



**CALEXICO CITY COUNCIL/CALEXICO REDEVELOPMENT SUCCESSOR  
AGENCY/CALEXICO FINANCING AUTHORITY  
REGULAR MEETING AGENDA**

**City of Calexico  
Fernando "Nene" Torres Council Chambers  
608 Heber Avenue  
Calexico, California  
[www.calexico.ca.gov](http://www.calexico.ca.gov)**

**Tuesday, October 21, 2014  
6:30 p.m.**

**Council Members**

**John M. Moreno, Mayor/Chairman  
Joong S. Kim, Mayor Pro Tem/Vice Chair  
Luis J. Castro, Councilman  
Bill Hodge, Councilman  
Maritza Hurtado, Councilwoman**

**City Clerk**

**Gabriela T. Garcia**

**Interim City Manager**

**Richard N. Warne**

**City Attorney**

**Jennifer M. Lyon**

**City Treasurer**

**John T. Quinn**

**Next City Ordinance Number: 1158  
Next City Resolution Number: 2014-81**

**CALL TO ORDER**

Call to Order and Attendance.  
Pledge of Allegiance.  
Closed Session Announcements.  
Approval of the Agenda.

**ANNOUNCEMENTS**

These proceedings may be viewed on the City of Calexico website at [www.calexico.ca.gov](http://www.calexico.ca.gov) the Friday following the City Council meeting.

**AWARDS, PRESENTATIONS, APPOINTMENTS AND PROCLAMATIONS**

1. Presentation by 2010 General Tax Citizen Oversight Advisory Committee "Measure H" on Committee Activities.
2. Presentation by Interim Police Chief Michael J. Bostic.

## **PUBLIC COMMENTS AND PUBLIC APPEARANCES**

**NOTE: (Not to Exceed 3 Minutes)** This is the time for the public to address the City Council on any item not appearing on the agenda that is within the subject matter jurisdiction of the City Council. The Mayor will recognize you and when you come to the microphone, please state your name and place of residence for the record. While members of the public are encouraged to participate, it is unlawful to disturb or delay the Council meeting with personal or slanderous remarks. If the item you wish to comment on is a closed session or consent item, please comment now. The City Council is prohibited by State law from taking action or discussing items not included on the printed agenda. If the item you wish to comment on is on the public portion of the agenda, we will take your comment when we get to the item on the agenda. Please direct your questions and comments to the City Council.

## **CITY COUNCIL COMMENTS AND REPORTS OF MEETINGS ATTENDED**

### **CONSENT CALENDAR**

All matters listed under the Consent Calendar are to be considered routine by the City Council/Calexico Community Redevelopment Agency Successor Agency or Calexico Financing Authority and will be enacted by one motion in the form listed. Any item may be removed from the Consent Calendar and considered separately by the City Council.

3. City Council/Calexico Community Redevelopment Agency Successor Agency/Calexico Financing Authority Minutes for Regular Meetings of February 19, 2013 and March 19, 2013.
4. Approval of Application for Alcoholic Beverage License for The C B Stop, Inc. 1498 Cole Blvd., Calexico, CA 92231.
5. Second Reading and Adoption of Regular Ordinance No. 1157 Ordinance of the City Council of the City of Calexico Repealing Chapters 13.04; 13.08; 12.12; 13.16; 13.24; 13.28; and 13.30 of Chapter 1 Water System" Title 13 Public Services" of the Calexico Municipal Code and adding Chapter 1 Water Service," Sections 13.01.010 through 13.01.720 to Title 13 "Public Services" of the Calexico Municipal Code.
6. Resolution of the City Council of the City of Calexico Accepting the State COPS Funds for Fiscal Year 2013-2014.
7. Authorize City Manager to Sign First Amendment to Agreement for Professional Services between the City of Calexico and C Young Associates for Consulting Services for the New River Improvement Project.
8. Authorize City Manager to Sign Agreement of Professional Services with Bender Rosenthal, Inc. for Right of Way Acquisition Services for Cesar Chavez Blvd. Improvements Federal Project No. HPLUL-5168(017).

### **ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION**

### **PUBLIC HEARING**

9. Resolution of the City Council of the City of Calexico, California, Approving Final Parcel Map No. 059-240-039 Which Proposes the Division of Approximately 6.14 Acres of Land in Order to Create Three (3) Commercial Lots and Two (2) Parcels for Right of Way Dedication.

### **DISCUSSION AND POTENTIAL ACTION ITEMS**

- 10. Resolution of the City Council of the City of Calexico Approving a Professional Services Agreement with a Professional Recruiting Firm to Recruit for the Position of the City Manager and Authorizing the Mayor to Execute Said Agreement.
- 11. Appointment by Mayor John M. Moreno to the Business Improvement District.
- 12. Approve Final Report and Alternative 2 as the Preferred Alternative for the Calexico Intermodal Transportation Center Feasibility Study.

**INFORMATIONAL ITEMS**

- 13. Library Board of Trustees minutes for May 28, 2014.

**FUTURE AGENDA ITEMS**

**ADJOURNMENT**

**No meeting will be held on November 4, 2014 due to the General Municipal Election.**

It is the intention of the City of Calexico to comply with the Americans with Disabilities Act in all respects. If you are a person with a disability who requires a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, please request such modification or accommodation from the City Clerk at (760) 768-2102. Notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting. Please advise us at the time whether you will require accommodations to participate in meetings on a regular basis. Any person affected by any application on this agenda may submit their concerns in writing prior to the meeting or appear in person and be heard in support or opposition to the proposal at the time the matter is considered on the agenda. The staff reports, applications and environmental documents may be viewed at either the office of the office of the City Clerk, 608 Heber Avenue from 8:30 a.m. until 5:30 p.m. Monday through Thursday, except legal holidays. Telephone inquiries may be made at (760) 768-2102. If you challenge any agenda issue in court, you may be limited to raising only those issues that you or someone else raised at the public meeting described in this notice, or in written correspondence delivered to the City of Calexico at, or prior to, the public meeting.

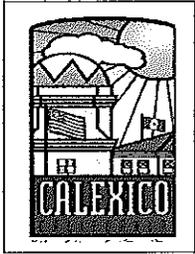
This notice of agenda is hereby certified to have been posted on or before 6:00 p.m., October 16, 2014

  
 \_\_\_\_\_  
 Sally Hernandez, Deputy City Clerk

\_\_\_\_\_  
 10/16/14  
 Time/Date

AGENDA  
ITEM

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# AGENDA STAFF REPORT

**DATE:** October 21, 2014  
**TO:** Mayor and City Council  
**APPROVED BY:** Richard N. Warne, Interim City Manager *Richard N. Warne*  
**PREPARED BY:** Gabriela T. Garcia, Deputy City Clerk *Gabriela T. Garcia*  
**SUBJECT:** Approval of City Council Meeting Minutes  
=====

**Recommendation:**

City Council/Calexico Community Redevelopment Agency Successor Agency/ Calexico Financing Authority Minutes for Regular Meetings of February 19, 2013 and March 19, 2013.

**Background:**

In accordance with Municipal Code Section 2.04.070, the City Clerk shall prepare minutes of the proceedings of each City Council Meeting.

**Discussion & Analysis:**

Minutes for City Council/Calexico Community Redevelopment Agency Successor Agency/ Calexico Financing Authority Minutes for Regular Meetings of February 19, 2013 and March 19, 2013 have been prepared for City Council review and approval.

**Fiscal Impact:**

None.

**Coordinated With:**

None.

**Attachments:**

Minutes for Regular Meetings of February 19, 2013 and March 19, 2013.

AGENDA  
ITEM  
**3**

**THE CITY COUNCIL/CALEXICO COMMUNITY REDEVELOPMENT AGENCY SUCCESSOR AGENCY/CALEXICO FINANCING AUTHORITY MET IN REGULAR SESSION ON THE 19TH DAY OF FEBRUARY, 2013 AT 6:30P.M. AT THE FERNANDO "NENE" TORRES COUNCIL CHAMBERS, 608 HEBER AVENUE, CALEXICO, CALIFORNIA. THE DATE, HOUR AND PLACE DULY ESTABLISHED FOR THE HOLDING OF SAID MEETING.**

**CLOSED SESSION – 5:30 P.M.**

**CALL TO ORDER**

The Special Closed Session portion of the agenda was called to order at 5:30 p.m.

**ATTENDANCE**

Mayor: Maritza Hurtado  
Mayor Pro Tem: Bill Hodge  
Councilman: John M. Moreno  
Councilman: Joong S, Kim  
Councilman: Luis J. Castro

The City Council convened into Closed Section at 5:30 p.m. to discuss the following:

**A. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION**

Pursuant to GC section 54956.9(d)(1) - (4 cases) - (CASE NOS.  
ECU06863/ ECU07106/ECU07368/ ECU06787)

**B. CONFERENCE WITH LABOR NEGOTIATORS**

Agency Representatives: City Manager, City Attorney  
Employee Organizations: SEIU/CMEA; SEIU/Water-Wastewater Operators Assoc.;  
Supervisors Assoc.; Police Officers Assoc.; Fire Fighters Assoc.; and Unrepresented  
Employees.

**C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Title: City Manager

**D. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Govt. Code  
Section 54956.9(d)(2) (2 cases)

Oscar Rodriquez, City Manager reported that the City Council meet in closed session and discussed Item A thru D. Direction was given, no reportable action.

**REGULAR SESSION – 6:30 P.M.**

**CALL TO ORDER**

The regular session portion of the agenda was called to order at 6:30 p.m., by Mayor Hurtado.

### **PLEDGE OF ALLEGIANCE**

Ricardo Ortega led those present in the Pledge of Allegiance

### **ATTENDANCE**

(All Council members were present: Hurtado, Hodge, Moreno, Kim, Castro)

### **APPROVAL OF AGENDA**

City Manager Rodriquez requested to pull Item No. 4

Motion was made by Councilman Moreno to approve the agenda omitting Item No. 4, seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:	Hurtado, Hodge, Moreno, Castro
NOES:	Kim
ABSENT:	None
ABSTAIN:	None

### **ANNOUNCEMENTS/PUBLIC APPEARANCES/PUBLIC COMMENTS**

Mohamed Asiad stated that the City needs to make sure that the City has good public safety and Measure H can be a good solution to resolve this problem. Measure H has funding to hire additional police officers. Mr. Asiad said that it seems that every month the City has a shooting incident. In addition, police officers need to be dispatched to the High School during their lunch break to make sure the children are safe. The City needs to work with the School District to hire two (2) to three (3) police officers using forfeiture funds because the High School is not a closed campus. Mr. Asiad recommended that the City invite the governor to tour the City and see the issues the City has because the City is a border community. Mr. Asiad stated that Highway 98 needs to be constructed to four (4) lanes and businesses need to hire local.

Oscar Gonzalez stated that Mayor Hurtado put rabbit ears while a picture was taken. He said that it was inappropriate for a Mayor to conduct herself like that when honoring Pete Gastelum an employee that worked for more than thirty (30) years. Mr. Gonzalez said that Mayor Hurtado insulted his family, Mr. Gastelum and his family as well as the City Council with the prank.

Daniel Romero stated that it was very unfortunate to read in the Imperial Valley Press that Police Chief Jim Neujhar has retired from his post that he has served very well for many years. It appears that his retirement resignation stands no less than the majority of this City Council who are pressing the City Manager Rodriquez to make this happen, all due to the pressures from Calexico Police Officer Association (CPOA). Police Chief Neujahr was a popular chief among the different sectors from the community except CPOA leadership. Mr. Romero stated that is an act from the association as a whole and asked for the list of signatures from the officers supporting this move. He even heard word from the local organization of chiefs who were

stunned by the news of his abrupt retirement. This is another measure from the City of Calexico to be dubbed "Only in Calexico." Mr. Romero stated that he hopes the best interest of the City is for City Manager Rodriguez to hire someone who is qualified for the job, has experience in being a chief and is educated. Through the rumor mill two (2) names have surfaced that meet these qualifications. Mr. Romero stated that now it is a matter a time before someone else surfaces that does not meet these qualifications and end up being hired as the new Police Chief. The Imperial Valley Press article stated that the CPOA would like the opportunity to be represented during the hiring process. He said that if this is permitted by the City Council the next City Manager should be decided by staff or by the directors and the City Council should be left out. If a director should be hired than he or she should be interviewed by the staff that he or she will lead. Why bother the administration during this process.

