
**Subject:** Solvang Statistics and Activity Report for November  
**CC:** Lt. Julie McCammon

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This statistics report is designed to provide a general overview of law enforcement activity in the City of Solvang for the month of November. The report highlights and describes patterns of activity, significant felonies in the city, and noteworthy performances by deputies assigned to the Solvang station.

## **Burglary:**

Two burglaries and two attempted burglaries were reported in the City of Solvang for the month of November.

On 11-02-11 (case 11-14182), a commercial burglary was reported in Solvang. The victim called to report that unknown suspect(s) smashed a glass door and stole merchandise valued at over \$300. There were no witnesses to the burglary and the case is suspended pending further leads.

On 11-05-11 (case 11-14294), an attempted burglary was reported at a local business. Unknown suspect(s) broke a glass window, which activated the alarm system. Deputies arrived on scene, but found no suspect(s). The owner was contacted and after investigating the area, confirmed that nothing was taken. Video tape was submitted to Forensics for review and the case is suspended pending further leads.

On 11-10-11 (case 11-14493), an attempted burglary was reported at a local business. The owner called to report that unknown suspect(s) had attempted a forced entry into a commercial vehicle which was parked in front of the business. The vehicle was not entered and nothing of value was taken. The owner reported that this had happened

twice previously but he did not report it at that time. He requested extra patrol of the area.

On 11-17-11 (case 11-14799), a commercial burglary was reported at a local business. An unknown suspect entered the business during regular business hours and took merchandise valued at around \$45. The suspect then left without making any attempt to pay for the merchandise. Deputies were called and were unable to locate the suspect or the vehicle the suspect used to leave. Video surveillance tape was reviewed and booked into evidence. There are no leads or suspects at this time. The case is suspended further leads.

**Other Significant Activity:**

During the month of November, deputies conducted traffic stops resulting in 5 moving violations, 4 equipment violations, 2 driving without a license, and 1 DUI arrest. There were a total of 21 citations written during the month of November.

**Murder:**

No murders were reported in the City of Solvang for the month of November.

**Rape:**

No rapes were reported in the City of Solvang for the month of November.

**Robbery:**

No robberies were reported in the City of Solvang for the month of November.

**Domestic Assault/Assault:**

During the month of November, there were two felony domestic violence cases reported. Three misdemeanor assaults were also reported for the month of November.

On 11-04-11 (case 11-14260), deputies responded to a report of a couple verbally arguing. During the investigation it was revealed that the male had grabbed the arm of the victim and injured her hand during the altercation. The suspect was arrested for felony domestic violence and booked into County Jail.

On 11-18-11 (case 11-14862), deputies responded to a report of a fight involving a couple inside a vehicle. During the incident, the male suspect grabbed the arm of the female victim, causing visible injury, and also grabbed her hair, before she was able to escape the vehicle and hide inside a City restroom. The suspect fled the area in the vehicle, but was later stopped by deputies, arrested for felony domestic violence, and transported to County Jail.

**Grand Theft:**

No grand thefts were reported in Solvang during the month of November.

**Auto Theft:**

No theft of an auto was reported in Solvang during the month of November.

**Misdemeanors/Thefts:**

Three petty thefts, two misdemeanor vandalisms, and two felony vandalisms were reported in Solvang during November.

**Arrests:**

During the month of November, deputies made a total of 14 arrests, including 6 felony arrests. This included the following types of Misdemeanor arrests: 1 for DUI, 2 for Public Intoxication and No Narcotic arrests.

On 11-04-11 (case 11-14260), deputies responded to a report of a couple verbally arguing. During the investigation it was revealed that the male had grabbed the arm of the victim and injured her hand during the altercation. The suspect was arrested for felony domestic violence and booked into County Jail.

On 11-05-11 (case 11-14287), deputies responded to a report of a fight and found the intoxicated suspect walking away from the scene. During the subsequent investigation, it was learned the suspect had purchased a bus ticket to another state and had failed to inform his Parole Officer of his intentions. This is a violation of his Parole terms and he was arrested for a felony probation violation and transported to County Jail.

On 11-10-11 (case 11-15421), deputies responded to a report of a verbal fight, and prior to arrival had observed a subject driving away from the scene. The subject was contacted, and during a consent search of his vehicle, was found to be in possession of narcotics without a prescription. During the subsequent investigation, it was learned the suspect had purchased the narcotics in order to assist him with exams. He was arrested for a felony possession of narcotics, transported and booked into County Jail.

On 11-18-11 (case 11-14862), deputies responded to a report of a fight involving a couple inside a vehicle. During the incident, the male suspect grabbed the arm of the female victim, causing visible injury, and also grabbed her hair, before she was able to escape the vehicle and hide inside a City restroom. The suspect fled the area in the vehicle, but was later stopped by deputies, arrested for felony domestic violence, and transported to County Jail.

On 11-19-11 (case 11-14944), a subject was arrested at an event at the Vets Hall, after he attacked and physically attempted to try and stop deputies from arresting his brother.

The two suspects had been drinking at the event and were contacted by deputies working a security detail, who wanted them to leave the wedding reception. While one suspect was being walked outside, the other suspect attempted to physically force deputies to release his brother, by grabbing their arms and pulling them away from the suspect. A mob scene ensued and other deputies were called to assist with entering the building and shutting down the party, after party goers closed all of the doors to the building. After order was restored the two suspects were eventually arrested, transported, and booked into County Jail; one for felony lynching and the other for public intoxication.

On 11-26-11 (case 11-15185), deputies responded to a residence to a report of a fight and vandalism. The victim was contacted at his driveway and stated he and his son has been in an argument over the son's intoxicated condition after returning from a party. The victim said his son became very angry about his questioning and went inside the garage, where he proceeded to kick at the rear tail light of the father's vehicle, and then throw something at the rear window, shattering and breaking it. The suspect was found inside the garage and upon questioning by deputies, accused his father of abandonment and neglect. After further investigation, the suspect was arrested for felony vandalism, transported and booked into County Jail. Damage to the vehicle was estimated to be over \$1400.

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## Monthly Activity Report for November

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This is the November end of the month report from the Solvang Community Resource Deputy. It highlights all the activities, meetings, and presentations by the Community Resource Deputy for the month of November.

### **MEETINGS:**

On November 1, I attended a City staff meeting and met with SYHS School staff regarding the upcoming Homecoming parade.

On November 4, I met with Buellton Rec Director Kyle Abello and Jack Mochnick, regarding a possible collaboration of a new RATS Basketball program for kids.

On November 7, I attended and chaired a SY Valley Salvation Army meeting regarding our upcoming Kettle Drive.

On November 8, I met with Tim Keaty regarding the Viking Cup and future events in 2012.

On November 14, I attended a City Council meeting.

On November 15, I attended a City staff meeting.

On November 17, I attended a CERT training meeting with City staff, and allied agencies.

On November 19, I met with Lt McCammon regarding the previous weekend's security detail and event at the Vets Hall. The incident resulted in the event being shut down early, due to a near mob scene, and other law enforcement being called in to assist.

On November 29, I met with Sheila Benedict from the Santa Ines Mission, regarding the upcoming Julefest parade and any conflicting events at the Mission. I also met with Valerie Moya, Union Bank manager, regarding road closures during the parade.

On November 30, I met with Shannon Hazard from SCVB, regarding the upcoming Julefest parade.

### **PRESENTATIONS:**

On November 14, I did a power point presentation on Fraud and Identity Theft at the Atterdag Village. About 25 persons attended the presentation.

## **ACTIVITIES:**

On November 4, I coordinated and worked a traffic detail for the SYHS Homecoming parade. The parade went well and no problems to report.

On November 5, I coordinated and worked a traffic detail for the Prelude Bike ride. About 1,500 persons attended the event and no problems to report. I also assisted with this year's Viking Cup boxing event at the Vets Hall, and RATS funds paid for the doctor and ring rental for the event, which was attended by about 250 persons.

On November 9, I set up the advanced warning message sign at the newly installed Stop sign location on Alamo Pintado and Old Mission Drive. I later assisted County Fire with traffic control duties during the fire at The Touch restaurant.

On November 10, I worked and monitored a traffic detail for the funeral of Mike Quiroga, at the Santa Ines Mission.

On November 12, I worked a traffic detail at the Santa Barbara Marathon in Goleta.

On November 15, I met with staff from the Adventures Out West Company regarding the proposed Segway Tour and possible routes in Solvang.

On November 22, I met with Tory Babcock and Jen Rasmussen, SYHS teacher Coordinators, and finalized the Kettle Drive sign up list.

On November 25 and 25, I monitored and worked the first weekend of the SYV Kettle Drive. The weekend's fundraising efforts were a little down from the previous years' weekend totals.

On November 28, I met with Kathi LeGault, Buellton CRD, and Kathy Wollin, SYV Salvation Army Treasurer, to count the money from the weekend's Kettle Drive.

On November 29, I worked the MDA Lock up fundraising event.

## CITY OF SOLVANG STATISTICS 2011

ACTIVITY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD Total
Log Entries	461	323	432	486	387	405	433	393	428	282	352		4382
OAI Reports	51	37	59	63	41	42	52	51	46	43	55		540
Trfc Invest.	9	7	9	8	5	8	11	6	8	6	5		82
Coroner	0	0	1	1	0	3	1	0	0	1	1		8
Burglaries	4	2	0	3	2	1	1	5	1	3	2		24
Attempts	0	0	0	0	0	1	0	0	0	0	2		3
Residential	1	0	0	0	0	0	0	1	0	0	0		2
Vehicle	0	0	0	0	0	0	1	0	0	0	0		1
Commercial	3	2	0	2	0	2	0	3	1	3	2		18
Other	0	0	0	1	2	0	0	1	0	0	0		4
Felonies	4	3	10	2	2	1	0	1	4	4	3		34
Murder	0	0	0	0	0	0	0	0	0	0	0		0
Rape	0	0	0	0	0	0	0	0	0	0	0		0
Robbery	0	0	0	0	0	0	0	0	0	0	0		0
Assault	2	1	6	1	0	1	0	0	1	0	2		14
Grand Theft	1	2	2	0	2	0	0	1	1	0	0		9
Auto Theft	0	0	1	1	0	0	0	0	2	1	0		5
Other	1	0	1	0	0	0	0	0	0	3	1		6
Misd./Thefts	6	3	2	2	4	1	8	1	3	0	3		33
Arrests	18	5	14	16	9	5	10	5	9	9	14		114
Misd.	12	2	8	10	7	4	9	3	7	6	8		76
Felony	6	3	6	6	2	1	1	2	2	3	6		38
DUI	2	2	3	4	3	1	3	0	1	4	1		24
Public Intox.	2	1	0	1	1	2	2	2	4	1	2		18
Narcotic	2	2	1	1	1	1	0	1	0	0	1		10
Citations	41	37	23	57	11	18	25	23	29	14	21		299
Moving	30	17	14	43	6	10	12	10	18	6	5		171
Equipment	6	10	3	3	1	6	4	2	3	3	4		45
Other	5	10	6	11	5	2	5	11	8	5	12		80
Parking	12	6	9	1	1	1	4	5	7	2	3		51
Viborg Rd.	4	5	0	8	0	1	1	1	5	2	0		27
Skate Park	0	0	0	2	0	0	0	1	0	0	0		3