### **GENERAL COMMENTS BY COUNCIL MEMBERS**

Councilman Moreno read an article in Western Cities and noticed a moment called Strong Cities and Strong State which a joint venture of a lot of cities in the State of California to improve services for the community. He challenged staff and City Manager Rodriguez to look into this moment and see how the City of Calexico can get involved. Councilman Moreno congratulated the Calexico Chamber of Commerce for their Mardi Gras fundraiser. He also congratulated Police Officer Carlos Ramirez for delivering a baby. Councilman Moreno noticed a water leak on the railroad track next to Alex Rivera Field and requested an update.

Nick Fenley, Director of General Services informed Councilman Moreno that there is a thirty (30) inch water transmission line that is ruptured and has a crack, which has been leaking for about a week. Staff used all their resources to try to repair it and contacted all the suppliers to purchase the clamp to fix but unfortunately staff was not successful. A company that works for a geothermal plant is currently working on making a clamp for the cast iron pipe and hopefully it will be done by today.

Councilman Moreno inquired if they weren't able to find a clamp because the pipe was old. Director of General Services Fenley informed Councilman Moreno that the pipe is about eighteen (18) years old and because of the type of pipe it is no one makes the repair clamps due to the fact it has the concrete casing around it.

Mayor Pro Tem Hodge stated that Councilman Moreno, City Manager Rodriguez, and he worked on the Town Hall Subcommittee and they have tentatively schedule a town hall meeting for March 14, 2013. A teacher gave him an idea about having a booth at the Fair representing Calexico like the City of El Centro and City of Brawley.

City Manager Rodriguez informed Mayor Pro Tem Hodge that the City doesn't have a booth but he will look into having a booth in the Fair. The manning and printed material will be an issue.

Mayor Pro Tem Hodge inquired on the timeline to repair Cole Road. Director of General Services Fenley informed Mayor Pro Tem Hodge that the City applied for a Federal grant for the repairs of Cole Road and until the Department of Transportation (Caltrans) gives the City the E-

76 the City cannot proceed with the project. He informed Mayor Pro Tem Hodge that he will research and provide him a timeline.

Mayor Pro Tem Hodge inquired as to why not use Measure D funds for Cole Road. Director of General Services Fenley informed Mayor Pro Tem Hodge that initially the City was going to use Measure D funds to repair Cole Road but the Engineering Division applied for a Federal grant.

Mayor Pro Tem Hodge stated that the perception of his constituents is that Calexico has the most terrible roads, they don't see anything happening and the City has a lot of money sitting there in Measure D. Director of General Services Fenley informed Mayor Pro Tem Hodge that the majority of the money in Measure D has already been committed to certain projects and the City has to keep that money committed because most of the projects are Federal grants and that is the City's match share.

Mayor Pro Tem Hodge announced that Southern Association of Governments (SCAG) continues to study the border and they have done a study with the goods movement. Mayor Pro Tem Hodge stated that the City should seize the opportunity on any funding available through Imperial County Transportation Commission (ICTC) on bike or pedestrian grants.

Councilman Kim stated that City Hall should open five (5) days per week and the Library should be open at least six (6) days per week for the benefit of the citizens. He said that the City should focus on small projects rather than large projects and inquired if Measure D funds are being reserved for large projects. The roads are in bad conditions and need to be fixed. In addition, the City parks need to be in good conditions. Councilman Kim stated that it looks like the City doesn't have any parks anymore. He believes that there is a City Council Subcommittee for parks but nothing has been done. The kids and community suffer because they do not have parks. Councilman Kim requested a City Council agenda item to discuss parks and road conditions for next City Council meeting.

Councilman Castro stated that about a month ago, Sandra Tauler, Community Services Director, City Manager Rodriguez and himself went and inspected several parks and retention basins. Staff is looking for funds to fix the parks and retention basins. One (1) option would be to request funding through Measure H. Councilman Castro stated that he concurs with Mr. Asiad regarding the need for police officers at Calexico High School during their lunch hour. He asked staff as to why twenty-five percent (25%) of Daniel Gutierrez Park is always wet.

Director of General Services Fenley informed Councilman Castro that the City has had an issue with Daniel Gutierrez Park because it drains out to the stop drain by the All American Canal. The Imperial Irrigation District (IID) has been having an issue too because the collection drain also collects water from all the fields so the water was backing up and accumulating to the retention basin. It took IID almost a month to repair their equipment to clean the drain. Director of General Services Fenley also informed Councilman Castro that staff put locks on all the control boxes for the irrigation system and one of them got stuck and stayed on all morning. Staff will be going out to make sure the valves are working properly tomorrow morning.

Mayor Hurtado announced that on May 11th the U.S. Post Office will be celebrating the 25th Anniversary Food Drive and they are asking for donations. Any food gathered in the City of Calexico stays in Calexico. The Department of the U.S. Navy is also requesting and welcoming any comments on the draft EIS and draft General Air Conformity determination for the west coast home base for the Navy F35C Joint Strike Fighter by April 22, 2013. Mayor Hurtado stated that she attended an all female boxing match coordinated by former Police Officer Lara. Mayor Hurtado stated that Mayor Pro Tem Hodge and herself attended the Swimming Pool Subcommittee and discussed the construction of the swimming pool that was damaged on April 4, 2010 earthquake. Sport Submit will be held at the Calexico High School on March 2, 2013. On Thursday there will be a solar power groundbreaking on HWY 98.

Mayor Pro Tem Hodge stated that the City Council will not be successful until the City is open on Fridays, have better parks, better roads and swimming pool.

City Manager Rodriguez stated that the Fire Department has received the new donated ambulance. It has been registered and will be in service shortly. The Community Services Department is organizing Noches Bohemias on the last Friday of the month. The Engineering Department is working on submitting three (3) grants: ADA compliance study for City facilities and right-of-ways, underground assessment study and Update Bicycle Master Plan. City Manager Rodriguez informed the City Council that the City received money from the Department of Parks and Recreation to purchase picnic tables and benches and they will be installed next week. City Manager Rodriguez informed the City Council that the Police Chief has submitted his letter of retirement effective March 6, 2013.

## CONSENT

Councilman Kim pulled Item No. 1 and 5.

Motion was made by Councilman Moreno, seconded by Mayor Pro Tem Hodge to approve consent agenda consisting of the following: Acknowledge receipt of minutes for Calexico Special Financing authority for November 27, 2012; Claim Rejection - Juan Antonio Lozano; motion passed by the following vote to wit:

AYES: Hurtado, Hodge, Moreno, Castro, Kim  
NOES: None  
ABSENT: None  
ABSTAIN: None

## **ITEM NO. 1 - APPROVAL OF CITY COUNCIL/SUCCESSOR AGENCY OF THE CITY OF CALEXICO/CALEXICO FINANCING AUTHORITY MINUTES FOR REGULAR SESSION OF JANUARY 22, 2013, SPECIAL SESSION OF JANUARY 29, 2013, AND SPECIAL SESSION OF FEBRUARY 13, 2013.**

Councilman Kim requested to table this item for next City Council meeting because there are a lot of discrepancies in the minutes. For example, January 22, 2013, the minutes specify Daniel Romero as Mayor and Maritza Hurtado as Mayor Pro Tem.

Mayor Hurtado stated that on January 22, 2013, she excused herself before the private public partnership (PPP) presentation regarding building a new port-of-entry. She wanted clarification as to what was the City Council direction given to the City Manager as stated in the last sentence on Page 3.

Councilman Moreno stated that he also sees a mistake in the time that Mayor Hurtado and Councilman Kim left the meeting.

Motion was made by Councilman Kim to table January 22, 2013, minutes for the next City Council meeting and approve Special Session of January 29, 2013 and February 13, 2013. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 5 - APPROVAL WARRANT REGISTER OF CLAIMS PAID FOR THE MONTH OF JANUARY 2013**

Councilman Kim stated that on Page 3 of the warrant register the City paid Hunter Employment \$55,339.36 and said that the City is spending a lot of money for Hunter employees. He inquired if the City can get other employees through other programs like Imperial Valley College (IVC).

City Manager Rodriquez informed Councilman Kim that the City does seeks employees through different programs. Hunter employees are positions that the City cannot get through other agencies. He stated that Department Heads have the ability to obtain them so long as they have funding in their budget. The City does not have part-time employees and deal with contract employees in order for the City not to handle the liability and workers comp issues.

Councilman Kim requested clarification if IVC students can work when school is not in session. City Manager Rodriquez informed Councilman Kim that they cannot and requested Police Lieutenant Gonzalo Gerardo to clarify. Police Lieutenant Gerardo stated that they are not able to work while school is not in session. What the Police Department has done is have the student go to Hunter and fill out an application.

Councilman Kim requested the difference between Hunter and IVC employees in writing so he can see the differences.

Motion was made by Councilman Kim to approve warrant register of claims paid for the month of January 2013. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 6 - AUTHORIZATION FOR CITY MANAGER TO SIGN A COOPERATIVE AGREEMENT BETWEEN THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) AND CITY OF CALEXICO FOR IMPROVEMENTS TO STATE ROUTE 98**

City Manager Rodriquez stated that there is a correction that needs to be made to the agenda staff report. He stated that it should read from Ollie Avenue to Rockwood Avenue instead of Ollie Avenue to HWY 111.

Councilman Moreno inquired about the possibility of widening HWY 98 from Ollie Avenue to Kloke Avenue. City Manager Rodriquez informed Councilman Moreno that the purpose of Caltrans is to go all the way west from Dogwood to Rockwood Avenue.

Councilman Castro asked City Manager Rodriquez who was in charge to maintain the northwest corner of HWY 98 and HWY 111. City Manager Rodriquez informed Councilman Castro that it is the responsibility but its Caltrans property. In the future Caltrans want to use that property as potential flare out from HWY 111 to HWY 98.

Motion was made by Councilman Moreno to approve the authorization for City Manager to sign a cooperative agreement between the State of California Department of Transportation (Caltrans) and City of Calexico for Improvements to State Route 98. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 7 - PURCHASE OF EQUIPMENT AND LABOR FOR THE UPGRADES AND UPDATE OF THE LOCAL 800 MHZ RADIO SYSTEM**

City Manager Rodriquez informed City Council that the City has an 800 MHZ radio system with the whole Imperial County but in order to access the system the equipment needs to be upgraded and updated.

Motion was made by Councilman Moreno to approve the purchase of equipment and labor for the upgrades and update of the Local 800 MHZ radio system. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 8 - CONSIDERATION OF WAVER OF DEVELOPMENT IMPACT FEES PER REQUEST SUBMITTED BY THE CALEXICO NEIGHBORHOOD HOUSE**

Oscar Gonzalez said he was disenchanted that staff did not recommend the waiver of the development impact fees. He stated that when Chelsea Investments comes to City Council they do not have a special meeting to discuss their request and they have not paid anything. Calexico Neighborhood House was established 1949 and it serves as a youth center for football, baseball, basketball, etc.

Ricardo Ortega stated that the Calexico Neighborhood House has requested that the City Council waive the development impact fees in the amount of \$11,812.23 for the construction of a new women shelter in Calexico. The project began in 2008. The shelter that the Calexico Neighborhood House had was an old house and with the April 4, 2010, earthquake it just came down. The Calexico Neighborhood House has been renting homes until the new shelter is in place. Mr. Ortega stated that the building is finished but the last thing that came up is that the Calexico Neighborhood House needed to pay development impact fees in order to get a certificate of occupancy. The Calexico Neighborhood House is continuing to ask for donation for inside appliances.

Councilman Moreno asked Mr. Ortega is Danny Villanueva had anything to do with the Calexico Neighborhood House. Mr. Ortega informed Councilman Moreno that he met with the Villanueva family and they will be providing the refrigerator for all units as well as pay for the soft opening of the shelter.