## CITY OF SOLVANG STATISTICS 2010

ACTIVITY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD Total
Log Entries	573	494	478	478	495	560	550	529	477	421	330	423	5808
OAI Reports	53	64	51	38	43	43	55	52	44	47	36	40	566
Trfc Invest.	1	1	2	1	3	7	2	4	4	5	2	2	34
Coroner	0	1	0	0	2	1	1	1	0	0	1	0	7
Burglaries	2	2	3	4	1	1	3	2	0	3	6	3	30
Attempts	0	0	0	0	0	0	0	0	0	0	1	0	1
Residential	0	0	1	1	1	0	2	0	0	3	1	1	10
Vehicle	0	1	0	0	0	0	0	1	0	0	3	1	6
Commercial	2	1	2	3	0	1	1	1	0	0	2	1	14
Other	0	0	0	0	0	0	0	0	0	0	0	0	0
Felonies	3	4	2	2	3	1	2	5	2	3	2	5	34
Murder	0	0	0	0	0	0	0	0	0	0	0	0	1att/0
Rape	0	0	1	0	0	0	0	0	0	0	0	0	1
Robbery	0	0	0	1	0	0	0	0	0	0	0	0	1
Assault	0	3	1	0	0	0	0	2	1	0	1	0	8
Grand Theft	0	1	0	0	0	0	0	1	1	0	0	0	3
Auto Theft	0	0	0	0	0	0	0	0	0	0	1	1	2
Other	3	0	0	1	3	1	2	2	0	3	0	4	19
Misd./Thefts	4	5	2	1	3	2	0	3	2	4	1	5	32
Arrests	8	21	29	13	7	7	10	13	11	10	5	11	145
Misd.	8	18	21	11	5	5	8	9	10	7	4	7	113
Felony	0	3	8	2	2	2	2	4	1	3	1	4	32
DUI	2	3	2	3	2	0	1	3	2	2	3	2	25
Public Intox.	3	3	1	5	1	1	1	3	4	4	1	1	28
Narcotic	1	2	5	2	1	0	1	1	1	2	0	1	17
Citations	75	55	85	82	79	123	53	66	54	53	25	21	771
Moving	49	32	59	54	36	70	28	34	31	32	10	11	446
Equipment	13	6	11	11	10	7	8	11	9	7	3	1	97
Other	11	9	8	4	8	9	8	10	8	7	3	4	89
Parking	2	8	7	13	15	37	9	11	6	7	9	5	129
Viborg Rd.	5	4	2	2	3	3	1	3	4	5	1	0	33
Skate Park	0	0	0	0	0	0	0	0	0	2	0	1	3



Agenda Item 5c  
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**CITY COUNCIL  
STAFF REPORT/CONSENT AGENDA**

**TO:** SOLVANG CITY COUNCIL MEMBERS

**FROM:** Matt van der Linden, Public Works Director/City Engineer

**MEETING DATE:** January 9, 2012

**DATE PREPARED:** December 27, 2011

**SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT  
FUNDING CONTRACTS WITH THE COUNTY OF  
SANTA BARBARA**

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**I. RECOMMENDATION:**

1. Approve the project funding contracts with the County of Santa Barbara to provide Community Development Block Grant (CDBG) funding for the City of Solvang's proposed CDBG Accessibility Improvements, and
2. Authorize the City Manager to execute the current and future contracts, and other funding related documents as may be required, upon approval as to form by the City Attorney.

**II. DISCUSSION:**

Several years ago, under the guidance of the County of Santa Barbara, the Cities of Buellton, Carpinteria, Lompoc, and Solvang formed a partnership with the County for the purpose of becoming eligible to receive CDBG grant funding. The partnership is known as the Santa Barbara Urban County Partners. Under this partnership, the County of Santa Barbara administers the Federal CDBG grant funding.

Approvals: City Manager \_BSV\_ Finance Director \_\_\_\_\_ City Attorney \_RAH\_

In January of 2010 the City of Solvang submitted an application to the County, and was approved for CDBG grant funding for ADA accessibility improvements as indicated in the table below.

<b>Project Location</b>	<b>Phase</b>	<b>CDBG Funding Amount (\$)</b>
City Hall	1	\$10,000
Annex Building	1	\$26,000
Veteran's Memorial Building	2	\$54,000
<b>Total:</b>		<b>\$90,000</b>

The County of Santa Barbara is also responsible for the federally required environmental review or NEPA processing for projects. The NEPA processing for the City Hall project and Annex Building project has been completed. However, at the County's discretion the NEPA processing for the Veteran's Memorial Building was put on a separate schedule from the City Hall and Annex Building. Therefore, two separate (but nearly identical) contracts will be required for implementation of the accessibility improvements, and the work must be split into two phases as shown above.

The County is currently working on the NEPA processing for the Veteran's Memorial Building. Once this is completed in the next few months the second funding contract will be forwarded to the City for execution. The City of Solvang must approve the funding contracts with the County to be eligible to receive the CDBG grant funding. Therefore, staff recommends City Council approval of the attached current County funding contract as well as the second funding contract. Since the second funding contract is expected to be nearly identical to the current contract, staff also recommends City Council advance approval of that contract at this time. Should the second contract be materially different from the current contract, staff will return to City Council for separate approval.

### **III. ALTERNATIVES:**

The City Council could choose to decline CDBG grant funding by not approving the County funding contracts, and either cancel the proposed accessibility improvement projects or identify an alternative funding source for these projects. Should the Council choose alternative funding, the projects can be handled without being bid as prevailing wage projects. It is estimated that a savings of approximately 10% would be experienced if the projects are not handled as prevailing wage projects.

### **IV. FISCAL IMPACT:**

Funding of \$90,000 for the CDBG Accessibility Improvements is approved in the City's Fiscal Year 2011-12 Budget in Account No. 01-1600-200-0701. The City

of Solvang must approve the funding contracts with the County to be eligible to receive the CDBG grant funding.

**V. ATTACHMENTS:**

A. CDBG Funding Contract (1 of 2)

**CDBG FUNDING CONTRACT  
(\$36,000)**

Between

**County of Santa Barbara**

and

**City of Solvang**



**City Hall and Annex ADA Accessibility  
Improvements**

Community Development Block Grant

Catalog of Federal Domestic Assistance Number 14.218

## CDBG Funding Contract

For

### City Hall and Annex ADA Accessibility Improvements

This contract ("Contract") is entered into on \_\_\_\_\_ 2012, by and between the County of Santa Barbara (hereinafter "COUNTY"); and

#### City of Solvang

(hereinafter "SUBRECIPIENT") for the use of 2010 Community Development Block Grant entitlement funds which COUNTY has received pursuant to the authority of Title I of the Federal Housing and Community Development Act of 1974 (42 U.S.C. Sections 5301 et. seq.), as amended from time to time, and the regulations promulgated thereunder (24 CFR Sections 570 et. seq.).

COUNTY and SUBRECIPIENT agree as follows:

#### 1. STATEMENT OF WORK AND REPORTING

- A. SUBRECIPIENT agrees to conduct the project described in the Statement of Work attached hereto as Exhibit A, and incorporated by this reference, sometimes hereinafter referred to as the "Project". All expenditures under this Contract shall be consistent with the budget attached hereto as Exhibit B and incorporated by this reference ("Project Budget") which identifies the eligible items on which the CDBG grant proceeds may be spent.
- B. The Grant will be used by SUBRECIPIENT for the construction of ADA accessibility improvements to the City of Solvang Annex Building ("Project") located at 411 Second Street, and the City Hall building, 1644 Oak Street, in the City of Solvang, County of Santa Barbara.
- C. Minor program changes to the Statement of Work that do not impact the Project Budget may be made upon prior written approval by the Director of the Community Services Department of COUNTY. In carrying out the Project, SUBRECIPIENT agrees that the objectives of the Project are those stated and set out in the Statement of Work.
- D. COUNTY and SUBRECIPIENT recognize and agree that the under 24 CFR Section 570.208(a)(2)(D)(2) costs for the removal of existing architectural barriers to accessibility are eligible and are presumed to the Low/Moderate Income Limited Clientele criteria for CDBG funding.
- E. SUBRECIPIENT'S procurement practices shall be approved in writing by HCD, including implementation practices soliciting Disadvantaged, Minority and Women

Business, and Section 3 Business Concerns, attached as Exhibit C, and in compliance with all applicable CDBG requirements.

- F. Contract administration necessary for the tasks set forth in the Project Statement of Work shall be in compliance with specific CDBG regulations including those Federal Terms and Conditions attached in Exhibit D as applicable.
- G. SUBRECIPIENT shall insure compliance with, enforcement of, and retention of records and documentation associated with all applicable federal and state labor standard requirements, including the addition in all subcontracts of the Federal Labor Standards Provisions attached as Exhibit E, Project certified payrolls, and interviewing of contracted employees.
- H. SUBRECIPIENT shall submit invoices and supporting documentation for Project expenses to COUNTY for use as documentation for compliance with CDBG funding requirements of the Project.

## 2. EFFECTIVE DATE OF CONTRACT – TERM

The term of this Contract shall be from the date fully executed by all parties and shall terminate on **July 31, 2012**, unless sooner terminated as provided herein, and further provided that the term of this Contract may be extended as provided for herein. All work to be performed hereunder shall be completed by the termination date.

## 3. DISBURSEMENT OF FUNDS

Subject to the terms and conditions contained in this Contract, COUNTY agrees to provide CDBG grant funds to SUBRECIPIENT in an amount not to exceed the sum of Thirty-Six Thousand Dollars (\$36,000) (the "Grant" or "Grant Funds").

- A. Notwithstanding the above, SUBRECIPIENT hereby acknowledges that COUNTY's obligation to fund the work hereunder is limited to the availability of CDBG Funds from HUD. If the CDBG Funds are not forthcoming from HUD for any reason, COUNTY shall have no obligation to provide funds under this Contract and COUNTY shall have no obligation to fund the work through any other funding source.
- B. Payments under this Contract shall be made on a reimbursement basis. SUBRECIPIENT must submit to COUNTY an Expenditure Summary and Payment Request (ESPR) in the form of Exhibit F which sets forth the amounts actually expended by the SUBRECIPIENT for the Project provided that said expenses are included in the Budget. The ESPR shall, at a minimum, set forth each budget category for which reimbursement is requested, a description of the expense, the total budgeted amount for the category, the amount requested to be reimbursed for each budget category, and the total amount expended for each budget category to date. The ESPR shall be accompanied by supporting documentation, including but not limited to payroll reports or paid receipts for each

expense. All necessary permits for work to be performed shall be submitted with the initial ESPR. The final inspection verifying completed work shall be submitted with final ESPR for each property. To the extent that the CDBG Funds actually have been received from HUD, COUNTY shall pay SUBRECIPIENT for all expenses stated on the invoice which are approved by COUNTY pursuant to this Contract no later than the thirtieth day after the invoice is received.

- C. SUBRECIPIENT shall indemnify and hold COUNTY harmless from any liability or damage resulting from any failure to make, or delay in making payments.
- D. No payments shall be made if SUBRECIPIENT is in default under this Contract or has not submitted proof of insurance as required in Section 11 below.

#### 4. SUBRECIPIENT RECORDS

The SUBRECIPIENT shall keep accurate written records of all expenses incurred by it and of monies received by it and of any studies, statistics and reports made or issued by SUBRECIPIENT in conducting the Project. The SUBRECIPIENT shall also keep accurate written minutes of all meetings of the City Council or Committees of SUBRECIPIENT that relate to this project and shall keep accurate employment records, correspondence records and other records necessary to enable COUNTY to review SUBRECIPIENT's operations during the conduct of the Project. In addition, SUBRECIPIENT shall maintain all such records as may be required to be kept pursuant to the terms of the Housing and Community Development Act or regulations adopted pursuant thereto, and such records and documents as may be necessary to enable COUNTY to prepare and submit such audits, assurances, reports and certificates as may be required of COUNTY under such act or such regulations. In particular SUBRECIPIENT shall keep all such records and documents as may be necessary to enable COUNTY and/or the Federal Government to determine whether or not the funds to be allocated pursuant to the terms of this Contract have been or are being used in compliance with the provisions of the HCD Act and regulations adopted thereunder. At COUNTY'S request, SUBRECIPIENT shall furnish COUNTY with a copy of any record maintained by SUBRECIPIENT pursuant to the terms of this Contract. SUBRECIPIENT shall maintain all such records for at least five (5) years after the date on which this Contract terminates.