Councilman Moreno inquired if the City has ever waived development impact fees for non-profit organizations. Ralph Morales, Building Manager informed Councilman Moreno that no development impact fees have been waived.

Councilman Moreno asked who will incur the cost of the development impact fees if they are waived. City Manager Rodriquez said that the City is not paying for anyone for those funds they are just not being realized.

Councilman Moreno inquired if there can be a possible deferral or payment plan of the development impact fees to the Calexico Neighborhood House due to the fact that this will open a Pandora box to other non-profit organizations. City Manager Rodriquez informed Councilman Moreno that it is a policy decision and City Council can approve other options.

Mayor Pro Tem Hodge asked Mr. Ortega if he was advised that the Calexico Neighborhood House needed to pay these development impact fees. Mr. Ortega informed Mayor Pro Tem Hodge that he didn't. Everything seemed to have been cleared until he was told that the last item that he needed to pay the development impact fees.

Mayor Pro Tem Hodge stated that he will make a position that his is an exemption. There has to be a distinction between wealth profit making developers and non-profit that greatly helps the poor and disadvantage. Mayor Pro Tem Hodge stated that he does not want to be guilty for putting women and children out on the streets. This waiver will not be subsidies by any developer.

Councilman Kim stated that the purpose of the development is very clear and this project is for women and children. He believes that City Council should approve Calexico Neighborhood House request.

Councilman Castro concurred with Councilman Kim that this project is for women and children. He stated that he supports Calexico Neighborhood House request.

Mayor Hurtado stated that she was a little confused in Mr. Ortega's statement that he was not aware that Calexico Neighborhood House needed to pay development impact fees if Mr. Ortega was a former City Council Member. Mr. Ortega informed Mayor Hurtado that he was a City Council Member in 1988 and the development impact fees came later than his tenure.

Mayor Hurtado said that she reviewed this request she was concerned why these fees were not attended to at the beginning. Mr. Ortega informed Mayor Hurtado that they best people to speak to about not providing this information would be City administration.

Mayor Hurtado stated that there is no way that she was going to say that she is against a shelter but because they are setting a precedence in providing a discount. She feels strongly that this should have been handled at the beginning and it is really hard to support that.

Mayor Hurtado asked Councilman Kim and Councilman Castro if they serve in any board at the Calexico Neighborhood House. Councilman Kim stated that he does not serve in any Calexico Neighborhood House board. Councilman Castro said he doesn't serve either.

Councilman Moreno inquired if the City Council would be interested in entering into a sixty (60) month payment plan so a precedent won't be set.

Mayor Hurtado stated that the gift of public funds is a concern and that is where the reservation is. It doesn't have to do with the project. The project is what the community needs.

Councilman Kim stated that Mayor Hurtado earlier said that this should have been taken care at the beginning of the project, therefore, its administration fault for not taking care of this since the beginning.

Councilman Moreno stated that perhaps a policy for with deferral of payment; discount and/or payment plan should be developed for women, men and children's shelters. He inquired how many shelters there were in Calexico. City Manager Rodriguez said he believes the City has two (2). Councilman Moreno stated that the City Council should be prudent as well as human and watch out for the best interest of the community.

Mayor Pro Tem Hodge stated that Councilman Moreno has an excellent idea and in the future the City should waive and/or reduce these fees for shelters.

Motion was made by Councilman Kim to approve resolution of the City Council of the City of Calexico approving the waiver of impact fees for the construction of a homeless shelter for

transitional housing for women and children. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES: Hodge, Moreno, Castro, Kim  
NOES: Hurtado  
ABSENT: None

**ITEM NO. 9 - APPOINTMENTS BY CITY COUNCIL TO THE FOLLOWING COMMISSIONS/BOARDS: A) CALEXICO APPEALS HEARING BOARD; B) CALEXICO HOUSING AUTHORITY BOARD**

City Manager Rodriquez stated that individuals who want to appeal building decision have to go before the Calexico Appeals Hearing Board to appeal the decision.

Motion was made by Councilman Moreno to appoint Jose L. Yepes Jr. to the Calexico Appeals Hearing Board. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES: Hurtado, Hodge, Moreno, Castro, Kim  
NOES: None  
ABSENT: None

Motion was made by Councilman Moreno to appoint Mario Acevedo to the Calexico Housing Authority Board as resident commissioner. Motion seconded by Councilman Kim and passed by the following vote to wit:

AYES: Hurtado, Moreno, Castro, Kim  
NOES: Hodge  
ABSENT: None

Maria L. Juarez, 1204 Camino Del Rio, Calexico, CA, stated that she is a former CNA and works for ARC. She stated that her goal in the Calexico Housing Authority is to represent the residents of the community with their housing needs and try to serve as an advocate of the community. She will make an effort to have an easier process to have the residents fill out applications and give direction of the different programs in the community. Ms. Juarez thanked the City Council for considering her as a commissioner for the Calexico Housing Authority.

Motion was made by Councilman Kim to appoint Maria L. Juarez to the Calexico Housing Authority Board as commissioner. Motion seconded by Councilman Castro and passed by the following vote to wit:

AYES: Hurtado, Hodge, Moreno, Castro, Kim  
NOES: None  
ABSENT: None

**INFORMATIONAL ITEMS**

**ITEM NO. 10 - ACKNOWLEDGE RECEIPT OF BUSINESS LICENSE DELINQUENT  
JANUARY 2013**

City Council acknowledged receipt of business license delinquent for January 2013.

**ADJOURNMENT**

There being no further business the meeting adjourned at 8:07 p.m.

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Maritza Hurtado, Mayor

Attest:

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Gabriela T. Garcia, Deputy City Clerk

**THE CITY COUNCIL/CALEXICO COMMUNITY REDEVELOPMENT AGENCY SUCCESSOR AGENCY/CALEXICO FINANCING AUTHORITY MET IN REGULAR SESSION ON THE 19TH DAY OF MARCH, 2013 AT 6:30P.M. AT THE FERNANDO "NENE" TORRES COUNCIL CHAMBERS, 608 HEBER AVENUE, CALEXICO, CALIFORNIA. THE DATE, HOUR AND PLACE DULY ESTABLISHED FOR THE HOLDING OF SAID MEETING.**

**CLOSED SESSION – 5:30P.M.**

**CALL TO ORDER**

The Special Closed Session portion of the agenda was called to order at 5:30 p.m.

**ATTENDANCE**

Mayor: Maritza Hurtado  
Mayor Pro Tem: Bill Hodge  
Councilman: John M. Moreno  
Councilman: Joong S, Kim  
Councilman: Luis J. Castro

The City Council convened into Closed Section at 5:30 p.m. to discuss the following:

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Manager

Jennifer Lyon, City Attorney reported that the City Council meet in closed session and discussed Item A, Oscar Rodriquez, City Manager participated via conference call. Direction was given, no reportable action.

**REGULAR SESSION – 6:30 P.M.**

**CALL TO ORDER**

The regular session portion of the agenda was called to order at 6:30 p.m. by Mayor Hurtado.

**PLEDGE OF ALLEGIANCE**

Mr. Tony Garcia led those present in the Pledge of Allegiance

**ATTENDANCE**

(All Council members were present: Hodge, Moreno, Hurtado, Kim, Castro)

**APPROVAL OF AGENDA**

City Attorney Lyon pulled Item No. 4 from the Agenda.

Motion was made by Councilman Moreno to approve the agenda with the removal of Item No. 4, seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES: Hodge, Moreno, Hurtado, Castro, Kim  
NOES: None  
ABSENT: None  
ABSTAIN: None

## **PRESENTATION**

### **A. PRESENTATION BY IMPERIAL IRRIGATION DISTRICT ON THE 2013 IID COPPER THEFT DETERRENT CAMPAIGN**

Presentation cancelled

### **B. PRESENTATION BY CALEXICO NEIGHBORHOOD HOUSE CONCERNING FREE HOUSE BUSINESS WORKSHOPS**

Hector Araujo, Calexico Neighborhood House Micro Business Service Center Director, 1121 Cesar Chavez Blvd, Calexico, CA, made a presentation to the City Council and those present on the project and services the Neighborhood House provides to the public free of charge. They have been providing these services for five (5) years. In January, they developed a curriculum that fits the need of the Calexico community. In the new curriculum a person can pick the topics that interest them. With this new format, they have received a tremendous response from the public. Mr. Araujo stated that they already have a waiting list for some of the classes. In the conclusion of the workshop they perform satisfactory evaluation of the workshops and the feedback has been very positive. They offer the following business sessions: planning your business, business license and legal requirements, selling skills, marketing, recordkeeping and financial reports, social media and Facebook for business, understanding your credit, and QuickBooks. Mr. Araujo stated that attendees can schedule one or more sessions of their choice. Upon completion of the session they are given a certificate. In addition, they offer consulting assessment, use of technology center, funding assistance and obtaining business license. They provide all these services with contributions from Health and Human Services, City Foundation, Wells Fargo and Imperial Irrigation District (IID). Mr. Araujo stated that 15 clients have obtained City business license.

David Cortez stated that the services that are provided by the Neighborhood House helped him get an office and all required licenses for his business.

Councilman Moreno asked if the City can post Mr. Araujo's presentation and/or website on the City's website. Mr. Araujo thanked Councilman Moreno for his recommendation.

## **ANNOUNCEMENTS/PUBLIC APPEARANCES/PUBLIC COMMENTS**

Lucio Padilla, 940 Salvador Guilin, Calexico, CA, stated that he is a resident of Calexico for approximately forty-eight (48) years and is a teacher at Calexico Unified School District. He

stated that he has seen the advertisement for solar energy in the Imperial County and has been encouraging his students to go after these kinds of opportunities. He requested City Council support in encouraging students to attend vocational schools for solar energy as well as look into the interview process of these solar companies.

John Renison, Imperial County Board Supervisor District 1, stated that there have been about four (4) to five (5) job fairs with 1,200 people applying. He has met with Mr. Padilla and his son and has provided them with information and resources as to where his son can apply for a solar energy job. Board Supervisor Renison stated that there are four (4) projects currently being developed and are projected to have 1,946 temporary jobs. He stated that if anyone has a concern about local people being employed please contact him and he will get an answer for you and/or have Workforce Development office come to Calexico and have forums to provide information. Board Supervisor Renison stated that Ray Castillo, Imperial County Board Supervisor District 5 and himself will be having State of the County Address on March 28, 2014 at 6:00p.m., in Calexico.

Mayor Hurtado stated that there is a vocational school over by M.L. King in Calexico that is training individuals on solar energy.

Mayor Pro Tem Hodge asked Board of Supervisor Renison if these companies are keeping their promise and hiring local individuals. Board of Supervisor Renison stated that to his knowledge they are hiring local individuals. He stated that seventy percent (70%) of the 558 individuals that are currently hired are local Imperial County residents.

Mario Vega stated that he has a problem with his water bill consumption. He has tried to resolve the issue but has not been successful. He said that he has not had water service for the last nine (9) months. He asked for City Council support on this issue.

Mayor Hurtado advised Mr. Vega to contact Peter Mercado, Interim City Manager to see how the City can assist him with his issue.

Marco Mendez, Calexico Parents Athletic League (CPAL) Soccer Section President, presented an award to Sergio Pesqueira for his help in the league.

Tony Garcia, 1101 Amada Court, Calexico, CA, CPAL President, stated that the organization is constantly asking for assistance and they receive it, which they are very grateful. Mr. Garcia presented an award to Joe Duarte for taking time to listen to their requests and making sure that whatever Calexico Unified School District (CUSD) facility they use is in working condition.

Devon Apodaca, 545 Desert Rose Court, Imperial, CA, stated that Charlene Marriner and he are from the Imperial Valley Human Society and are concerned over some issues with the Calexico Animal Shelter. One of their concerns is about the pictures that have been taken of the animals and have been posted on the Calexico Animal Shelters Facebook page. He stated that the Human Society has received several complaints from individuals who have seen the picture and when they call looking for their animal they tell them that the animal is in the Imperial Valley Human Society. Several individuals have accused them of doing things to the animal because they are

not in the shelter. Mr. Apodaca stated that taking a picture of the animal and posting it online is a great idea because it helps them reunite with their owners but what he is concerned about is that some animals have not been picked-up by the City Animal Control Officers and are being adopted by the volunteers. He stated that if adoptions are taking place without the animals being spayed or neutered the City will be liable for a \$5,000 fine. The State of California requires that any animal shelter and/or animal holding facility that allows the adoption of animals must spay or neuter the animal before it is adopted.

Charlene Marriner, Imperial Valley Human Society Director, stated that the Imperial Valley Human Society handles about 300 to 400 animal each month. They receive all the animals from all the shelters in the Imperial Valley when they have been there for the allowable time. Ms. Marriner stated that they do have a pretty good adoption rate and they transfer their animals to other shelters for adoption. She stated that they do require that all animals are spayed or neutered before they are adopted and they have a working relationship with local veterinarian. They also make sure that the animals have all their vaccinations and rabies shots.

Tiffany Mendoza, 1738 Ocotillo Drive, El Centro, CA, talked about the importance of the Calexico Animal Shelter. She stated that she would like to see more volunteer hours, donation drive and other fundraising event to promote the Calexico Animal shelter, as well as physical improvements such as the construction of a building. Ms. Mendoza stated that the Calexico Animal Shelter has 70 volunteers signed up. If they are given more time with the animals they can give them their weekly grooming session but make them more sociable through basic training. Volunteers in Calexico have already made a huge difference and have increase their savory by eight percent (80%). Ms. Mendoza stated that when current management does not allow the volunteers to be used to the fullest of their capability there are being left on the table as an important asset. By not allowing volunteers to post photos on Facebook shelter animals will have a harder time getting a home. Ms. Mendoza stated that before the Facebook page was created she did not know that the Calexico Animal Shelter existed.

Carolina Avila, 774 Acuna Avenue, Calexico, CA, stated that she read the Calexico mission statement and it states that the City wants to improve the life of everyone and she asked what about animals. Since she moved backed to Calexico she has seen so many homeless pets. She knows that animal cruelty is happening in our town. Ms. Avila stated that she just found out that Calexico has an animal shelter through Facebook. She requested that citizens of Calexico make an effort and volunteer at the animal shelter.

Dianna Daniels, 1322 Garfield, Calexico, CA, stated that the Police Lieutenant wants to make the Calexico Animal Shelter into a pound so there can be less care for the animals, which make things easier for them and not for the citizens of Calexico. Ms. Daniels stated that according to the Imperial Valley Human Society eight percent (80%) of the animals are not being put down. The Calexico Animal Shelter volunteer program is working and has devoted people weekly who show up to clean, groom, and show the animals much needed attention to become viable for adoption instead of slaughter. Ms. Daniels thanked the volunteers for making the hopes for the shelter a reality. They are making vast improvements to the facility and it's almost complete in having a facility worth carrying the Calexico name. Unfortunately, Lieutenant Gerardo wants to get rid of that shelter title in order to provide less service to the people and the lost pets. Ms.

Daniels stated that this idea is pure laziness and unjust to City employees. She stated that City employees who work for the Calexico Animal Shelter should work for the people agenda and not their own agenda. City work is hard and she understands that they deserve a lot of appreciation. Ms. Daniels stated that the Facebook page has over than 1,000 followers and has let the citizens know that there is a Calexico Animal Shelter. It has also reunited owners with their pets and people are able to see what animals they have available that are ready for adoption. Ms. Daniels stated that because there are a lot people inquiring about their lost pets the Lieutenant want to cancel the pictures. She believes that the Lieutenant wants to stop the pictures because he wants to cover up the embarrassment of poor problematic conditions.

Oscar Gonzalez stated that he read in the paper that the City needs volunteers to clean the parks and graffiti. Mr. Gonzalez believes that the problem is administration. He stated that he works as a consultant with Mr. Acuna and both have tried to meet with administration to present a plan for the Library to be open Fridays and Saturdays and City Hall on Friday but have not been successful. Mr. Gonzalez stated that Mr. Acuna has been criticized for not cleaning the park bathrooms at Rockwood Park but that is not part of his job nor does he get paid to do so.

Luis Casillas, Calexico Police Officers Association (CPOA), announced that they are seeking volunteers for the CPOA fireworks stand. This is the 3rd year they sell fireworks. Mr. Casillas stated that 100% of all proceeds from the firework sells are donated. Over the last two (2) years they have donated \$13,000 to outreach programs, baseball, explorers, etc. Mr. Casillas stated that they will be running the stand six (6) days before the 4th of July and hopes everyone can participate including the City Council.

Daniel Romero, 800 Holdridge Street, Calexico, CA, stated that he has been approached by several concerned citizens regarding the establishment of a panel of five (5) to seven (7) individuals to be part of the process of the selection of the new Police Chief and that two (2) of the members would be the District Attorney (DA) and Sheriff. Mr. Romero stated that there is someone else that was also mentioned and who he feels would be a great addition to the panel but due to political pressures he will not be selected. The City Council takes an incredible step forward on improving the image of the City of Calexico by including these two (2) professionals and also the third if he is named. Mr. Romero stated that the City Council took two (2) steps back when they hear that two (2) Council Members are pressuring others to remove these two (2) professionals from the panel to expand the opportunity for different candidates to be considered who may not be qualified. Mr. Romero stated that he is not saying that this person would not be selected by these two (2) professionals but at least having these members on board they will give the recommendation much more creditability. He asked the City Council not to remove the DA and the Sheriff from the panel.

Rudy Alarcon stated that he was amazed by the comments Mr. Romero made. To his knowledge, they were never made public so he is obviously speaking of something that happened in closed session, which concerns him. Mr. Alarcon stated that someone from the City Council is probably speaking on what happens in closed session or its just rumors that he has come up with.

Ross Johnson, El Centro, CA, stated that it is his understanding that the City Council voted on waiving fees for some new businesses in the City of Calexico. In doing that, the school district

would also have to waive their fees. Mr. Johnson stated that there is a Council Member that is always saying that he wants to protect the kids. His concern is that by waiving the fees for any one group or individual will have a dangerous financial impact because the City will have more requests to waive fees. The Constitution allows equal protection of the law. Mr. Johnson stated that he would like to get in line for an application and start waiving fees. He asked the City Council that the next time they consider waiving fees they consider the full impact because it will deprive the kids from the services that they need.

John Romo stated that he has requested to meet with the City Manager for the last seven (7) months and has not gotten a response. He wants to meet with the City Manager to discuss personal matters that affect his life.

Mayor Pro Tem Hodge stated that he would take the lead in giving the City Manager Mr. Romo message in meeting with him.

### **GENERAL COMMENTS BY COUNCIL MEMBERS**

Councilman Moreno thanked the Business Improvement District, the City of Calexico and everyone who participated in the car show. He requested that the water be turned on next to the concession stand at the Water Plants baseball fields and asked staff to look into improving the fields (clay infield, score lights, etc.) through Measure H. Councilman Moreno spoke with Public Works Director/City Engineer regarding street lights that are not working in downtown. He stated that Ms. Daniels has been working tirelessly; her efforts have been immeasurable and thanked her. Councilman Moreno stated that everyone can work together and improve the process. He would like that the animal shelter subcommittee meet at the Calexico Animal Shelter to see first-hand the condition of the facility and how it can be improved.

Mayor Pro Tem Hodge stated that he visited John F. Kennedy Park and thanked Javier Gonzalez and all the volunteers for cleaning up the park. He said that Mr. Gonzalez shared his concerns and in return he took the leadership in scheduling a meeting with Mr. Acuña, Mr. Gonzalez, Mrs. Estrada and the City Council subcommittee to discuss these concerns. Mayor Pro Tem Hodge requested that for the next City Council meeting the Arts Commission make a presentation or provide information regarding the mural program. On March 19, 2013, Mayor Pro Tem Hodge attended Imperial County Transportation Commission (ICTC) bus circulator workshop. The comments during the workshop are to help subsidy the current transit provider. Mayor Pro Tem Hodge stated that he has been in the animal shelter subcommittee over a year now and they still do not have a roof. He does not understand why the City is not moving faster. Mayor Pro Tem Hodge commended Ms. Daniels for her leadership and all she has done for the Calexico Animal Shelter.

Councilman Kim stated that he attended ICTC bus circulator workshop on behalf of the residents of Calexico. He recommended that BID send a letter to ICTC telling them to build a transportation facility far away from downtown so that they won't take customers from downtown to other cities. Councilman Kim stated that parks and roads in Calexico are still in very bad conditions and nothing has been done.

Councilman Castro stated that he attended ICTC bus circulator workshop. He is concerned that ICTC has been working with First Transit, Inc. and they are pumping the revenues from Calexico. They are taking customers from Calexico to other cities. He believes that City is losing revenues.

Mayor Hurtado stated that yesterday she noticed heavier traffic on Imperial Avenue and reported that there seems to be a new operation by Mexican authorities at the port-of-entry, which has been creating backup on Imperial Avenue. The City's Interim Police Chief has indicated that he will be ensuring that the City has plenty of support for traffic congestion on Imperial Avenue. Mayor Hurtado stated that she has seen a lot of activity on Yourman Road and thanked Public Works staff for the repairs. The pool subcommittee has met; they are putting together some numbers as well as looking into putting solar panels. The pool subcommittee will be meeting once a month. Mayor Hurtado stated that she received an invitation from the Calexico Chamber of Commerce for Senorita Mariachi Festival press conference/reception that will be held on March 26, 2014, from 5:30 p.m. to 7:00 p.m. at the Holiday Inn on Scaroni Road, Calexico, CA. Mayor Hurtado reminded those present that April 16, 2014, will be the State of the City. She requested a presentation on the differences, role and responsibilities between the Calexico Animal Shelter and Imperial Valley Human Society. On March 28, 2014, the parks subcommittee will be meeting with different sport organization to understand the process of requesting facilities, registration, Adopt-A-Park and any concerns or issues.

Peter Mercado, Interim City Manager stated that firework sell applications will be available March 1, 2014. Deadline for submission is noon on April 2, 2014

## CONSENT

Councilman Kim pulled Item No. 1, 2 and 3.

Motion was made by Councilman Moreno, seconded by Councilman Kim to approve consent agenda consisting of the following: Approval of Resolution of the City Council of the City of Calexico authorizing the City Manager to execute agreements with California Department of Transportation for the City of Calexico Underground Utility Assessment Grant; Approval of Resolution of the City Council of the City of Calexico authorizing the City Manager to execute agreements with California Department of Transportation for the City of Calexico American Disabilities Act (ADA) Transition Plan within Public Right-of-Way Study Grant; Approval of Resolution of the City Council of the City of Calexico authorizing the City Manager to execute agreements with California Department of Transportation for the City of Calexico Bicycle Master Plan Update Study Grant; motion passed by the following vote to wit:

AYES: Hurtado, Moreno, Castro, Kim  
NOES: None  
ABSENT: Hodge  
ABSTAIN: None

**ITEM NO. 1 - APPROVAL OF CONSULTANT AWARD TO THE HOUSING ELEMENT UPDATE TO THE GENERAL PLAN TO CASTANEDA AND ASSOCIATES**

Councilman Kim asked why the City needs to hire a consultant and not have staff do it. Teri Nava, Housing Manager informed Councilman Kim that the City does not have staff available to work on the housing element. The housing element is part of the general plan and is a very detailed element that is conducted every five (5) years. Councilman Kim asked what benefits the City gets when the housing element is completed. Mrs. Nava stated that it is a state mandate to complete the housing elements and if the City does not update the housing element than the City will not be able to apply for any future funding with the State of California.

Motion was made by Councilman Kim to approve consultant award to the housing element update to the general plan to Castaneda and Associates. Motion seconded by Councilman Moreno and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 2 - APPROVAL OF WARRANT REGISTER OF CLAIMS PAID FOR THE MONTH OF FEBRUARY 2013**

Councilman Kim said he did not see the revenues only the expenses.