#### 5. AUDIT REQUIREMENTS

COUNTY shall have the right to audit and review all records maintained by SUBRECIPIENT pursuant to the terms of this Contract. Any such audit and review may be conducted at any time during regular business hours. SUBRECIPIENT is responsible for obtaining an audit in accordance with the Single Audit Act of 1996 (31 U.S.C. 7501-7) and Federal agency implementing regulations. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

#### 6. STATEMENT OF WORK AND PROJECT BUDGET – BUDGET ACCOUNTABILITY

SUBRECIPIENT shall not obligate or expend grant funds for purposes other than those shown in the

Project Budget and Statement of Work.

7. REIMBURSEMENT OF IMPROPER EXPENDITURES

If at any time within applicable statutory periods of limitation it is determined by COUNTY, by the United States Secretary of the Treasury or by any other agency or persons having jurisdiction, that funds provided for under the terms of this Contract have been used by or on behalf of the SUBRECIPIENT in a manner or for a purpose not authorized or prohibited by said Act or regulations adopted pursuant thereto SUBRECIPIENT shall, at COUNTY'S request, pay to COUNTY an amount equal to one hundred percent (100%) of any amount expended in violation of said Act or said regulations. SUBRECIPIENT shall also reimburse County one hundred percent (100%) of any grant funds that SUBRECIPIENT spends for any services or goods that are not in the Statement of Work and Budget.

8. PROGRAM INCOME

Any program income received by the SUBRECIPIENT, such as interest earned on funds held in a revolving fund account, shall be paid to the COUNTY. This applies to any program income received during the Contract period, on hand when the agreement expires, or received after the Contract expires.

9. COMPLIANCE WITH LAWS AND REGULATIONS

SUBRECIPIENT agrees that it shall comply with all the provisions of the Housing and Community Development Act of 1974 and all rules and regulations adopted pursuant thereto, and with all other local, state and federal laws and regulations applicable to the Project. In particular, the SUBRECIPIENT shall comply with the requirements and standards of the following:

- A. OMB Circular No. A-87 "Cost Principles for State, Local, and Indian Tribal Governments" including all attachments thereto as applicable;
- B. OMB Circular A-128, "Audits of State and Local Governments" and
- C. The following section of 24 CFR part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" or the related CDBG provisions as specified in this paragraph:
  - i. Section 85.3, "Definitions";
  - ii. Section 85.6, "Exceptions";
  - iii. Section 85.12 "Special grant or subgrant conditions for 'high-risk' grantees";
  - iv. Section 85.20, "Standards for financial management systems," except paragraph (a)";
  - v. Section 85.21, "Payment," except as modified by §570.513
  - vi. Section 85.22, "Allowable costs";
  - vii. Section 85.26, "Non-federal audits";
  - viii. Section 85.32, "Equipment," except in all cases in which the equipment is sold, the proceeds shall be program income;
  - ix. Section 85.33, "Supplies";

- x. Section 85.34, "Copyrights";
- xi. Section 85.35, "Subawards to debarred and suspended parties";
- xii. Section 85.36, "Procurement," except paragraphs (a);
- xiii. Section 85.37, "Subgrants";
- xiv. Section 85.40, "Monitoring and reporting program performance," except paragraphs (b) through (d) and paragraph (f);
- xv. Section 85.41, "Financial reporting", except paragraphs (a), (b), and (e);
- xvi. Section 85.42, "Retention and access requirements for records," except that the period shall be four years;
- xvii. Section 85.43, "Enforcement";
- xviii. Section 85.44, "Termination for convenience";
- xix. Section 85.51, "Later disallowances and adjustments" and
- xx. Section 85.52, "Collections of amounts due."

D. All federal laws and regulations described in Subpart K of Part 570 of the CDBG regulations, including all affirmative action requirements set forth therein conditions for religious organizations 570.503; displacement, relocation, acquisition, and replacement of housing 570.606; national flood insurance program 570.605; lead based paint 570.608; affirmatively furthering fair housing 570.601, but excluding the COUNTY'S environmental responsibilities under 24 CFR Section 570.604 and the COUNTY'S responsibility for initiating the review process under 24 CFR Part 52.

E. SUBRECIPIENT shall obtain and maintain any and all licenses and permits necessary to conduct the project and to maintain the facilities and render the services proposed to be maintained or rendered in connection with the project.

F. SUBRECIPIENT shall not, on the grounds of race, color, national origin, sex, religion, age or handicap when otherwise qualified:

- (1) Deny any service or other benefit provided under the program;
- (2) Provide any service or other benefit which is different, or is provided in a different form from that provided to others under the program;
- (3) Subject to segregated or separate treatment in any facility in, or in any way or process related to receipt of any service or benefit under the program;
- (4) Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving any services or benefit under the program;
- (5) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, eligibility, membership, or other requirements or condition which individuals must benefit provided under the program;
- (6) Deny an opportunity to participate in the program as an employee.

G. SUBRECIPIENT shall not engage in any religious instructions nor use any part of the Grant Funds to purchase any religious books, materials or equipment or other property, or to share the salary of any person who participates in any such religious instruction, nor shall funds be used for any other religious or sectarian purpose whatsoever.

- H. SUBRECIPIENT shall not pay any bonus, commission, or fee for the purpose of obtaining approval of this agreement, or any other approval or concurrence requirement by COUNTY or its designee to complete the work financed in whole or in part with the proceeds of this Contract.
- I. SUBRECIPIENT understands and agrees that labor standards requirements under the Davis-Bacon Act apply to work performed under this Contract.

10. EQUAL EMPLOYMENT OPPORTUNITY

- A. SUBRECIPIENT hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60 which is paid for in whole or in part with funds obtained from COUNTY, the following equal opportunity clause:

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation or national origin. The Contractor will take affirmative action to insure that applicants are employed, without regard to race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the municipality setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation or national origin.

(3) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(4) The Contractor will cause the foregoing provisions to be inserted in all subcontract for work covered by this Contract so that such provision will be binding upon each subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

- B. Agreement Subject to Provisions of 24 CFR 135. The SUBRECIPIENT and its subcontractors shall be responsible for complying with the provisions of 24 CFR, Part 135 "...Employment

opportunities for business and lower income persons in connection with assisted projects", a copy of which is on file with the COUNTY which will be duplicated for SUBRECIPIENT upon request. The SUBRECIPIENT will also ensure that provisions of 24 CFR, Part 135, are included in all subcontracts.

- C. Enforcement Obligations of SUBRECIPIENT. SUBRECIPIENT further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work.

SUBRECIPIENT agrees that it will assist and cooperate actively with COUNTY and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the Secretary of Labor such information as they may require for the supervision of such compliance and that it will otherwise assist the Secretary in the discharge of the Secretary's primary responsibility for securing compliance.

SUBRECIPIENT further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with a Contractor debarred from, or who has not demonstrated eligibility for government contracts and federally assisted construction contracts pursuant to Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the Secretary of Housing and Urban Development or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Contractor agrees that if it fails or refuses to comply with these undertakings, the COUNTY may take any or all of the following actions: cancel, terminate or suspend in whole or in part this agreement; refrain from extending any further assistance to Contractor under the PROGRAM with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from Contractor, and refer the cause to the Department of Justice for appropriate legal proceedings.

## 11. INDEMNITY AND INSURANCE

Borrower shall agree to the indemnity and insurance provisions as set forth in Exhibit G attached hereto and incorporated herein by reference.

No officials, employees and agents of the COUNTY shall be personally liable to SUBRECIPIENT for any obligation created under the terms of this Contract.

## 12. ENFORCEMENT OF CONTRACT

- A. In the event of any dispute arising under this Contract, the injured party shall notify the injuring party in writing of its contentions by submitting a claim therefor. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to correct such default within ten (10) days of service of such notice and completes the correction of such default within thirty (30) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Notwithstanding the foregoing, the COUNTY may suspend any further

payment of CDBG Funds until the SUBRECIPIENT is in compliance with this Contract. Compliance with the provisions of this Section shall be a condition precedent to termination of this Contract for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not resolved.

B. In addition to any other rights or remedies available at law or in equity, if the SUBRECIPIENT fails to fulfill its obligations under this Contract, the COUNTY may, after compliance with the provisions of the previous paragraph:

- (1) Temporarily withhold payment of Grant Funds pending correction of the default by the SUBRECIPIENT;
- (2) Refuse to advance all or any part of the Grant Funds for the Project and reallocate said funds to another activity;
- (3) Wholly or partially suspend or terminate the award and this Contract;
- (4) Withhold further awards for the Project and/or the Facility; and
- (5) Require SUBRECIPIENT to repay any Grant Funds that the COUNTY determines were not expended in compliance with the requirements of this Contract, the Act of the Regulations.

### 13. ASSIGNMENT

SUBRECIPIENT shall not assign this Contract or any part thereof or any monies payable hereunder without the prior approval of the COUNTY.

### 14. POLITICAL ACTIVITY

SUBRECIPIENT certifies that to the best of its knowledge and belief no Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, SUBRECIPIENT agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

### 15. DRUG FREE WORKPLACE POLICY

SUBRECIPIENT agrees to provide a drug-free workplace in accordance with the COUNTY of Santa Maria's Drug Free Workplace Policy as follows:

- A. SUBRECIPIENT will publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the SUBRECIPIENT'S workplace and will specify the actions that will be taken against employees for violation of such prohibition.
- B. SUBRECIPIENT will establish an ongoing drug-free awareness program to inform employees about:
  - (1) The dangers of drug abuse in the workplace;
  - (2) The SUBRECIPIENT'S policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- C. SUBRECIPIENT will require that each employee to be engaged in the performance of the grant be given a copy of the statement specified in paragraph A;
- D. SUBRECIPIENT will notify the employee that, as a condition of employment under the grant, the employee will:
  - (1) Abide by the terms of the statement specified in paragraph A; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- E. SUBRECIPIENT will notify the COUNTY in writing, within ten calendar days after receiving notice under paragraph D from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice to every grant officer or other designee on whose grant activity the convicted employee was working.
- F. SUBRECIPIENT will take one of the following actions, within 30 calendar days of receiving notice under paragraph D, with respect to any employee who is so convicted:
  - (1) Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency.
- G. SUBRECIPIENT agrees to make a good faith effort to maintain a drug-free workplace through implementation of paragraphs A, B, C, D, E, and F.

## 16. CONFLICT OF INTEREST

The SUBRECIPIENT shall comply with the conflict of interest provisions in the "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," 24 CFR Part 85.36, and OMB Circular A-110. The SUBRECIPIENT shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the SUBRECIPIENT shall participate in selection, or in the award or administration of a contract supported by Federal CDBG Funds if a conflict of interest, real or apparent, would be involved. SUBRECIPIENT agrees and represents that no member of or Delegate to the Congress of the United States, and no resident Commissioner, shall be admitted to share any or part of the proceeds of this agreement, or to any benefit to arise from the same.

## 17. COUNTY'S RIGHT TO SUSPEND OR TERMINATE CONTRACT

COUNTY shall have the right to suspend or terminate this Contract or any extension thereof immediately if COUNTY determines that SUBRECIPIENT has incurred obligations or made expenditures for purposes which are not permitted or are prohibited under the terms of the Project or of this Contract. COUNTY shall also have the right to suspend or terminate this Contract or any extension thereof immediately if COUNTY determines that the SUBRECIPIENT is conducting the project in violation of any of the terms of this Contract, or has filed a petition in bankruptcy, of for receivership or reorganization or has filed any other petition under the Bankruptcy Act (11 USCA § et. seq.) or has taken or committed any act preparatory to the filing of any such petition or has become or is insolvent or has committed any other act of bankruptcy or insolvency. In any event, COUNTY shall have the right to suspend or terminate this Contract or any extension thereof at any time, with or without cause, by giving SUBRECIPIENT thirty (30) days prior written notice of COUNTY'S intent to suspend or terminate this Contract; provided, that upon such suspension or termination, COUNTY shall pay all obligations incurred by SUBRECIPIENT prior to the date of such suspension or termination which are authorized under the terms of the project and of this Contract. This Contract may also be suspended or terminated when the COUNTY and SUBRECIPIENT mutually agree to terminate the agreement in whole or in part. Also, this Contract may be terminated for convenience as provided in 24 CFR Section 85.44.