Mayor Hurtado stated that this is only the warrant of register.

Councilman Kim said he understands but would like to see how much revenue has been collected, how much has been spent and how much is in the remaining balance.

John Quinn, Finance Director informed Councilman Kim that the warrant of register is only cash disbursement and it is a requirement that the City does that because the City is on a warrant system. The warrants have to be approved by the City Council. Finance Director Quinn stated that it has nothing to do with revenue or comparing revenue and expenditures. All of the reconciliation is done later in the monthly financial report.

Councilman Kim is concerned that the City is paying for employees through Hunter Employment and asked why the City does not hire the employees instead. Finance Director Quinn informed Councilman Kim that the City uses Hunter for part-time employees; they do not receive any benefits and are paid an hourly low rate than a City employee. In addition, any part-time employee working for the City can only put in 1,000 hours per fiscal year as per CALPERS.

Mayor Pro Tem Hodge asked what services were provided by First Transit, Inc. in the amount of \$28,000. Finance Director Quinn informed Mayor Pro Tem Hodge that the City receives funding from ICTC to pay First Transit, Inc. for the Calxico Dial-A-Ride program.

Motion was made by Councilman Kim to approve the warrant register of claims paid for the month of February 2013. Motion seconded by Councilman Moreno and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 3 - ACKNOWLEDGE RECEIPT AND FILE THE 2012-2013 MONTHLY FINANCIAL REPORT AS OF JANUARY 31, 2013**

Councilman Kim stated that on Page 1 of the narrative it states that the City has 2.5% more of sales tax for January. Finance Director Quinn stated that there is a lag in sales tax by two (2) months but according to the sales tax consultants the City will see a 2.5% increase.

Councilman Kim stated that on Page 2 of the narrative it states that the City has spent 4% less of the total budget. Finance Director Quinn stated if the total budget was divided by twelve (12) months at the end of January you would expect to see the expenditures at 58%, instead they are currently sitting at 54%. There is roughly a \$700,000 to \$800,000 in encumbrances. Encumbrances are competed funds but not spent and are not showing in the expenditure report.

Motion was made by Councilman Kim to acknowledge receipt and file the 2012-2013 monthly financial report as of January 31, 2013. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 8 - CONSIDERATION OF THE INFOSEND, INC. BILL PRINTING PROPOSAL**

Finance Director Quinn informed the City Council that the Finance Department process the water, sewer and refuse bill every month. Currently CSG process the printing services for the City unfortunately for the last several months the Finance Department has had problems because they moved their mailing operation cause the residents of Calexico to get their utility bill late. Finance Director Quinn stated that he contacted other cities to see what bill printing services they used and did an analysis on InfoSend, Inc. He mentioned that InfoSend, Inc. has a special feature called "Pay Near Me" that is are linked to 7-11 and what a resident can do is go to 7-11 and pay their utility bills.

Mayor Hurtado asked if this new services will allow residents to make payments online. Finance Director Quinn informed Mayor Hurtado that payment online is a capability that they will be adding soon.

Councilman Kim requested clarification on Section 3 of resolution.

City Attorney Lyon asked if the City was going to terminate the current contract with CSG. Finance Director informed City Attorney Lyon that CSG contract will need to be terminated. City Attorney Lyon stated that a section in the resolution needs to be added that specifies that the City Manager will have the authorization to terminate the contract with CSG.

Motion was made by Councilman Moreno to approve a resolution of the City Council of the City of Calexico authorizing the City Manager, or designee, to enter into an agreement with InfoSend, Inc. to provide bill printing services with additional changes requested by City Attorney Lyon. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 9 - AWARD OF BID PROPOSAL FROM PASO ROBLES TANK, INC. IN THE AMOUNT OF \$6,071,966 FOR 1 MG, 3 MG, 4 MG, AND 6 MG WATER TANK REPAIR AND UPGRADE PROJECT**

Councilman Moreno asked Nick Servin, Public Works Director/City Engineer if FEMA will be paying 75%, CALEMA 18.75% and the City 6.25%. Public Works Director/City Engineer Servin informed Councilman Moreno that he was correct.

Public Works Director/City Engineer Servin informed the City Council that the bid came in \$900,000 less than the engineers estimate.

Motion was made by Councilman Moreno to award the bid proposal from Paso Robles Tank, Inc. in the amount of \$6,071,966 for 1 MG, 3 MG, 4 MG and 6 MG water tank repair and upgrade project. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**ITEM NO. 10 - CONSIDERATION OF THREE ITEMS THE MEASURE H CITIZEN ADVISORY COMMITTEE PASSED FOR RECOMMENDATION FOR APPROVAL BY THE CITY COUNCIL**

Councilman Kim abstained himself from this item and left the Council Chambers.

Norma Aguilar, 839 Heber Avenue, Calexico, CA, asked for City Council support of the items presented tonight for consideration. The School Resource Officer (SRO) funding addresses vital staffing at the schools as well as crossing guards. Ms. Aguilar stated that the pool is vital not only for the children but also for the community.

Mayor Pro Tem Hodge stated that he supports all of these items but next time he would like to see a report and/or school budget that justifies that there is a financial need to use Measure H funds.

Councilman Moreno stated that he has worked with SRO in the past and previously were fully funded by the school district. He spoke to a concerned citizen regarding this item and Councilman Moreno believes it is in critical importance to have partnership with the Police Department. It is not a luxury to have SRO in schools but a necessity. Councilman Moreno stated that he believes the school district and the City in a partnership split the cost between both agencies and eventually the school district pick-up the cost.

Mayor Hurtado stated if it was City Council recommendation to give direction to the City Manager to have discussion with the school district to detach financially from the school regarding SRO.

City Council gave direction to the City Manager to have discussion with the school district to detach financially from the school regarding SRO.

Motion was made by Councilman Moreno to adopt a resolution of the City Council of the City of Calexico approving three items recommended by the Measure H Citizens Advisory Committee authorizing the City Manager, or designee, to make all necessary budget adjustments and accounting entries to record the items and make funding available as soon as possible. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:	Hurtado, Hodge, Moreno, Castro
NOES:	None
ABSENT:	None
ABSTAIN:	Kim

#### **ITEM NO. 11 - REVISED FIRST TIME HOMEBUYER GUIDELINES**

Motion was made by Mayor Pro Tem Hodge to approve the revised first time homebuyer guidelines. Motion seconded by Councilman Moreno and passed by the following vote to wit:

AYES:	Hurtado, Hodge, Moreno, Castro, Kim
NOES:	None
ABSENT:	None

#### **ITEM NO. 12 - CONSIDERATION BY COUNCILMEMBER MORENO TO REMOVE HIS APPOINTEE TO THE FINANCIAL ADVISORY BOARD**

Councilman Moreno stated that do to personal reason Joe Moreno asked to be removed. He stated that he does not have an appointee.

**ITEM NO. 13 - APPOINTMENTS BY CITY COUNCIL MEMBERS TO THE FOLLOWING COMMISSIONS/BOARDS: A) MAYOR PRO TEM HODGE VACANCY: HISTORICAL COMMISSION; B) COUNCILMAN CASTRO VACANCY: FINANCIAL ADVISORY BOARD**

Mayor Pro Tem Hodge appointed Daniel Chairez to the Historical Commission. Councilman Castro reappointed Cynthia Retana to the Financial Advisory Board.

**PUBLIC HEARING**

**ITEM NO. 14 - PUBLIC HEARING TO DISCUSS THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) REVISED PROGRAM INCOME REUSE PLAN AND SOLICIT CITIZEN INPUT: A) APPROVAL OF RESOLUTION OF THE CITY OF CALEXICO AUTHORIZING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) REVISED PROGRAM REUSE PLAN**

Mayor Hurtado opened the public hearing at 8:54p.m.

Housing Manager Nava stated that staff is requesting to make some minor modifications to the breakdowns. The revolving loans are funds repaid back to the City from housing first time home buyer program and housing rehabilitation. As per state mandate the City is required to have four (4) accounts for housing rehabilitation, homeowner assistance, business assistance and Microenterprise assistance. Housing Manager Nava stated that the last time they revised these accounts were in November 2011 but do to the big increase in need for the first time home Buyer staff is requesting to flip the fifty percent (50%) that are coming into the City to the first time home buyer and twenty-five percent (25) to the housing rehabilitation program.

Mayor Hurtado commented that the first time home buyer program is a great program and staff does a great job overseeing it. They insure that the homes being purchased are in appropriate conditions following all rules, regulations and codes.

Mayor Hurtado closed the public hearing at 8:58p.m.

Motion was made by Councilman Moreno to approve resolution of the City of Calexico authorizing the Community Development Block Grant (CDBG) revised program reuse plan. Motion seconded by Mayor Pro Tem Hodge and passed by the following vote to wit:

AYES:                   Hurtado, Hodge, Moreno, Castro, Kim  
NOES:                   None  
ABSENT:               None

**INFORMATIONAL ITEMS**

**ITEM NO. 15 - ACKNOWLEDGE RECEIPT OF BUSINESS LICENSE DELINQUENT REPORT FOR THE MONTH OF FEBRUARY 2013**

Councilman Kim asked when the City was going to take action on this item.

Finance Director Quinn explained to City Council that the report is broken down into three (3) sections. Section 1 is for businesses within City limits, Section 2 are the businesses out of town and Section 3 are the businesses in the swap meet. There is activity and there is important which comes from the Code Enforcement and Fire Inspection Division because they go out inspect the business and do the onsite determination. Finance Director Quinn stated that when business closes they do not call the City and let us know that they closed out there business.

City Council acknowledged receipt of business license delinquent report for the month of February 2013.

**ITEM NO. 16 - APPROVAL OF RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO IN ITS CAPACITY AS THE SUCCESSOR AGENCY TO THE CALEXICO COMMUNITY REDEVELOPMENT AGENCY APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JULY THROUGH DECEMBER 2013 AND APPROVING CERTAIN RELATED ACTIONS**

City Attorney Lyon stated that the oversight board has already approved this item and has been sent to the State, so this item is ratification by the Successor Agency Board.

Mayor Hurtado stated that when Daniel Romero was Mayor he was a member of the Oversight Board and she was asked who should sit on the board. City Attorney Lyon informed Mayor Hurtado that she believes that a resolution was approved in December or January when Mr. Romero left the City Council that the Mayor would be on the Oversight Board.

Motion was made by Mayor Pro Tem Hodge to approve resolution of the City of the City Council of the City of Calexico in its capacity as the Successor Agency to the Calexico Community Redevelopment Agency approving the recognized obligation payment schedule for the period of July through December 2013 and approving certain related actions. Motion seconded by Councilman Moreno and passed by the following vote to wit:

AYES:	Hurtado, Hodge, Moreno, Castro, Kim
NOES:	None
ABSENT:	None

**ADJOURNMENT**

There being no further business the meeting adjourned at 9:10 p.m.

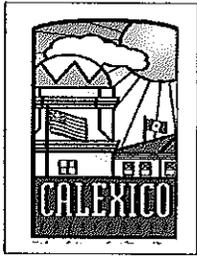
\_\_\_\_\_  
Maritza Hurtado, Mayor

Attest:

\_\_\_\_\_  
Gabriela T. Garcia, Deputy City Clerk

**AGENDA  
ITEM**

**4**



# AGENDA STAFF REPORT

**DATE:** October 21, 2014

**TO:** Mayor and City Council

**APPROVED BY:** Richard N. Warne, Interim City Manager *RNW*

**PREPARED BY:** Gabriela T. Garcia, Deputy City Clerk *GTG*

**SUBJECT:** Approval of Application for Alcoholic Beverage License for The CB Stop, Inc., 1498 Cole Blvd., Calexico, CA 92231.

=====

**Recommendation:**

Approval of Application for Alcoholic Beverage License for The CB Stop, Inc., 1498 Cole Blvd., Calexico, CA 92231.

**Background:**

Application for Alcoholic Beverage License has been submitted to the Department of Alcoholic Beverage Control by The CB Stop, Inc., 1498 Cole Blvd., Calexico, CA 92231.

**Discussion & Analysis:**

Application has been forwarded to the City of Calexico by the Department of Alcoholic Beverage Control for review and approval of the Alcoholic Beverage License for CB Stop, Inc., 1498 Cole Blvd., Calexico, CA 92231.

**Fiscal Impact:**

None.

**Coordinated With:**

Department of Alcoholic Beverage Control

**Attachments:**

1. Copy of Application.



**APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)**

ABC 211 (6/99)

**TO:** Department of Alcoholic Beverage Control  
 34-160 GATEWAY DR.  
 STE 120  
 PALM DESERT, CA 92211  
 (760) 324-2027

File Number: **550554**  
 Receipt Number: **2257757**  
 Geographical Code: **1302**  
 Copies Mailed Date: **October 3, 2014**  
 Issued Date:

**DISTRICT SERVING LOCATION:** PALM DESERT  
**First Owner:** **C B STOP, INC. THE**  
**Name of Business:** **C B STOP THE**  
**Location of Business:** **1498 COLE BLVD**  
**CALEXICO, CA 92231-9724**

**County:** **IMPERIAL**  
**Is Premise inside city limits?** **Yes** **Census Tract** **0119.00**

**Mailing Address:**  
 (If different from premises address)

**Type of license(s):** **20**

**Transferor's license/name:** **486154 / HRSR VENTURES LLC** **Dropping Partner:** Yes \_\_\_ No \_\_\_

License Type	Transaction Type	Fee Type	Master	Dup	Date	Fee
20 - Off-Sale Beer And Win	ANNUAL FEE	NA	Y	0	10/03/14	\$254.00
20 - Off-Sale Beer And Win	PERSON-TO-PERSON TRANSFER	NA	Y	0	10/03/14	\$50.00
NA	ISSUE TEMPORARY PERMIT	NA	N	1	10/03/14	\$100.00
<b>Total</b>						<b>\$404.00</b>

**Have you ever been convicted of a felony?** **No**  
**Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act?** **No**  
 Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application.

**Applicant agrees (a) that any manager employed in an on-sale licensed premises will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.**

**STATE OF CALIFORNIA** County of **IMPERIAL** Date: **October 3, 2014**

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department.

Effective July 1, 2012, Revenue and Taxation Code Section 7057, authorizes the State Board of Equalization and the Franchise Tax Board to share taxpayer information with Department of Alcoholic Beverage Control. The Department may suspend, revoke, and refuse to issue a license if the licensee's name appears in the 500 largest tax delinquencies list. (Business and Professions Code Section 494.5.)

**Applicant Name(s)**

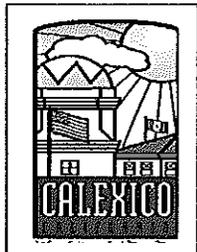
**Applicant Signature(s)**

C B STOP, INC. THE

**See 211 Signature Page**

**AGENDA  
ITEM**

**5**



# AGENDA STAFF REPORT

**DATE:** October 21, 2014

**TO:** Mayor and City Council

**APPROVED BY:** Richard N. Warne, Interim City Manager *REW*

**PREPARED BY:** Richard N. Warne, Interim City Manager *REW*

**SUBJECT:** Second Reading and Adoption of Regular Ordinance No. 1157 of the City Council of the City of Calexico Repealing Chapters 13.04; 13.08; 13.12; 13.16; 13.20; 13.24; 13.28; and 13.30 of Chapter 1 "Water System" Title 13 "Public Services" of the Calexico Municipal Code and adding Chapter 1 "Water Service," Sections 13.01.010 Through 13.01.720 to Title 13 "Public Services" of the Calexico Municipal Code

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## Recommendation:

Approve Second Reading and Adoption of Regular Ordinance No. 1157 the City Council of the City of Calexico Repealing Chapters 13.04; 13.08; 13.12; 13.16; 13.20; 13.24; 13.28; and 13.30 of Chapter 1 "Water System" Title 13 "Public Services" of the Calexico Municipal Code and adding Chapter 1 "Water Service," Sections 13.01.010 Through 13.01.720 to Title 13 "Public Services" of the Calexico Municipal Code.

## Background:

A reliable supply of potable water is essential to the public health and welfare of the people and economy of the City of Calexico. Most of the Calexico Municipal Code Chapters governing the provision of water service were written prior to 1969 and need to be rewritten to incorporate new water quality regulations, eliminate or control existing cross connections, and promote more efficient water service delivery to residential, commercial and industrial customers.

## Discussion & Analysis:

The proposed ordinance (1) establishes rules, regulations, policies and procedures for the efficient provision of water service, (2) establishes the duties, obligations and responsibilities of the City and its water customers, and (3) promotes the public health, safety and general welfare of the users of the water system in accordance with the standards established by the City, County, State and Federal Governments.

**Fiscal Impact:**

None.

**Coordinated With:**

Financial Services Department  
Development Services Department  
City Attorney's Office

**Attachment:**

Ordinance No. 1157 of the City Council of the City of Calexico Repealing Chapters 13.04; 13.08; 13.12; 13.16; 13.20; 13.24; 13.28; and 13.30 of Chapter 1 "Water System" Title 13 "Public Services" of the Calexico Municipal Code and adding Chapter 1 "Water Service," Sections 13.01.010 Through 13.01.720 to Title 13 "Public Services" of the Calexico Municipal Code.

**ORDINANCE NO. 1157**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO REPEALING CHAPTERS 13.04; 13.08; 13.12; 13.16; 13.20; 13.24; 13.28; AND 13.30 OF CHAPTER 1 "WATER SYSTEM," TITLE 13 "PUBLIC SERVICES" OF THE CALEXICO MUNICIPAL CODE AND ADDING CHAPTER 1 "WATER SERVICE," SECTIONS 13.01.010 THROUGH 13.01.720 TO TITLE 13 "PUBLIC SERVICES" OF THE CALEXICO MUNICIPAL CODE**

**WHEREAS**, a reliable supply of potable water is essential to the public health, safety and welfare of the people and economy of the City of Calexico; and

**WHEREAS**, the City Council wishes to establish rules, regulations, policies and procedures for the efficient provision of water services and the extension of water service in the City of Calexico; and

**WHEREAS**, the City Council wishes to establish the duties, obligations and responsibilities of the City and its water customers; and

**WHEREAS**, the City Council wishes to promote the elimination or control of existing and potential water cross connections between systems, plumbing fixtures, and industrial piping; and

**WHEREAS**, the standards and requirements set forth herein are intended to benefit the public by ensuring that property owners enjoy a reasonable, beneficial, and economic use of their property; and

**WHEREAS**, the City Council of the City of Calexico wishes to adopt a new Water Service Ordinance to protect the public health and safety of its citizens and to promote the general welfare of the people of the City of Calexico.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Chapters 13.04; 13.08; 13.12; 13.16; 13.20; 13.24; 13.28; and 13.30 of Chapter 1 "Water System," TITLE 13 "PUBLIC SERVICES" are hereby repealed.

**Section 2.** Chapter 1 "WATER SERVICE," Sections 13.01.010 through 13.01.720 to TITLE 13 "PUBLIC SERVICES" of the Calexico Municipal Code is hereby added to read as follows:

**“TITLE 13  
PUBLIC SERVICES  
CHAPTER 1  
WATER SERVICE**

**SECTIONS**

**13.01.010 General Definitions**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Approved Water Supply" means a water supply whose potability is regulated by the Federal Government, State of California or City of Calexico.
- B. "Air-Gap Separation (AG)" means the physical break between the supply line and a receiving vessel.
- C. "Auxiliary Water Supply" means any water supply other than that received from the City of Calexico. These auxiliary waters may include water from another purveyor's public water supply or any natural source(s), such as a well, spring, river, stream, harbor, recaptured storm water and so forth; used waters; or industrial fluids. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the City of Calexico does not have sanitary control.
- D. "AWWA Standard" means the official standard developed and approved by the American Water Works Association (AWWA).
- E. "Backflow" means the undesirable reversal of flow in a potable water distribution system as a result of a cross connection or the unwanted flow of used or non-potable water, foreign liquids or gases or any other substance from any domestic, industrial or institutional piping system into the pure, potable water distribution system.
- F. "Backflow Preventer or Backflow Prevention Device" means a safety device used to prevent pollution or contamination of the water supply due to the reserves flow of water or other substance into the public potable water supply.
- G. "Backpressure" means a pressure, higher than the supply pressure, caused by a pump, elevated tank, boiler, or any other means that may cause backflow.
- H. "Backsiphonage" means backflow caused by negative or reduced pressure in the supply piping.
- I. "Base Rate or Fixed Component" means the minimum fixed charge per billing period for water service to a user as set by the City Council by Resolution.
- J. "Billing Period" means the calendar accounting unit for which charges are assessed and imposed for water service.

- K. "Billing Unit" means the unit of water used to apply water rates for the purposes of calculating water charges for a person's water usage and equals one hundred (100) cubic feet or seven hundred forty-eight (748) gallons of water.
- L. "City" means the City of Calexico, California.
- M. "City Council" means the City Council of the City of Calexico.
- N. "Connection" refers to the act of linking the service pipe of a house, building, or other property to the City water system, and also to the physical apparatus by which such linking is accomplished.
- O. "Construction Meter" means a temporary meter attached to a fire hydrant at a construction site to measure water usage at the site.
- P. "Contamination" means an impairment of a potable water supply by the introduction or admission of any foreign substance that degrades the quality and creates a health hazard.
- Q. "Cross Connection" means the unprotected actual connection or potential Connection between a potable water system used to supply water for drinking purposes and any source or system, sewer drain, conduit, pool storage reservoir, plumbing fixture or other device containing unapproved water or a substance that is not or cannot be approved as safe, wholesome, and potable. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices, or other devices through which backflow could occur, shall be considered cross-connections.
- R. "Customer" or "Consumer" means all persons obtaining water service from the water supply system of the City of Calexico.
- S. "Developer" means a person, natural or otherwise, who divides a tract of land into lots for sale as residential property or who makes improvements to residential, commercial, office or industrial properties.
- T. "Double Check Valve Assembly (DC) Backflow Prevention Device" means an assembly of at least two independently acting check valves including tightly closed shut-off valves on each side of the check valve assembly and test cocks available for testing the water tightness of each check valve.
- U. "Hazardous Materials" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.
- V. "Hazardous Substance" includes, but is not limited to, any "hazardous substance" as that term is defined under California Health and Safety Code Sections 25281(g),

25501(o) and 25501.1, and pursuant to Title 42, Section 9601(14) of the United States Code; any "hazardous waste" as that term is defined under Title 42 Sections 6903(5) of the United States Code, and under California Health & Safety Code Section 25550(p); any "hazardous material," as that term is defined under California Health & Safety Code Section 25501(n); any chemical which the Governor of California has identified as a chemical known to cause cancer or reproductive toxicity, pursuant to California Health & Safety Code Section 25249.8; and any crude oil or refined or unrefined petroleum product, or any fraction or derivative thereof, and any asbestos or asbestos-containing material. The term "hazardous substance" includes any amendments to the above referenced statutes and regulations.