## 18. REVERSION OF ASSETS

Upon termination of this Contract, the SUBRECIPIENT shall transfer to the COUNTY any Grant Funds on hand at the time of termination and any accounts receivable that are attributable to the use of Grant Funds. Any real property under the SUBRECIPIENT'S control that was acquired or improved in whole or in part with Grant Funds in excess of \$25,000 must be either:

- a. used to meet one of the national objectives specified in Section 570.208 of the CDBG regulations until five years after expiration of this Contract, or for such longer period of time as determined to be appropriate by the COUNTY; or
- b. disposed of in a manner that results in the COUNTY being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditure of non-CDBG funds for acquisition of, or

improvement to, the property. Reimbursement is not required after the period of time specified in paragraph a. of this section.

- c. This Section 18 shall survive expiration or termination of this Contract as set forth above.

19. AMENDMENT PROCEDURE

Any programmatic changes such as revisions to the Statement of Work, revisions to the Budget, or extension of the effective term of the Contract must receive prior written approval by the COUNTY. A request for prior approval of an amendment must be made in writing by the SUBRECIPIENT. Such request must be accompanied by a narrative justification for the proposed revision. The COUNTY will promptly review such request and shall approve or disapprove the request in writing. The COUNTY will not approve any project or budget revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the COUNTY.

21. CONTRACT BINDING ON SUCCESSORS

The conditions of this Contract and the respective rights and obligations of the parties hereunder shall be binding upon the heirs, assigns and successors in interest of each of the parties.

**ATTEST:**

CHANDRA L. WALLER  
Clerk of the Board

By: \_\_\_\_\_  
Deputy Clerk of the Board

**APPROVED AS TO FORM:**

BOB GEIS, AUDITOR CONTROLLER

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

DENNIS MARSHALL  
COUNTY COUNSEL

By: \_\_\_\_\_  
Deputy County Counsel

**COUNTY:**

County of Santa Barbara,  
a political subdivision of the State of  
California

By: \_\_\_\_\_  
Joni Gray, Chair  
Board of Supervisors

**SUBRECIPIENT,**

By: City of Solvang

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

RISK MANAGEMENT

By: \_\_\_\_\_  
Ray Aromatorio, Risk Program Manager

**Exhibit A**  
**Statement of Work**

**1. Project Description**

The City of Solvang CDBG Accessibility Project, PW 006, for Fiscal Years 2010-2012 includes design and construction of accessibility improvements at two City facilities: 1) the Solvang City Hall Building, and 2) the Solvang Annex Building. The City of Solvang will execute a Design-Build Agreement with a licensed contractor of the City's choosing to perform the scope of work proposed at each facility, further described as follows.

Solvang City Hall Building, 1644 Oak Street

The work will include removal of existing exterior doors at the main entrance to City Hall, modification of existing door framing as needed, installation of new ADA accessible standard size automatic double doors, installation of hands-free push-button door openers at or near the entrance interior and exterior, electrical work, and appurtenant work as required for complete installation.

Solvang Annex Building, 411 Second Street

The work will include removal of existing exterior doors at the main entrance to the Annex, modification of existing door framing as needed, installation of new ADA accessible standard size automatic double doors, installation of hands-free push-button door openers at or near the entrance interior and exterior, electrical work, and appurtenant work as required for complete installation.

The work at the Annex will also include removal of the existing non-compliant front desk/public counter at the Parks & Recreation Department, installation of ADA compliant wheelchair accessible front desk/public counter, and related interior modifications, such as removal of conflicting interior closet doors, electrical work, flooring work, and appurtenant work as necessary to complete installation of the new front desk/public counter.

**2. Schedule:**

<b>Item No.</b>	<b>Description</b>	<b>Date</b>
1	Receive Final Agreement from Santa Barbara County ready for Solvang execution.	12-31-2011
2	Solvang City Council executes Agreement.	1-23-2012
3	Award Design-Build Agreement.	2-13-2012
4	Begin design phase.	2-27-2012
5	Begin construction phase.	4-23-2012
6	Complete construction.	6-1-2012
7	Project close-out.	7-31-2012

Note: Schedule is contingent upon timely receipt of Final Agreement from Santa Barbara County.

**3. Budget:**

See attached Exhibit B.

**4. Outcome Measures:**

Project outcomes include but are not limited to the following:

- Installation of new ADA accessible automatic double doors, and hands-free push-button door openers at the Solvang City Hall and Annex Building;
- Installation of ADA compliant wheelchair accessible front desk/public counter at the Parks & Recreation Department; and
- Beautification improvements at the City Hall and Annex Building that are utilized extensively by the community.

EXHIBIT B  
PROJECT BUDGET

**The City of Solvang CDBG Accessibility Project, PW 006 (City Hall & City Annex)  
for Fiscal Years 2010-2012**

1	Preliminary Engineering	*	
2	Design & Construction	\$ 36,000.00	100%
3	Construction Mgmt & Inspection	*	
<b>Total Contract</b>		<u>\$ 36,000.00</u>	

Notes: The City of Solvang will enter into a Design-Build Agreement with a licensed contractor of the City's choosing to perform the work described in Exhibit A. The County will reimburse the City of Solvang for payments to said contractor in an amount not to exceed \$36,000.

\* Indicates work to be performed by City of Solvang forces at City's own cost.

## EXHIBIT C

### D/MBE/WBE Implementation Guidelines

The following information, as applicable, shall be retained by Contractor and produced upon request by General Services if determined by General Services to be necessary to establish the bidder's "good faith efforts" to meet the Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) requirements.

1. The names and dates of advertisement of each newspaper, trade paper, and minority-focus paper in which a request for D/M/WBE participation for this project was placed by the bidder.
2. The names and dates of notices of all certified D/M/WBEs solicited by direct mail for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the D/M/WBEs were interested.
3. The items of work for which the bidder requested subbids or materials to be supplied by D/M/WBEs, the information furnished interested D/M/WBEs in the way of plans, specifications and requirements for the work, and any breakdown of items of work into economically feasible units to facilitate D/M/WBE participation. Where there are D/M/WBEs available for doing portions of the work normally performed by the bidder with his own forces, the bidder will be expected to make portions of such work available for D/M/WBEs to bid on.
4. The names of D/M/WBEs who submitted bids for any of the work indicated in (3) above, which were not accepted, a summary of the bidder's discussions and/or negotiations with them, the name of the subcontractor or supplier that was selected for that portion of work, and the reasons for the bidder's choice. If the reason for rejecting the D/M/WBE bid was price, give the price bid by the rejected D/M/WBE and the price bid by the selected subcontractor or supplier.
5. Assistance that the bidder has extended to D/M/WBEs identified in (4) above to remedy the deficiency in their subbids.
6. To find a D/M/WBE certified firm, you may call (916) 445-3520, go on-line to: <http://www.dot.ca.gov/hq/bep>, or via mail at: D/M/WBE Listing for Santa Barbara County, CalTrans – Publications Distribution Unit, 1900 Royal Oaks, Sacramento, CA 95815-3800.

### Section 3 Implementation Guidelines

The following information, as applicable, shall be retained by Contractor and produced upon request by General Services if determined by General Services to be necessary to establish the bidder's "good faith efforts" to meet the Section 3 requirements.

7. The names and dates of advertisement of each newspaper, trade paper, and minority-focus paper in which a request for Section 3 business concern participation for this project was placed by the bidder.
8. The names and dates of notices of all certified Section 3 business concerns solicited by direct mail for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the Section 3 business concerns were interested.
9. The items of work for which the bidder requested subbids or materials to be supplied by Section 3 business concerns, the information furnished interested Section 3 business concerns in the way of plans, specifications and requirements for the work, and any breakdown of items of work into economically feasible units to facilitate Section 3 business concerns participation. Where there are Section 3 business concerns available for doing portions of the work normally performed by the bidder with his own forces, the bidder will be expected to make portions of such work available for Section 3 business concerns to bid on.
10. The names of Section 3 business concerns who submitted bids for any of the work indicated in (9) above, which were not accepted, a summary of the bidder's discussions and/or negotiations with them, the name of the subcontractor or supplier that was selected for that portion of work, and the reasons for the bidder's choice. If the reason for rejecting the Section 3 business concern bid was price, give the price bid by the rejected Section 3 business concern and the price bid by the selected subcontractor or supplier.
11. Assistance that the bidder has extended to Section 3 business concern identified in (10) above to remedy the deficiency in their subbids.

### Section 3 Definitions

#### Section 3 covered project:

Projects funded with more than \$200,000 in HUD funds are "Section 3 covered projects". Any contractors with which are contracted for more than \$100,000 on these projects, and any subcontractors with which those contractors contract for more than \$100,000 on these projects, are required to report on all contracts they make both with Section 3 business concerns and with businesses that are not Section 3 business concerns.

#### Section 3 resident:

A Section 3 resident is a Public housing resident or resident of Santa Barbara County (preferably, but not necessarily, of the immediate or extended area served by the HUD funded project) who qualifies as a low-income person. HUD defines a low-income person as one whose household income does not exceed 80% of the median income for the region, with adjustments for family size. Table B-1 states income limits set by HUD for the Santa Barbara region.

Table B-1

HUD REGIONAL FAMILY MEDIAN INCOME LIMITS FOR SANTA BARBARA COUNTY								
Effective for Calendar Year 2010								
The Following are lower income limits adjusted for family size.								
INCOME	Family Size							
	1	2	3	4	5	6	7	8
Lower Income (80% of MFI)	\$41,450	\$47,400	\$53,300	\$59,200	\$63,950	\$68,700	\$73,450	\$78,150

**Section 3 Business Concern:**

Section 3 business concerns are businesses that can provide evidence that they meet one of the following:

1. That is 51 percent or more owned by Section 3 residents; or
2. Whose permanent full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or who are within 3 years of the date of first employment with the business were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to businesses that meet qualifications set forth in conditions (1) or (2) of this paragraph.

## EXHIBIT D

### FEDERAL TERMS AND CONDITIONS

This Project is being assisted by the United States of America. The following Federal provisions must be included into the contract pursuant to the provisions applicable to such Federal assistance. During the performance of the contract, the Contractor must agree to comply with all applicable Federal laws and regulations including but not limited to each of the following:

#### A. Equal Opportunity

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will comply with Executive Order 11246 of September 24, 1965 entitled Equal Employment Opportunity as amended by Executive Order 11375 of October 1967 as supplemented in Department of Labor regulations (41 CFR chapter 60).
2. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County of Santa Barbara setting forth the provisions of this nondiscrimination clause.
3. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The Contractor shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
9. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.
10. Whenever the Contractor or subcontractor has a collective bargaining agreement or other Contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such

workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided*, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

11. The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.
12. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**B. Disadvantaged/Minority/Women Business Enterprise Federal Regulatory Requirements under 24 CFR 85.36(e)**

1. The Contractor will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

- iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

**C. Copeland "Anti-Kickback" Act (18 U.S.C. 874)**

Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

**D. Compliance with Labor Standard Provisions**

Contractor shall comply with all provisions contained in the form HUD-4010, Federal Labor Standards Provisions, attached as **Exhibit C** and incorporated by this reference.

**E. Compliance with Sections 103 and 107 of the Contract Work Hours and safety Standards Act (40 U.S.C. 327-330)**

Contractor will comply with Sections 103 and 107 of the Contract Work Hours and safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). Requires the contracting officer to insert the clauses set forth in 29 CFR part 5, Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

**F. Requirements and Regulations pertaining to Data and Design**

All data and design and engineering work created under this Agreement shall be owned by the County and shall not be subject to copyright protection. The rights to any invention which is developed in the course of this Agreement shall be the property of the County.