- W. "Health Agency" means the California Department of Health Services (DHS), California State Agency responsible for municipal water systems or the local health officer with respect to a small water system.
- X. "House Line" means that portion of the water service pipe from the discharge side of the meter to the structure serviced.
- Y. "Industrial Fluids System" means any system containing a fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentrate, such as would constitute a health, system, pollution, or plumbing hazard, if introduced into the City of Calexico's water supply.
- Z. "Local Health Agency" means the County or City health authority.
- AA. "Main" means a water line designed or used to serve more than one premise.
- BB. "Meter Tampering" means cutting water meter locks or alteration or damage of any water meter or any of its components or unauthorized connections to the City water system or the use of "straight lines," "cheater pipes" or "bypass hoses" or any other means to take water by bypassing the City water meter or prevent water from being properly metered by the City.
- CC. "Person" means any person, firm, association of persons or corporation, including public, private or municipal corporation.
- DD. "Potable water" means water which is suitable for drinking.
- EE. "Premises" means a private home, building apartment house, condominium, Trailer court, mobile home park, a group of adjacent buildings or property utilized under one ownership and under a single control with respect to use of water and the responsibility for payment thereof.
- FF. "Potential Cross Connection" means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

- GG. "Private Fire Hydrant" means a discharge pipe with a valve and spout located on private property at which water may be drawn.
- HH. "Private Fire Service Main" means a pipe and its appurtenances on private Property that is (1) between a source of water and the base of the riser for water- based fire protection systems; or (2) between a source of water and inlets to fire foam making systems; or (3) between a source of water and base elbow of private fire hydrants or monitor nozzles; or (4) used a fire pump suction and discharge piping; or (5) beginning at the inlet side of the check valve on a gravity or pressure tank.
- II. "Processing Fluids" means any fluid or solution which may be chemically or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollution, or system hazard if introduced into the public water system or a consumer's potable water system. This includes, but is not limited to, polluted or contaminated waters; processed waters; used waters originating from the public water supply system which may have deteriorated in sanitary quality; cooling waters; questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems; chemicals in solution or suspension; oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for firefighting purposes.
- JJ. "Public Fire Hydrant" means a discharge pipe with a valve and spout located on public property for use primarily by fire service personnel at which water may be drawn from the water main.
- KK. "Reclaimed Water" means wastewater which as a result of treatment is suitable for uses other than potable use.
- LL. "Recycled Water" means the reclamation and reuse of non-potable water for beneficial use.
- MM. "Reduced Pressure Principle (RP) Backflow Prevention Device" means a backflow preventer incorporating not less than two check valves, an automatically operated differential relief valve located between the two check valves, a tightly closed shut-off valve on each side of the check valve assembly, and equipped with necessary test cocks for testing.
- NN. "Roving Meter" means a meter attached to a movable vehicle to measure water drawn from a fire hydrant into a tank attached to the vehicle.
00. "Service Line" means that portion of water service pipe from the main line up to and including the discharge side of the water meter.
- PP. "Straight Line or Cheater Pipe" means any type of device installed in lieu of a water meter, connecting to the City's water service line to a private service line for the purpose of obtaining unmeasured water.

- QQ. "Subdivision" is a tract of land divided by a subdivider, or any lot or lots or tract of real property on which any building is or will be built.
- RR. "Survey" means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.
- SS. "System" means all water source and supply facilities, transmission pipelines, and storage facilities, pumping stations, distribution mains and appurtenances, vehicles and materials storage facilities.
- TT. "Usage Charge or Variable Component" means the charge for water used by a water user established by the City Council by Resolution.
- UU. "User" means a person, natural or otherwise, who utilizes the water system of the City for any purpose.
- VV. "User Connection" means the point of connection of a user's piping to the City of Calexico's water facilities.
- WW. "Water Main" means the water pipe owned by the City from which water Service lines lead.
- XX. "Water Meter" means the instrument which measures and records the amount of water which flows through it.
- YY. "Water Service" means the provision of potable or non-potable water from various sources, including, but not limited to, groundwater or other native water, imported water, recycled water, reclaimed water, and re-captured storm water, such that water flows through a system connected to the City water system.
- ZZ. "Water System" includes pipes, water mains, meters, valves, reservoirs, tanks, wells, springs, hydrants, sources, pumps and all other property and equipment owned by the City of Calexico and through or from which water flows.
- AAA. "Water User" means any person obtaining water from the City of Calexico's water supply.
- BBB. "Well" means an opening in the surface of the earth for the purpose of removing water through non-mechanical or mechanical means for any purpose.

**13.01.020 Purpose.**

The purpose of this Chapter is to (1) establish rules, regulations, policies and procedures for the service and the extension of service from the water system of the City of Calexico and (2) to promote the public health, safety and general welfare of the users of the water system in accordance with standards established by the City, County, State and Federal Governments.

**13.01.030 Provisions of Chapter Deemed Incorporated into Water Service Agreements.**

All provisions of this Chapter shall be deemed to be incorporated into every service agreement between the City and its water service customer. Each customer shall be charged with knowledge of the provisions of this Chapter and, by applying for and accepting water service from the City, to have assented to the provisions of this Chapter.

**13.01.040 Authority to Establish Administrative Procedures.**

The City Manager, Financial Services Director or City Engineer or their designees, shall have the authority to adopt administrative procedures necessary to effectively implement the provisions of this Chapter.

**13.01.050 City is Sole Source of Water Service.**

To protect the health, safety and welfare of the community and provide efficiency in the delivery of municipal services, the City of Calexico shall be the only allowed source of municipal, commercial, industrial and domestic water supply within the incorporated boundaries of the City with the exception of bottled water purchased for consumption from licensed vendors or retail store.

**13.01.060 Right to Refuse, Limit, or Discontinue Water Service.**

The City may not be required to provide water services to any customer unless said customer agrees to the terms and conditions of service, and meets the requirements of the City as set forth herein. Water resources are limited, and the City strives to provide water in an efficient way and to conserve where necessary. As such, the City reserves the right pursuant to California law to limit water service when necessary in the interest of the public health and safety.

**13.01.070 Private Water Wells Prohibited.**

No person, firm, association, corporation, or any other entity shall drill, install, sink, construct, maintain or use a water well within the City limits of Calexico.

**13.01.080 Public Works Department Provides Water Service.**

The Public Works Department shall have authority to operate and maintain the City of Calexico's water system and furnish water service to the residents of the City of Calexico for fees set by the City Council by Resolution or Ordinance. To accomplish these purposes, the Public Works Department is empowered to employ persons, acquire equipment and perform all other acts necessary or incidental to the accomplishment of the above described purposes, subject to all applicable ordinances, resolutions, rules, regulations, policies and directions of the City Manager and the City Council.

**13.01.090 Public Works Department Duties.**

The Public Works Department shall administer and enforce this Chapter under the direction of the City Manager or his or her designees, and manage the City's water system pursuant to the provisions of this ordinance and pursuant to the resolutions, rules, regulations and directives issued by the City Manager or adopted by the City Council prescribing their powers and duties.

**13.01.100 Duty to Treat Water.**

The Public Works Department shall treat or cause to be treated the water furnished to the water users hereunder using current water treatment methods if such treatment is necessary for the water to conform to ordinary and contemporary standards of purity and fitness for potable use.

**13.01.110 Duty to Maintain Water System.**

The Public Works Department shall keep the water system in good repair. Any leaks, breaks, or equipment failures shall be promptly repaired as soon as practicable.

**13.01.120 Compliance with California Building Code and Calexico Municipal Code.**

All new buildings or structures located within or outside the corporate City limits, and any additions, modifications, alterations or repairs of existing buildings that use the water facilities of the City shall comply with the requirements of the Calexico Municipal

Code and the California Building Code as amended, including securing of all permits and inspections required by such Code.

**13.01.130 Connection Authorized.**

The Public Works Department shall cause to be connected with the City's water system the service line of any property abutting on a City water main after the property owner or his or her agent complies with all of the following provisions of this Section:

- A. **Water Service Agreement.** The property owner or customer other than a developer, fills out, signs the files with the Finance Department a water service agreement approved by the City Manager and the City Attorney.
- B. **Service Line.** The property owner or his/her agents shall install a service line to the property location designated by the City Public Works Department which meets the following requirements:
  - 1. The service line is of material and quality approved by the Public Works Department.
  - 2. The service line, when used, shall be buried at a location, depth and grade approved by the Public Works Department.
  - 3. The service line does not cross property owned by a person other than the property owner who applied for the connection, unless written permission is obtained from the Public Works Department.
  - 4. The service line, when connected, will supply water to no more than one building, except where written permission is obtained from the Public Works Department. Connection of such a service line may be added, if the property owner applying for the connection is the owner of all buildings located to such service line. For the purposes of payment of fees under this ordinance, however, each building which shall receive water service through a common service line shall be deemed to receive said water service through a separate service line for the payment of charges set forth in subsection (F).
- C. **Illegal Use of Water Pressure.** The water provided through the connection will not be used for the purpose of driving any motor, siphon, turbine, or other wheel, or any hydraulic engine, or elevator, or for driving or propelling machinery of any kind whatsoever, or for any other purpose which the City Engineer, City Manager or City Council have not approved in writing.
- D. **Inspection.** The service line of the building to be connected has been inspected by an authorized employee of the City and found to conform to these ordinances and to the provisions of the Calexico and/or California Building Code. The service

line and all other underground water lines or connections shall be open and visible to the inspector at the time of the inspection.

- E. **Charges Current.** The customer requesting connection has no unpaid delinquent water charge assessed against him or her by the City of Calexico for any location within the City's water services boundary.
- F. **Fees Due at Connection.** The customer shall pay at the time he or she files his or her application for connection all of the following applicable fees:
  - 1. The connection charge specified by the City Council by Resolution.
  - 2. Water impact fees adopted by the City Council by Resolution.
  - 3. Any other fees adopted by the City Council by Resolution or included in any development agreement approved by the City Manager or City Council.

**13.01.140 Water Service Assigned to One Premise.**

No person shall supply or furnish water in any way for use outside of the premises to which the service is assigned or appurtenant.

**13.01.150 New Meter Sets.**

The City Engineer Public Works Director or City Manager or their designees shall have the authority to establish rules, regulations, and specifications regarding new meter sets and meter vaults. Meters may be purchased from the Public Works Department. Installation of new meters and construction of meter vaults for new construction shall be at the expense of the contractor or customer. Approval by the Public Works Department shall be required before the water meter set is constructed and service begins.

**13.01.160 Extension of Water System.**

In addition to the immediate preceding Section, the following provisions shall apply to anyone seeking to connect to the City water system, where said system does not extend to such property.

- A. **Agreement.** Whenever a developer or builder desires or is required to install water connections and extensions for a subdivision or other development, the developer shall enter into a written water extension agreement with the City which shall constitute an application for permission to make said extensions and connections that shall be made and the payments that shall be required.

- B. Sizing of Main Line Extensions. The City reserves the right to determine the size of the pipe necessary in making any extension, but in no case shall pipe smaller than six (6) inches in diameter be installed.
- C. Dedication. Any extension of the City water system granted in accordance with the provisions of the immediate preceding paragraph including, all easements necessary to accommodate its installation and maintenance, shall upon completion and acceptance become the property of the City of Calexico.
- D. Limitation of Extension Rules. Nothing contained in this ordinance shall limit or prevent the City from extending its distribution system whenever it may determine that circumstances so warrant.
- E. Service Outside City Limits. The City of Calexico is under no obligation to supply water outside the City limits. However, the City of Calexico may enter into an agreement to furnish water service from its water system to persons outside the City in accordance with the provisions of this Section, the terms and conditions of any assessment district, in accordance with City Council policies or action, or as otherwise permissible under California law. In addition, any person or persons located outside the City limits that desires to be supplied with water service from the City water system must be willing to (1) pay in advance the whole expense of extending the water system to his or her property and (2) be annexed to the City.
1. If, at the time of the initial request for annexation is submitted, the area upon which the facility is located is not contiguous with the City limits or otherwise not legally available for annexation, the owner of the property shall enter into a contract with the City to be approved by the City Council, which contract shall provide that the property owner shall not withdraw the written request for annexation, that the written request for annexation shall be kept in full force and effect until such time as the area becomes legally available for annexation. If the annexation request is withdrawn the premises shall be disconnected from City water. The contract shall run with the land and will be filed at the County Recorder's office.
  2. In addition to the water requirements set forth in this Section, any agreement shall contain a certified acknowledgement that the property owner understands that the City in granting the petition need only supply such water to the property owner which from time to time shall be deemed by the City Council to be beyond the requirements of water use within the City limits and the provision of water service may be curtailed or terminated by the City. If the City Council grants the petition or any portion thereof, the property owner and the City of Calexico shall enter into a written water system extension agreement, which agreement shall be executed prior to the commencement of any work upon said water extension.
  3. If the property is acquired by a new owner, the new owner shall, within ninety (90) days of acquiring the property, submit a written request for the

annexation of the area to the City and execute a contract as specified in this Section to be approved by the City Council. If no such request or contract is received within the time specified, the property shall be disconnected from City water service.