**G. Requirements and Regulations Pertaining to Reporting**

The County of Santa Barbara, HUD and the Comptroller General of the United States or any of their duly authorized representatives shall be granted access to any books, documents, papers and records of Contractor which are directly pertinent the contract.

**H. Compliance with Clean Air Act and Clean Water Act.**

1. Contractor shall comply with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)).
2. Contractor shall comply with all applicable standards, orders and requirements issued under Section 508 of the Clean Air Act (33 U.S.C. 1368).
3. Contractor shall comply with Executive Order 11738 and Environmental Protection Agency regulations (40 CFR part 15).

**I. Compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).**

The Contractor shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

## Federal Labor Standards Provisions

U.S. Department of Housing  
and Urban Development  
Office of Labor Relations

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration.... makes, utters or publishes any statement knowing the same to be false.... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Exhibit F  
ESPR

County of Santa Barbara Housing and Community Development  
**EXPENDITURE SUMMARY AND PAYMENT REQUEST (ESPR)**  
 Community Development Block Grant Program

Agency Name \_\_\_\_\_ Date Submitted \_\_\_\_\_  
 Address \_\_\_\_\_ Report Period: \_\_\_\_\_  
 Contact Person \_\_\_\_\_ Request No. \_\_\_\_\_  
 Phone \_\_\_\_\_  
 DUNS # BE SURE TO INCLUDE YOUR DUNS NUMBER \_\_\_\_\_

I. GRANT BUDGET AND EXPENDITURES

Expenditure	TOTAL GRANT BUDGET	TOTAL OF PREVIOUS DRAWDOWNS	REQUESTED DRAWDOWN THIS PERIOD	NEW AVAILABLE BALANCE
	\$ -	\$ -		\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -

**Certification:**

I certify to the best of my knowledge this report is true in all respects and all disbursements have been made for the purpose and conditions of this grant and have not been charged to any other grants.

**Project Manager**

Name \_\_\_\_\_ Title \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_

**Financial Officer**

Name \_\_\_\_\_ Title \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_

**Exhibit G**  
**Standard Indemnification and Insurance Provisions**  
**For Contracts REQUIRING Professional Liability Insurance**

**INDEMNIFICATION**

**Indemnification pertaining to other than Professional Services:**

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

**Indemnification pertaining to Professional Services:**

CONTRACTOR shall indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

**INSURANCE**

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. **Workers' Compensation Insurance:** Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.

2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions [above] of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTORS shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

*"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."*

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Professional Liability Insurance. Professional liability insurance shall include coverage for the activities of CONTRACTOR's professional staff with a combined single limit of not less than \$1,000,000 per occurrence or claim and \$2,000,000 in the aggregate. Said policy or policies shall provide that COUNTY shall be given thirty (30) days written notice prior to cancellation, expiration of the policy, or reduction in coverage. If the policy providing professional liability coverage is a on 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three (3) years (ten years [10] for Construction Defect Claims) following completion of the performance or attempted performance of the provisions of this agreement.

CONTRACTOR shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.

In the event the CONTRACTOR is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Risk Program Administrator is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.



Agenda Item 5d  
Pages 3

**CITY COUNCIL  
STAFF REPORT/CONSENT**

**TO:** SOLVANG CITY COUNCIL MEMBERS

**FROM:** Brad Vidro, City Manager

**MEETING DATE:** January 9, 2012

**DATE PREPARED:** December 28, 2011

**SUBJECT: BUDGET APPROPRIATION REVISION TO FUND VEHICLE  
REPLACEMENT AGREEMENT WITH SANTA BARBARA COUNTY**

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**I. RECOMMENDATION:**

Approve Budget Appropriation Revision.

**II. DISCUSSION:**

The Memorandum of Understanding approved April 2, 2007 with the County of Santa Barbara regarding fire service included a provision that the City would provide to the County the funds that had been set aside in the City's Vehicle Replacement Fund for fire apparatus. The total commitment in the agreement was \$105,000 to be used exclusively for fire engines at the Solvang fire Station. Recently the Santa Barbara County Fire Chief requested that funding from the City to reimburse them for the purchase of Engine 30 housed at the Solvang fire station. A review of the records indicates that the City never provided the funding to the County so staff is recommending a budget appropriation to meet that commitment. The funding has remained in the City's Vehicle Replacement Enterprise Fund 20. If approved the City will pay the County the funding provided for in the Memorandum of Understanding.

**APPROVAL:** City Manager BSV Finance Director JG City Attorney RAH

**III. ALTERNATIVES:**

The City Council could choose not to meet the commitment provided for in the Memorandum of Understanding.

**IV. FISCAL IMPACT:**

The \$105,000 has remained in the Vehicle Replacement Fund. Payment will reduce the amount of that fund by \$105,000. At the end of fiscal year 2010/11 the fund balance was \$930,679.

**V. ATTACHMENT:**

A. Budget Appropriation Revision



Agenda Item 5d

REQUEST FOR BUDGET APPROPRIATION REVISION

Requesting Department	Fund Name – Fund No.
Administration	Vehicle Pool-20

REVENUES

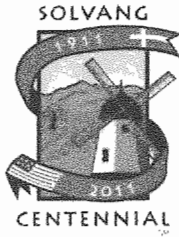
Account Description	Revenue Account No.	Budget		
		Current	Change	Revised
Total		0	0	0

EXPENDITURES

Account Description	Expense Account No.	Budget		
		Current	Change	Revised
Vehicle Replacement	20-1500-0206	\$ -	\$ 105,000.00	\$ 105,000.00
Total		\$ -	\$ 105,000.00	\$ 105,000.00

PURPOSE

Department Head: Date:	Finance Director: Date:
City Manager: Date:	City Council Approval: Date:



Agenda Item 6  
Pages 27

**CITY COUNCIL  
STAFF REPORT**

**TO:** SOLVANG CITY COUNCIL MEMBERS

**FROM:** Arleen T. Pelster, AICP, Director  
Planning & Economic Development

**MEETING DATE:** January 9, 2012

**DATE PREPARED:** December 28, 2011

**SUBJECT: PROFESSIONAL SERVICES AGREEMENT WITH CARNEY  
ASSOCIATES LLC FOR PREPARATION OF AN ECONOMIC  
DEVELOPMENT STRATEGIC PLAN**

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**I. RECOMMENDATION:**

1. Approve Professional Services Agreement with Carney Associates LLC and authorize Mayor to execute upon approval as to form by the City Attorney
2. Approve Budget Appropriation Transfer

**II. BACKGROUND:**

The economic development group, headed by Councilmember Duus, has met monthly. Group discussions have focused on how to assist businesses during the economic downturn, marketing focus, and a variety of potential projects. The group has agreed an Economic Development Strategic Plan is needed to focus its efforts and prioritize projects.

On November 14, 2011, Council authorized the economic development group to continue to meet through December of 2012 in order to assist with preparation of the Economic Development Strategic Plan and participate in its implementation.

Approvals: City Manager \_BSV\_ Finance Director \_JG\_ City Attorney \_RAH\_

### **III. DISCUSSION:**

In November, staff circulated a Request for Proposals (RFP) soliciting professional services of a firm which specializes in preparing economic development strategies. One proposal was submitted in response to the RFP. The firm of Carney Associates LLC proposes to prepare the following work products:

1. A SWOT analysis, which is a strategic planning method used to evaluate the Strengths, Weaknesses/Limitations, Opportunities, and Threats involved in a project. It involves specifying the objective of the project and identifying the internal and external factors that are favorable and unfavorable to achieve that objective.
2. An Economic and Demographic Profile, which can be easily replicated and updated. Staff will provide this information via the City's website and in information packets when recruiting new businesses. The data to be provided is listed in the proposal.
3. Review of Best Practices, which is a review of best economic development practices in similar cities. The City can consider the potential of other successful practices.
4. Identify Regional Resources and Potential Strategic Partners, which will enable the City to identify opportunities to work collaboratively with other entities to assist local business.
5. Prepare an Economic Development Strategic Plan with clearly stated goals, an action plan for implementation, identified roles and responsibilities, and measurements of success.

The personnel performing the work are well qualified and experienced in economic development. The proposed cost of the work is \$9,625.00, and the estimate timeframe to complete the work is one month. This firm would prepare a quality Economic Development Strategic Plan, which will allow Solvang to focus our economic development efforts.

### **IV. ALTERNATIVES:**

Deny award of contract and provide alternate direction to staff.

### **V. FISCAL IMPACT:**

Funds are available for this project in the Planning budget. Staff proposes to transfer \$7,420 from Salaries to Professional Services, which has an available balance of \$2,205.

### **VI. ATTACHMENTS:**

- A. Professional Services Agreement
- B. Appropriation transfer

CITY OF SOLVANG

PROFESSIONAL SERVICES AGREEMENT

This agreement is made upon the date of execution, as set forth below, by and between Carney Associates LLC (“Consultant”), an economic development consulting firm, and the City of Solvang (“City”). The parties hereto, in consideration of the mutual covenants contained herein, hereby agree to the following terms and conditions:

**1.0 GENERAL PROVISIONS**

1.01 **Term:** This agreement will become effective on the date of execution set forth below, and will continue in effect until terminated as provided herein.

1.02 **Services:** Consultant shall perform the tasks described and set forth in **Exhibit A**, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A. Consultant shall determine the method, details and means of performing the above-referenced services.

Consultant may, at their own expense, employ such assistants and subconsultants, as Consultant deems necessary to perform the services required of Consultant by this agreement. However, Consultant may not assign this agreement to any other person or entity in the performance of required project-related services, and the City may not control, direct or supervise Consultant’s assistants or employees in the performance of those services.

1.03 **Standard of Performance:** Consultant’s services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant’s profession currently practicing under similar conditions. Whenever the scope of work requires or permits approval by the City, it is understood to be approval solely for the purposes of conforming to the requirements of the scope of work and not acceptance of any professional or other responsibility for the work. Such approval does not relieve the Consultant of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant or its subcontractors. By delivery of completed work, Consultant certifies that the work conforms to the requirements of this contract and all applicable federal, state and local laws. If Consultant is retained to perform services requiring a license, certification, registration or other similar requirement under California law, Consultant shall maintain that license, certification, registration or other similar requirement throughout the term of this Contract.

1.04 **Compensation:** In consideration for the services to be performed by Consultant, City agrees to pay Consultant monetary consideration for professional economic development planning services in accordance with the rates set forth in **Exhibit B**. The

parties agree that total compensation for fees and costs for the services detailed in Exhibit A shall not exceed the sum of \$9,625.00, unless and until this Agreement is amended as provided herein.

1.05 **Billing/Payment Terms.** All charges for Consultant's services and related reimbursable expenses shall be billed monthly, and all undisputed charges will be paid by City within 30 (thirty) days of receipt. The bills will itemize by date all services and expenses provided for the invoice period under this Agreement including a brief description of the nature of work performed, the person performing or vendor providing them, the applicable billing rate, the time expended. All Consultant service invoices must be approved by either the Planning & Economic Development Director or the City Manager, prior to payment.

## 2.0 OBLIGATIONS OF CONTRACTOR

2.01 **Contract Management and Service Performance:** Consultant Principal shall serve as the project manager and will personally prepare, or direct and supervise the preparation of, all work product called for by this agreement. Consultant represents that it has the qualifications, experience and facilities to properly perform all services hereunder in a thorough, competent, timely, and professional manner and shall, at all times during the term of this Agreement, have in full force and effect all licenses required of it by law. Consultant agrees to devote the hours and the human resources necessary to timely perform the services set forth in this agreement in an efficient, professional, and effective manner.

2.02 **Avoidance of Conflict of Interest.** Consultant may represent, perform services for, and be employed by additional individuals or entities, in Consultant's sole discretion, as long as the performance of these extra-contractual services does not interfere with or present a conflict with City's business or interfere with the timely performance and completion of Consultant's services under this Agreement.

Consultant shall comply with all conflict of interest laws and regulations including, without limitation, the City's Conflict of Interest Code (on file in the City Clerk's Office). All officers, employees and/or agents of Consultant who will be working on behalf of the City pursuant to this Agreement may be required to file Statements of Economic Interest. Therefore, it is incumbent upon the Consultant or Consulting Firm to notify the City of any staff changes relating to this Agreement.

- A. In accomplishing the scope of services of this Agreement, all officers, employees and/or agents of the Consultant(s) unless as indicated in Subsection B, will be performing a very limited and closely supervised function, and therefore, unlikely to have a conflict of interest arise. No disclosures are required for any officers, employees, and/or agents of Consultant, except as indicated in Subsection B. \_\_\_\_\_ (*Initials*).
- B. In accomplishing the scope of services of this Agreement, Consultant(s) will be performing a specialized or general service for the City, and there is substantial likelihood that the Consultants work product will be

presented, either written or orally for the purpose of influencing a governmental decision. As a result, the following Consultant(s) shall be subject to the City's Conflict of Interest Code.

\_\_\_\_\_

\_\_\_\_\_

**2.03 Tools and Instrumentalities:** Consultant shall provide all tools and instrumentalities to perform the services under this agreement.

**2.04 Workers' Compensation and Other Employee Benefits:** City and Consultant intend and agree that Consultant is an independent contractor of City and agree that Consultant and Consultant's employees and agents have no right to Workers' Compensation and other City-sponsored employee benefits. Consultant agrees to provide Workers' Compensation and other employee benefits, where required by law, for Consultant's employees and agents. Consultant agrees to hold harmless and indemnify City for any and all claims arising out of any claim for injury, disability, or death of Consultant and any of Consultant's employees or agents.

**2.05 Indemnification: Professional Services other than Design** (a) To the fullest extent permitted by law, the Contractor shall (1) immediately defend, and (2) indemnify the City of Solvang, and its elected officials, officers, and employees from and against all liabilities regardless of nature or type arising out of or resulting from Contractor's performance of services under this contract, or any negligent or wrongful act or omission of the Contractor or Contractor's officers, employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. The Contractor's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, the Contractor's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

(b) The duty to defend is a separate and distinct obligation from the Contractor's duty to indemnify. The Contractor shall be obligated to defend, in all legal equitable, administrative, or special proceedings, with counsel approved by the City of Solvang, the City of Solvang and its elected officials, officers, and employees, immediately upon tender to the Contractor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Contractor from its separate and distinct obligation to defend City of Solvang. The obligation to defend extends through final judgment, including exhaustion

of any appeals. The defense obligation includes an obligation to provide independent defense counsel if the Contractor asserts that liability is caused in whole or part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Contractor may submit a claim to the City of Solvang for reimbursement of reasonable attorneys' fees and defense costs.

(c) The review, acceptance or approval of the Contractor's work or work product by any indemnified party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This Section survives completion of the services or the termination of this contract. The provisions of this Section are not limited by and do not affect the provisions of this contract relating to insurance.

2.06 **Insurance:** Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached to and part of this agreement

### 3.0 OBLIGATIONS OF CITY

3.01 **Cooperation:** City agrees to comply with all reasonable requests of Consultant necessary to the performance of Consultant's duties under this agreement. City employees, agents and officers of the City agree to disclose all information relevant to this project to Consultant.

### 4.0 TERMINATION OF AGREEMENT

4.01 **Termination Notice:** Notwithstanding any other provision of this agreement, any party hereto may terminate this agreement, at any time, without cause, by giving at least 30 (thirty) days' prior written notice to the other parties to this agreement.

4.02 **Termination on Occurrence of Stated Events:** This agreement shall terminate automatically on the occurrence of any of the following events:

- a. Sale of the business of any party;
- b. The end of the 30 (thirty) days as set forth in section 4.01;
- c. End of the contract to which Consultant's services were necessary; or
- d. Assignment of this agreement by Consultant without the consent of City.
- e. Bankruptcy or insolvency of any party.
- f. Death of any party.

4.03 **Termination by any Party for Default:** Should any party default in the performance of this agreement or materially breach any of its provisions, the non-breaching party, at its option, may terminate this agreement, immediately, by giving written notice of termination to the breaching party.

4.04 **Termination:** This agreement shall terminate on June 30, 2012, unless earlier extended as set forth in this Section. The City, with the agreement of Consultant, is authorized to extend the term of this agreement beyond the termination date, as needed, under the same terms and conditions as set forth in this agreement. Any such extension shall be in writing and be an amendment to this agreement.

## 5.0 SPECIAL PROVISIONS

5.01 **Additional Tasks as May Be Assigned by Planning & Economic Development Director or the City Manager:** Prior to initiating any Consultant work on matters relating to economic development, but outside this contract, it shall be the responsibility of Consultant to obtain written approval of the Planning Director, or the City Manager, prior to initiation of such tasks.

5.02 **Time Schedule:** Consultant is to begin work upon receipt and execution of City contract. It is contemplated that most of the services hereunder, including but not limited to preparation, public and agency review, and submission of the draft Economic Development Specific Plan to the Planning & Economic Development Director and City Council for certification, will be completed on or before June 30, 2012. **TIME IS OF THE ESSENCE OF THIS CONTRACT.** Consultant agrees to engage its best efforts to adhere strictly to the schedule set forth in the schedule, a copy of which is hereby marked Exhibit C and incorporated herein.

5.03 **Work Outside Contract Scope:** No payment for changed or additional work shall be made unless the changed or additional work has first been approved in writing by the Contract Manager and the parties have agreed upon the appropriate adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work. The Contract Manager may order changes or additions to the scope of work. Whether a change or addition to the scope of work is proposed by the Consultant or ordered by the Contract Manager, the parties shall in good faith negotiate an appropriate adjustment, if any, to the payment schedule and maximum payment for the changed or additional work. An approved change or addition, along with the payment adjustment, if any, will be effective upon an amendment to this contract executed by both parties. The amendment shall not render ineffective or invalidate unaffected portions of this contract.

5.04 **Confidentiality:**

(a) Confidential Nature of Information. Consultant shall treat all information obtained from the City in the performance of this contract as confidential and proprietary to

the City. Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this contract as confidential.

- (b) Limitation on use and disclosure. Consultant agrees that it will not use any information obtained as a consequence of the performance of work for any purpose other than fulfillment of Consultant's scope of work. Consultant will not disclose any information prepared for the City, or obtained from the City or obtained as a consequence of the performance of work to any person other than the City, or its own employees, agents or subcontractors who have a need for the information for the performance of work under this contract unless such disclosure is specifically authorized in writing by the City.
- (c) Security plan. If requested by the Contract Manager, Consultant shall prepare a security plan to assure that information obtained from the City or as a consequence of the performance of work is not used for any unauthorized purpose or disclosed to unauthorized persons. Consultant shall advise the City of any request for disclosure of information or of any actual or potential disclosure of information.
- (c) Survival. Consultant's obligations under this paragraph shall survive the termination of this contract.

## 6.0 MISCELLANEOUS

6.01 **Notices:** Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this agreement or by law to be served on or given to any party to this agreement shall be in writing and delivered or, in lieu of such personal service, when deposited in the United States mail, first class postage prepaid, to the following address for each respective party:

PARTY	ADDRESS
<b>TO: CITY OF SOLVANG</b>	City of Solvang 1644 Oak Street Solvang, CA 93463 Attention: City Clerk
	Copy to: Roy Hanley City Attorney HANLEY & FLEISHMAN, LLP 8930 Morro Road Atascadero, CA 93422
<b>TO CONSULTANT:</b>	Carney Associates LLC P.O. Box 8577 La Verne CA 91750

6.02 **Governing Law**: This agreement and all matters relating to this agreement shall be governed by the laws of the State of California in force at the time, should any need for interpretation of this agreement or any decision or holding concerning this agreement arise.

6.03 **Binding Effect**: This agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing in this Section shall be construed as a consent by City to any assignment of this agreement or any interest in the agreement.

6.04 **Remedies**: The remedies set forth in this agreement shall not be exclusive, but shall be cumulative with, and in addition to, all remedies now or hereafter allowed by law or equity.

6.05 **Due Authority**: The parties hereby represent that the individuals executing this agreement are expressly authorized to do so on and in behalf of the parties.

6.06 **Ownership of Work Product**: Upon delivery, the work product, including without limitation, all original reports, writings, recordings, drawings, files, and detailed calculations developed under this contract are the property of the City. Consultant agrees that all copyrights, which arise from creation of the work pursuant to this contract, shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

6.07. **Integration and Modification**: This contract represents the entire understanding and agreement of the City and Consultant as to those matters contained herein. This agreement correctly sets forth the obligations of the parties hereto to each other as of the date of this agreement. All agreements or representations respecting the subject matter of this agreement not expressly set forth or referred to in this agreement are null and void. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This contract may not be modified, amended, or altered except in writing signed by the City and Consultant.

6.08. **Advice of Counsel**: The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this contract, and that the decision of whether or not to seek the advice of counsel with respect to this contract is a decision which is the sole responsibility of each of the parties hereto. This contract shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of the contract.

6.09. **Independent Review**: Each party hereto declares and represents that in entering this contract it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this contract is being made without reliance upon any

statement or representation not contained herein of any other party, or any representative, agent, or attorney of any other party.

6.10. **Attorney Fees:** In the event of any controversy, claim or dispute between the parties hereto, arising out of or relating to this agreement, or the breach hereof, the prevailing party shall be entitled, in addition to other such relief as may be granted, to a reasonable sum as and for attorney fees.

6.11 **No waiver:** The waiver of any breach by any party of any provision of this agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of this agreement.

6.12. **Assignment:** This agreement is specifically not assignable by Consultant to any person or entity. Any assignment or attempt to assign by Consultant whether it be voluntary or involuntary, by operation of law or otherwise, is void and is a material breach of this agreement, giving rise to a right to terminate as set forth in Section 4.03.

6.13. **Time for Performance:** Except as otherwise expressly provided for in this agreement, should the performance of any act required by this agreement to be performed by either party be prevented or delayed by reason by any act of God, strike, lockout, labor trouble, inability to secure materials, or any other cause, except financial inability, which is the fault of the party required to perform the act, the time for performance of the act will be extended for a period of time equivalent to the period of delay and performance of the act during the period of delay will be excused: provided, however, that nothing contained in this Section shall exclude the prompt payment by either party as required by this agreement of the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

6.14 **Severability:** Should any provision of this agreement be held by a court of competent jurisdiction or by a legislative or rulemaking act to be either invalid, void or unenforceable, the remaining provisions of this agreement shall remain in full force and effect, unimpaired by the holding, legislation or rule.

6.15. **Construction:** The parties agree that each has had an opportunity to have their counsel review this agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and are not intended to be construed to define or limit the provision to which they relate.

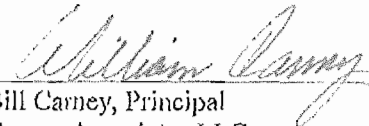
6.16. **Amendments:** Amendments to this agreement shall be in writing and shall be made only with the mutual written consent of all the parties to this agreement.

6.17. **Signatures:** The individuals executing this contract represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties have executed this contract on the following date.

Consultant:

Date: January 3, 2012

By:   
Bill Carney, Principal  
Carney Associates LLC

City of Solvang:

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

By: \_\_\_\_\_  
Mayor Richardson

APPROVED AS TO FORM:

City Attorney:

HANLEY & FLEISHMAN, LLP

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

By: \_\_\_\_\_  
Roy Hanley  
City Attorney

EXHIBIT A

TASKS TO BE PERFORMED

See attached document entitled:  
“Proposal for the Preparation of an  
Economic Development Strategic Plan”

Dated November 26, 2011

EXHIBIT B

PAYMENT SCHEDULE

Consultant shall bill the city at the end of each month, including the month in which the project commences. The final invoice shall be submitted at the completion of the project, whether that coincides with the end of the month or not.

EXHIBIT C

INSURANCE REQUIREMENTS

*Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.*

*Consultant shall provide the following types and amounts of insurance:*

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

*Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.*

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all contractors, and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the

- applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
  4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
  5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
  6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
  7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.
  8. Certificate(s) are to reflect that the insurer will provide 30 days notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
  9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self insurance available to City.
  10. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.
18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

# PROPOSAL

## PROPOSAL FOR THE PREPARATION OF AN ECONOMIC DEVELOPMENT STRATEGIC PLAN

Submitted to  
The City of Solvang, California

Submitted by  
CARNEY Associates LLC  
P.O. Box 8577, La Verne, CA 91750  
Office: (626) 737 9006  
Mobile: (626) 825 0270  
Email: [carneyllc@gmail.com](mailto:carneyllc@gmail.com)  
Website: [www.carneyassociatesllc.com](http://www.carneyassociatesllc.com)

NOVEMBER 26, 2011



CARNEY ASSOCIATES LLC

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- Statement of CARNEY Associates LLC regarding its capacity and ability to perform the work in this Proposal

## About CARNEY Associates LLC

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CARNEY Associates LLC is a consulting firm specializing in strategic planning for economic development, professional meeting facilitation and organizational assessment and improvement for non-profit organizations. Its clients include municipalities, regional economic development organizations, workforce training agencies and organizations focused on the acceleration of technology transfer and commercialization. It is frequently retained by the California Association for Local Economic Development (CALED) to organize and manage its Professional Advisory Services programs for California cities and counties and to prepare final strategic recommendations.

CARNEY Associates' approach to Strategic Planning is best illustrated by a virtuous circle representing the five critical components of a successful plan; Discovery, Planning, Implementation, Measurement and Improvement.



Recent clients of CARNEY Associates include:

- The Alliance for Commercialization of Technology (ACT)
- Los Angeles County Workforce Investment Board (WIB)
- County of Monterey (CALED PAS)
- County of Sonoma Economic Development Board
- San Gabriel Valley Economic Partnership

For a more comprehensive list of CARNEY Associates' services and recent clients, please visit our website, <http://www.carneyassociatesllc.com>.

# Key Personnel

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## **Bill Carney, Principal**

Bill Carney founded CARNEY Associates LLC in 2008 following a 30-year career leading regional economic development, business and trade organizations in California. For 25 of those years he served in the capacity of president and chief executive officer. During his career, he directed a wide variety of initiatives in business attraction and retention, regional marketing, small business assistance and small business lending. His portfolio of economic development practices and successes include:

- The recruitment and retention of major industrial and commercial employers
- Direction of three Small Business Development Centers
- Management of Certified Development Centers (SBA 504 lending) and revolving loan funds
- Attracting direct foreign investment
- Management of film and tourism commissions
- Public policy advocacy for regional competitiveness in areas of transportation, energy, water and workforce
- The successful turnaround of two regional economic development organizations through strategic and fiscal planning and implementation

Bill Carney is a nationally recognized leader in economic development. He served as the chairman of the board of the California Association for Local Economic Development (CALED) and as chairman of TeamCalifornia. He was also the founding chairman of the Center for Public Policy Studies at CSUS.

Prior to entering the field of economic development, Carney spent nearly 10 years in Europe with a major U.S. manufacturer with assignments in Italy, France and the U.K. He holds a bachelor's degree in government from the University of Redlands.

## **George Huang, Consultant**

To assist with the preparation of an Economic and Demographic Profile of the City of Solvang and to provide input in drafting of the EDSP, CARNEY Associates will retain the services of George Huang, Principal of IDEASolutions. Mr. Huang's consulting practice currently focuses on economic development strategies, workforce development, tourism and technology commercialization.

He spent 15 years working as an economist for major regional economic development organizations, first for the Los Angeles County Economic Development Corporation and more recently for the County of San Bernardino Economic Development Agency. Besides research and strategic planning, he has extensive experience using GIS and

other technologies in economic development applications and in writing economic and industry reports.

He holds a bachelor's degree in Economics from Harvard University where he graduated *magna cum laude*.

**Contact information:**

George Huang, Principal  
IDEASolutions  
11625 Mount Hood Ct.  
Rancho Cucamonga, CA 91737  
(909) 680 5951  
Email: [george@ideasolutions.biz](mailto:george@ideasolutions.biz)

# Scope of Work

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## Introduction

The City of Solvang is seeking assistance in the preparation of an Economic Development Strategic Plan (EDSP). The development of an EDSP was one of a set of recommendations made by a team of economic developers during a CALED Professional Advisory Services (PAS) project conducted for the City in early 2010. The City has already implemented another key recommendation of the PAS which was to create an Economic Development Group of stakeholders to provide input to the City and help it develop a vision for economic development.

Like many communities in California during this period of economic challenge, Solvang has chosen to proactively review and adjust the means by which it addresses its continued economic viability to sustain the high quality of life it enjoys in a very unique built environment. A cursory review of recent City revenue performance provides some useful context for this project. The recent decline in sales tax revenue would indicate that greater critical focus be given to Solvang's retail sector while the gradual increase in transient occupancy tax revenues highlight the importance and benefits of Solvang's strategic location within a region that is an increasingly popular visitors destination. Obviously, the strengthening of retail and the optimization of hospitality are critical to maintaining Solvang's unique cultural and architectural heritage and quality of life.

The fact that Solvang is largely built out makes strategic planning for economic development particularly challenging and creates a need for greater focus on infill opportunities, small business assistance, capital formation, the leveraging of external resources and broader regional cooperation.

We believe that an effective, implementable EDSP for Solvang can be developed through a thorough aggregation of the insights, experience and ideas of community stakeholders and their consensus around a way forward. CARNEY Associates will complement this effort through facilitation, the compilation of pertinent data, the introduction of best practices and the preparation of a draft EDSP for the City.

## Scope of Work

Review of Relevant Documents. CARNEY Associates will review all current documents bearing on the economic development of Solvang including relevant elements of its General Plan and the 2010 report of the CALED PAS team, along with any other pertinent report or study suggested by the City. We will also do a thorough review of the websites of local and regional trade and business groups to have a better understanding of their focus and capacity. We will also attempt to contact CALED PAS team members for a further review of their findings.

Prepare "SWOT" Analysis of Solvang's Strengths, Weaknesses, Opportunities & Threats. CARNEY Associates proposes conducting meetings of four specific groups in a SWOT analysis process. The four groups to be convened would be retail businesses, hospitality businesses, other businesses & professions and city officials & civic leaders. As currently envisioned, each of the meetings would run from 2 to 3 hours. We propose the meetings be scheduled over a two day period.

CARNEY Associates will also test the recommendations of the 2010 CALED PAS team in the SWOT groups and incorporate them in the EDSP as is appropriate.

Once the raw data from the SWOT analysis meetings is collated, CARNEY Associates will present them to the Economic Development Group for further input and discussion. When completed, we will prepare a formal written SWOT Analysis as an attachment to the draft EDSP.

Preparation of an Economic & Demographic Profile. CARNEY Associates will research and prepare an Economic and Demographic Profile for Solvang. It will be formatted for easy replication and updating. We will provide an electronic file version and include it with the EDSP. The following data, assuming availability, will be included in the Profile.

- Demographic Overview
- Historic & Projected Population Estimates
- Racial & Ethnic Composition of Population
- Income Level
- Household Income Distribution
- Age Distribution of Population
- Educational Attainment of Population (25+ years of age)
- Labor Force and Unemployment
- Commute Patterns
- Employment Taxes & Mandated Benefits (California)
- Wages by Selected Occupations (California)
- Four Year Universities & Colleges
- Community Colleges
- Vocational Training Providers (public & private)
- Employment by Economic Sector
- Major Employers
- Transportation Modes & Services
- Utility Providers
- State & Local Tax Profiles

Review of Best Practices. CARNEY Associates will undertake a review of best economic development practices in cities of similar size and attributes for further consideration by the City and present them as an attachment to the EDSP.  
Identify Regional Resources & Potential Strategic Partners. Regional collaboration in economic development is increasingly recognized as essential for the success of

individual communities. This is particularly the case for smaller and relatively rural communities like Solvang. The variety of resources available to assist local businesses in urban settings is often lacking in smaller communities, particularly in the areas of technical assistance for business and workforce training. CARNEY Associates will identify the external resources available in the more urbanized areas of the region and recommend strategies to better leverage their services to benefit Solvang businesses.

We will also identify potential strategic economic development partners in the region, both public and non-profit.

Preparation of EDSP. CARNEY Associates will draft an EDSP for Solvang and present it to the City for its review and adoption. The final submittal will include:

- SWOT Analysis
- Economic & Demographic Profile of the City of Solvang
- Economic Development Strategic Plan that includes
  - ✓ Clearly stated goals
  - ✓ An action plan for implementation
  - ✓ Clearly defined roles & responsibilities of stakeholders
  - ✓ Measurements of success
- Attachments with additional findings and commentary as appropriate

## Project Schedule

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Carney Associates believes the entire project can be completed and presented to the City within a one month period assuming onsite meetings can be arranged in a timely fashion.

## Project Management

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All elements and tasks, including SWOT sessions, onsite meetings, final preparation of the Solvang EDSP and any onsite presentations will be conducted by Bill Carney. Any tasks assigned to consultant George Huang will be under Carney's direct supervision.

## Project Budget \*

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Professional Services. For all services related to the Solvang EDSP Project included in the Scope of Work detailed above:

\$8,500.00

Project Expenses. For reimbursement of estimated expenses incurred in completing the project including automobile travel and room and board during onsite visits:

1,125.00

Total Project Cost:

\$9,625.00

\* Please note, CARNEY Associates does not bill for time spent *en route* to and from a project.

## Statement of Capacity to Perform

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CARNEY Associates LLC has sufficient staff resources and professional experience to perform the work contained in the Request for Proposal. In addition, CARNEY Associates is able to meet the City of Solvang's insurance coverage requirements.



REQUEST FOR BUDGET APPROPRIATION REVISION

Requesting Department	Fund Name – Fund No.
Planning	Fund 01 – General Fund

REVENUES

Account Description	Revenue Account No.	Budget		
		Current	Change	Revised
Total				

EXPENDITURES

Account Description	Expense Account No.	Budget		
		Current	Change	Revised
Professional Services	01-1200-300-0298	5,500	7,420	12, 920
Salaries	01-1200-300-0000	167,576	(7,420)	160,156
Total		173,076	0	173,076

PURPOSE

Preparation of an Economic Development Strategic Plan

Department Head:	Date:	Finance Director:	Date:
City Manager:	Date:	City Council Approval:	Date:



Agenda Item 7  
Pages 8

**CITY COUNCIL  
STAFF REPORT**

**TO:** SOLVANG CITY COUNCIL MEMBERS

**FROM:** Roy A. Hanley, City Attorney

**MEETING DATE:** January 9, 2012

**DATE PREPARED:** December 29, 2011

**SUBJECT: INTRODUCE FOR FIRST READING BY TITLE ONLY  
AN ORDINANCE FORBIDDING THE USE OF ELECTRONIC  
PERSONAL MOBILITY DEVICES ON SIDEWALKS IN THE  
DOWNTOWN AREA**

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**I. RECOMMENDATION:**

Staff recommends that the City Council introduce for first reading, by title only, Ordinance No. 12-\_\_\_\_, an Ordinance of the City Council of the City of Solvang forbidding the use of electronic personal mobility devices on sidewalks in the downtown area, and excepting from that ban authorized law enforcement personnel and disabled persons.

**II. DISCUSSION:**

State law defines and regulates the use of electronic personal mobility devices under the vehicle code. The Segway is a commonly known example of such a device. Although the State law is fairly comprehensive, the rules specifically allow a city to forbid the use of such devices on sidewalks. Federal law requires that persons with disabilities be exempted from such regulations.

Approvals: City Manager\_BSV\_ Finance Director\_\_\_\_ City Attorney\_\_\_\_

The City Council recently issued a one-year license for the operation of Segway tours on defined routes. The license for the operator requires that the tour operator keep the tours off of sidewalks in the Downtown Area. That license restriction does not apply to individuals and certainly not to anyone else who might own such a device.

The City Council directed staff to examine the issue of sidewalk use for the devices and bring recommended changes in the City Code to the City Council for review. Staff has reviewed the issues and recommends that initially the ban on sidewalk use apply only in the Downtown Area as defined in §8-3-7 A of the Solvang Municipal Code. If, in the future, such devices become a problem in other areas of the City, including in City parks, the issue can be revisited and the ban expanded in scope. Staff feels that limiting the ban to the Downtown Area is in the best interests of the City at this time.

**III. ALTERNATIVES:**

The City Council could choose not to enact a ban, and could also choose to expand the area to which the ban applies.

**IV. FISCAL IMPACT:**

There will be no fiscal impact from the adoption of this ordinance.

**V. ATTACHMENT:**

A. Draft Ordinance

ORDINANCE NO. 12-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLVANG,  
AMENDING SOLVANG CITY CODE TITLE 8, CHAPTER 3, SECTION 7**

**WHEREAS**, The General Plan of the City of Solvang calls for preservation of the pedestrian friendly nature of the Downtown Area, and

**WHEREAS**, the City Council has determined that the operation of electronic personal mobility devices on the sidewalks in the Downtown Area would be detrimental towards that goal and towards preserving the vitality of the TRC.

**NOW, THEREFORE BE IT ORDAINED** that the City Council of the City of Solvang hereby approves the amendment to Title 8, Chapter 3 Section 7, of the Solvang City Code (attached hereto as Exhibit A and included as though fully set forth at this point).

Section One. Effective Date:

**This ordinance shall be in full force and shall take effect thirty (30) days after its passage.**

Section Two. Publication:

Solvang is a Charter City and has adopted its own rules for summarizing and posting ordinances once they are adopted. A summary of this ordinance will be prepared by the City Attorney. The summary will be posted in three locations after adoption as directed in the Solvang Municipal Code. A true and correct copy of the full ordinance together with a record of the vote of each council member shall be kept by the City Clerk.

Section Three. Exemptions from CEQA.

The City Council finds, pursuant to Title 14 of the California Code of Regulations, section 15061 (b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project, which has the potential for causing a significant effect on the environment.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Solvang on this 9th day of January 2012 by the following vote:

BY: \_\_\_\_\_

Jim Richardson, Mayor

ATTEST:

\_\_\_\_\_  
Mary Ellen Rio, City Clerk

STATE OF CALIFORNIA )

COUNTY OF SANTA BARBARA )

CITY OF SOLVANG )

I, Mary Ellen Rio, City Clerk of the City of Solvang, do hereby certify that the foregoing Ordinance had its first reading on January 9, 2012 and was adopted on second reading on January 23, 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

BY: \_\_\_\_\_

Mary Ellen Rio, City Clerk

**Exhibit A:** Text amendments to City Code: Title 8, Chapter 3, Section 7

**TEXT AMENDMENTS TO  
CITY OF SOLVANG CITY CODE**

**TITLE 7, CHAPTER 3 STOPPING, STANDING AND PARKING**

The section shall be amended as follows:

**7-3B-3: CURB MARKINGS AND RESTRICTED ZONES DESIGNATED:**

The city traffic engineer is authorized subject to the provisions and limitations of this chapter, to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations. When such curb markings are placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of any of the provisions of this section. Such curb markings shall have the meanings as follows:

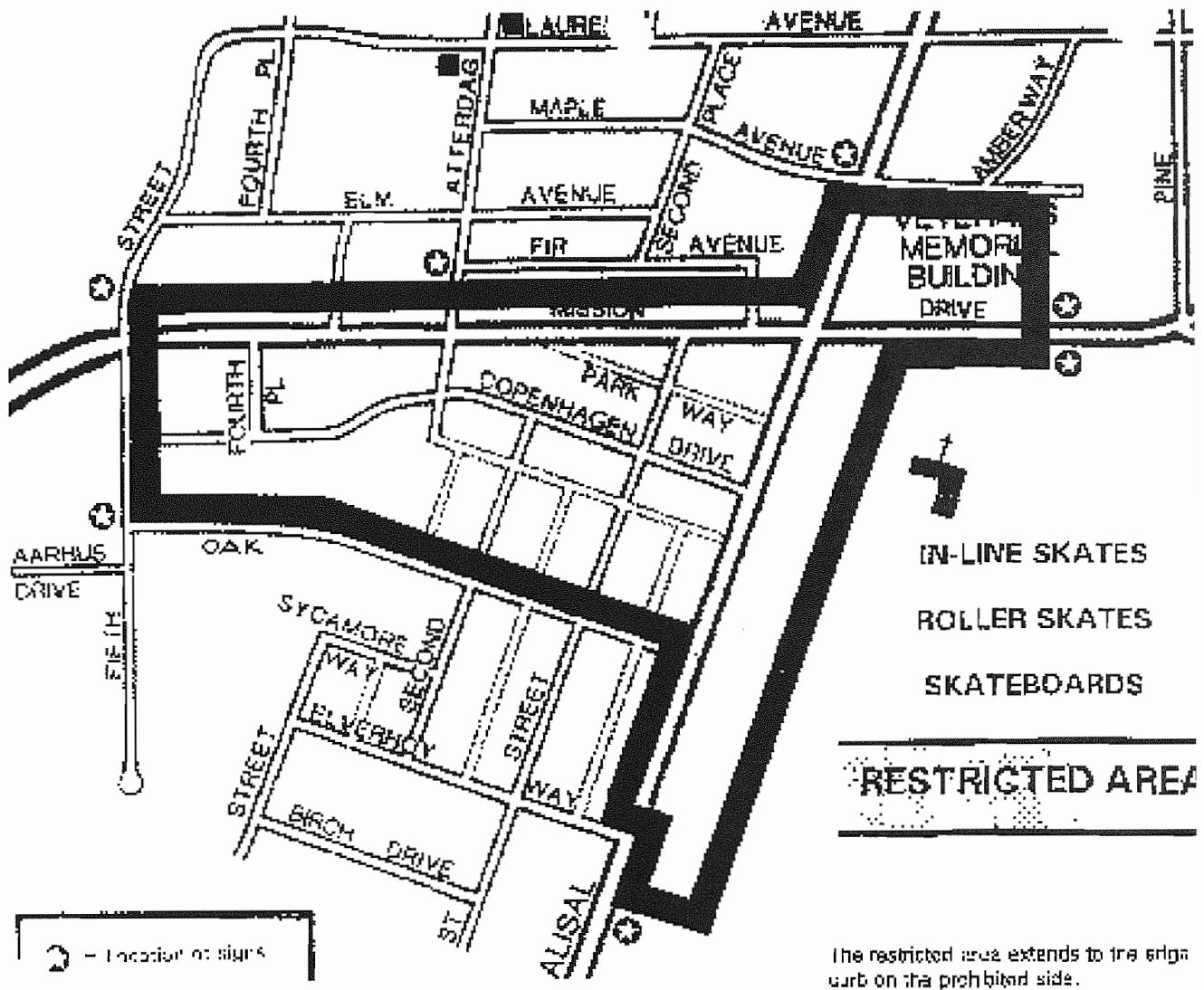
- A. Red: Red shall mean no stopping, standing or parking at any time except as permitted by the Vehicle Code and except that a bus may stop in a red zone marked or signed as a bus zone.
- B. Yellow: Loading zones shall be indicated by yellow paint upon the top of all curbs within such zones, and shall mean no stopping, standing or parking at any time between seven o'clock (7:00) A.M. and six o'clock (6:00) P.M. every day ~~of any day except Sundays and holidays~~ for any purpose other than the loading or unloading of passengers or materials, provided that the loading or unloading of passengers shall not consume more than three (3) minutes nor the loading or unloading of materials more than twenty (20) minutes.
- C. White: Passenger loading zones shall be indicated by white paint upon the top of all curbs in such zones, which shall mean no stopping, standing or parking for any purpose other than loading or unloading of passengers, or for the purpose of depositing mail in an adjacent mailbox, which shall not exceed three (3) minutes and such restrictions shall apply between seven o'clock (7:00) A.M. and six o'clock (6:00) P.M. of any day except Sundays and holidays and except as follows:
  - 1. When such zone is in front of a hotel or in front of a mailbox, the restrictions shall apply at all times;
  - 2. When such zone is in front of a theater, the restrictions shall apply at all times except when such theater is closed.

8-3-7: SKATING, SKATEBOARD, AND ELECTRONIC PERSONAL MOBILITY  
DEVICE RESTRICTIONS:

A. Downtown Restrictions:

(1) No person shall skate, using rollerskates or in-line skates, or ride or propel a skateboard on any street or sidewalk included in the restricted area depicted on exhibit A of this subsection. The restricted area extends to the edge of the curb on the prohibited side of the street. This prohibition shall not apply to any area where a city sponsored skating or skateboarding event or program approved by the city council is being held.

(2) It is unlawful for any person, except for authorized law enforcement personnel and for persons with disabilities, to operate any electric personal assistive mobility device (as defined by the California Vehicle Code and sometimes also known or referred to as Segways, 1-3 Motions and/or motorized scooters) on any sidewalk in the restricted area depicted on exhibit A of this subsection.



(Ord. 94-153, 6-27-1994)

B. Hours Restricted: No person shall ride or propel a skateboard in any street or road in the city after sunset. (Ord. 86-38, 4-3-1986)

C. Violating Rights Of Way: No person shall ride or propel a skateboard in any street or road or upon any sidewalk in such a manner as to violate the right of way of any vehicle. All persons riding or propelling skateboards shall yield the right of way to pedestrians. (Ord. 86-38, 4-3-1986; amd. 2001 Code)

D. Reckless Operation: No person shall ride or propel a skateboard or skate, using roller skates or in-line skates, on any street or road or upon any sidewalk in a wilful or wanton disregard for the safety of persons or property. (Ord. 93-138, 5-10-1993)

E. Skateboard Park Regulations:

1. No person shall ride a skateboard at any skateboard park operated within the city of Solvang, whether supervised or not, unless that person is wearing a helmet with its safety strap properly worn, commercially manufactured elbow pads, and knee pads that are properly worn. The Solvang parks and recreation director shall ensure that visible regulatory signs at all skateboard parks be installed. Such signs shall afford notice that any person riding a skateboard at the facility at any time is required by law to wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation under this subsection E. (Ord. 06-262, 11-13-2006)

a. Any person receiving a second citation for any violation of this subsection E within a six (6) month period is subject to confiscation of skates or skateboard for a period of one month from the date of issuance of the second citation.

b. In addition to those penalties provided in title 1, chapter 3 of this code:

Any person receiving a second citation for any violation of this subsection E within a six (6) month period will be prohibited from utilizing the skateboard park for a period of one month from the date of issuance of the second citation. (Ord. 04-237, 6-28-2004)

2. No person shall use or ride, or possess any motorized sporting equipment, bicycles, scooters, or any other recreational transportation device other than skates, skateboard, or in-line skates that are propelled exclusively by the human effort of the person actually riding a skateboard or wearing the skates, inside the skate area of a skateboard park within the city of Solvang. (Ord. 06-262, 11-13-2006)

3. Skateboarding and in-line skating are deemed to be hazardous recreational activities. (Ord. 04-237, 6-28-2004)

4. Spectators and animals are strictly prohibited in the skate area of any skateboard park located within the city of Solvang.

5. Any member of the sheriff's department, parks and recreation or public works may temporarily close the skate park for flagrant violations of this subsection E. (Ord. 06-262, 11-13-2006)