**13.01.170 Responsibility of Service Lines and House Lines.**

The City's responsibility for all water service lines is from the connection at the City's main water line to the water meter box. From the water meter box to the customer's premises is the sole responsibility of the customer to install, own, maintain, and/or replace.

**13.01.180 Replacement of Existing Service Line.**

The replacement of a previously used service line shall be deemed a new connection and the provision of Sections 13.01.120, 13.01.130 and other applicable sections of this Chapter shall apply to said replacement.

**13.01.190 Installation and Maintenance of Meters and Property Stops.**

In connecting to a water main, the customer or contractor shall install or cause to be installed a service line of suitable quality under the street and a meter box, meter, and property stop at a location determined by the Public Works Department. Said connection pipe, meter box, meter and property stop are and shall be the property of the City, which retains the sole right to maintain, repair and service said facilities.

**13.01.200 Permit for Service Line Repair, Alternation or Connection.**

It shall be unlawful for any person, to open, alter, repair or connect to any existing water main or service line without it first having received a permit from the Public Works Department or other authorized City department. No permit authorizing such alteration, repair, connection or opening shall be issued if said alteration or connection results in water service to a building to which such service was not previously furnished, unless such building is owned by the owner of all other buildings connected to said service line. Any connection from an existing service line to a building to which water service was not furnished before the connection is made shall need to be a new, original service line connection and the property owner shall pay the fees set by Resolution or Ordinance of the City Council before receiving the permit referred to above.

**13.01.210 Unauthorized Water Connection or Restoration of Service.**

A. Prohibited. It shall be unlawful for any person by himself or herself to directly or

indirectly through family, servants or agents to connect to, disconnect, repair or alter the City water system or any part thereof, including, but not limited to, any water line or water meter, or to open any fire hydrant, property stop, valve, or other fixtures attached to the system of water supply unless it is done pursuant to a City-approved application, agreement, permit or resolution.

- B. Licensed Utility Contractor. A licensed utility contractor approved by the City or a licensed utility contractor under contract with the City may tap a City water line or water main in accordance with the following:
1. The utility contractor shall be responsible for any damage to the water main or water line where the tap is being made. All repairs to the water main or water line where damage has occurred shall be made by an authorized employee of the Public Works Department or authorized licensed utility contractor. The utility contractor shall be responsible for the cost of the tap to an existing water main or water line.
  2. The licensed utility contractor shall be responsible for any repairs to the tap or service line extension due to any defects of materials or workmanship for one year after the tap has been completed.
  3. The licensed utility contractor shall use all his or her professional skills to ensure that there is no contamination of City water mains. Any contamination of City water mains shall be reported immediately to the Public Works Department. Employees of the department will take corrective measures and fees will be assessed to the person responsible for the damage for all repair work accomplished.

#### **13.01.220 Tampering with Meters.**

- A. Inspection and Adjustment. Meters may be checked, inspected or adjusted at the discretion of the City, and they shall not be adjusted or tampered with in any manner or removed by the user or any other person.
- B. Opening Boxes. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the City unless special permission is given by the Public Works Department, except in an emergency.
- C. Meter Interference. No person shall:
1. Prevent water from passing through any meter connected directly or indirectly with the public water mains.
  2. Prevent any meter from accurately registering the amount of water passing through such meter.

3. Prevent or obstruct a meter from accurately registering the quantity of water supplied, or in any way interfere with the purpose, action or just registration of a meter.
- D. Responsibility to Prevent. A user shall prevent any damage to the water meter used by such user and shall pay the cost of repairing any damage to the water meter other than normal wear and tear. Any amounts due by reason of this subsection may be added to a user's bill for water service, and any amount received from such user thereafter shall be applied first against the amount due pursuant to this subsection and thereafter to any other amount(s) due from such user for other purposes.

#### **13.01.230 Misrepresentation in Application or Service Agreement.**

It shall be unlawful to misrepresent a material fact in applying for a water connection or in a water service agreement. Material facts shall include the identity of the applicant as the owner of the property to be connected, and the purpose for which the water service provided will be used.

#### **13.01.240 Customer Responsibility.**

Customers are responsible for furnishing the City with their correct address. Failure to receive bills will not be considered a reason for nonpayment, nor permit an extension of the date at which time the account will be considered delinquent.

#### **13.01.250 Forwarding Water Balances.**

Should a customer have an unpaid balance from a previous location, a forwarding balance will be added to the customer's present account. The City reserves the right to disconnect the customer's present service for unpaid forwarding balances.

#### **13.01.260 Discontinuance of Service by Water Service User.**

Any user desiring to discontinue water service shall notify the Finance Department. Any credit balance in favor of the user, as a result of a deposit or advance payment, shall be refunded promptly after receipt of the notice of discontinuance, except that an amount to be set by the City Council by Resolution or Ordinance shall be retained by the Finance Department as a fee for turning off water service.

#### **13.01.270 Charges for Water Service.**

- A. Water Fees. The City Council shall by Resolution or Ordinance set the amount of

charges, fees, and assessments that include, but are not limited to the following:

1. Base rate or fixed component water service charge.
  2. Water usage charge or variable component charges based upon billing units used by the customer. A billing unit equals one hundred (100) cubic feet or seven hundred-and-forty-eight (748) gallons of water.
  3. Service charges other than the base rate.
  4. Late fees.
  5. Return-check fees.
  6. Development water impact fees.
  7. Water connection fees.
  8. Shut-off notice processing fee.
  9. Reconnection fees during regular business hours after water shut off.
  10. Reconnection fees during non-regular business hours after water shut off.
  11. Fire hydrant water use fees from construction or roving meters.
  12. Fire line fee.
  13. Fee for water used by contractors in new construction.
  14. Meter tampering fee.
  15. Missed appointment fee after second missed appointment.
  16. Penalty fee for unauthorized water connections and use of City water by the use of "cheater pipes, "straight lines" "hoses" or other means.
  17. Other fees as determined by the City Council.
- B. Water Billing Duration. The City shall determine the duration of the billing period and may change the duration of the billing period from time to time. If the due date is a Saturday, Sunday or legal holiday, charges shall become delinquent at the close of business on the next business day after said Saturday, Sunday or legal holiday. Postmarks will not be accepted as the date the payment was received.

- C. Unified Billing. Municipal utility services shall be billed under a unified bill which includes water, sewer, garbage collection charges and other charges as the City designates.
- D. Unpaid Water Bills are Liens. All unpaid accounts for water delivered *at* any premises shall constitute a lien against the same and shall be subject to collection all as provided by the Revenue Bond Law of 1941 as found in Title 5, Division 2, Part 1, Chapter 6 of the California Government Code.
- E. Disputed Bills. If a Water Bill's accuracy is questioned or disputed by a customer, the customer shall request an explanation from the City within the current billing period or as soon as possible thereafter. Any amounts withheld by the customer pending resolution of said dispute shall be considered delinquent to the extent said amounts are withheld after they have become due. After reviewing the disputed bill, the City will:
  - 1. Issue a corrected bill or reflect the corrections on the bill in a subsequent billing period; or
  - 2. Advise the customer that the bill is correct as presented, in which case the customer may choose to have the Meter removed for testing at the customer's own expense.

**13.01.280 Free Service Prohibited.**

There shall be no free service rendered by the City and, if any local, state or federal government, or any department, agency or instrumentality thereof, or any other public body shall desire service to be rendered by the City, it shall apply for and receive such service pursuant to the City's ordinances, resolutions, policies, rules and regulations and shall pay for the same as established by Resolution or Ordinance of the City Council.

**13.01.290 Application of Utility Bill Payments.**

Any payments received by the City for the payment of utility bills shall be applied *to* the outstanding balances of service charges in the following order: (1) fines, penalties, assessments or delinquencies, (2) deposit, (3) refuse, (4) sewer (5) fire line, (6) base rate or fixed component charge, (7) water service billable units. Moneys paid where any portion of an account is delinquent shall first be credited to the delinquent portion of the bill and then to the current billing. The City Manager or the Finance Director may administratively change the order of payments to outstanding balances of service charges.

### **13.01.300 Payment Delinquency.**

Penalties and interest shall be charged on all delinquencies as established by Resolution of the City Council. All delinquent charges are considered liens against the property and the City Manager, Finance Director or their designees are empowered to file liens against the appropriate premises for charges as set forth in this Chapter. For the purposes of this Chapter, a water bill will be delinquent if a user is withholding all or portions of said water bill pending resolution of a dispute regarding said water bill. The City reserves the right to refer accounts to a collection agency when past-due balances exceed one hundred-and-twenty (120) calendar days.

### **13.01.310 Water Service Shut-Off Notice.**

If a service charge remains unpaid for one (1) complete billing period, the Financial Services Department shall notify in writing by mail the customer of the premises at least nineteen (19) days after the delinquent bill is sent, that the water service will be discontinued if payment is not made within fifteen (15) calendar days after the date on the shut-off notice. A shut-off notice processing fee as determined by Resolution of the City Council may be charged at the time that the notice is sent. In addition to the fifteen (15) day termination notice, a final forty-eight (48) hour termination notice shall be given to the customer if a water service charge remains unpaid.

### **13.01.320 Water Service Shut-Off.**

Except for shut-down of services related to those violations set forth in Section 13.01.330 below, for which no notice is required, notice must be provided to customers prior to a shutdown of services in accordance with Section 13.01.310 above. No service shall be disconnected on a Thursday, Friday or the day before a holiday. However, notwithstanding the foregoing provisions of this Section, Financial Services Department authorized personnel under the direction of the City Manager may, at their discretion, agree to forbear discontinuance of water service for a limited period of time and by special, written agreement with the water user in arrears. Failure of the water customer to keep future charges current and fulfill all the terms of the agreement may make the agreement null and void and make all charges in arrears due immediately. Failure to pay immediately all charges in arrears will result in discontinuance of water service. Water services shall be restored within two working days at such time as the financial cause for termination or discontinuance has been rectified and payment has been made of all proper charges due, including any reconnection charges and meter tampering charges approved by Resolution of the City Council. If water service has been shut-down due to some physical cause, water service shall be restored upon such cause being rectified.

### **13.01.330 Unauthorized Water Service-Theft of Services.**

- A. Prohibited. It shall be unlawful to provide oneself or others with (or make use of) water service from the City water system without authorization from the City. When water service has been discontinued by the Public Works Department for non-payment of water charges, noncompliance with these ordinances, or for any other reason, it shall be unlawful to restore water service or receive water service by any means without authorization by the City. The presence at any time on or about any meter, water line or water main of the City (whether such meter is owned or operated by the City or others) of a pipe or any other device which diverts water or results in taking of any water except through an authorized meter shall constitute prima facie evidence on the part of the person owning or having custody or control of the premises (where such a device or pipe is located) of the knowledge of the existence thereof. The knowledge of such existence by the person who would benefit by the failure of the water to be accurately metered, and shall further constitute prima facie evidence of intention on the part of such person to violate this Section.
  
- B. Meter Removal. If water service has been discontinued by the Public Works Department due to nonpayment or for any other reason, and the customer turns the service back on or otherwise restores service without approval, the Public Works Department may remove the meter and plug the service.
  
- C. Unauthorized Water Use Charges. In addition to any criminal penalties, the City may assess charges and fees established by Resolution or Ordinance for meter tampering, meter removal or unauthorized use of the City water service. Such charges may be collected as provided by this Chapter.

### **13.01.340 Appeals.**

The City Manager or his designees are hereby authorized to hear appeals regarding water service bills and make any corrections of any assessments or charges that he or she believes is just and appropriate under the circumstances.

### **13.01.350 Legal Action.**

The Financial Services Director, City Attorney or City Manager or their designees are hereby authorized and empowered to enforce the payment of all delinquent water charges whether for water connection or for water service, by any action at law in the corporate name of the City if the amount paid in advance or in deposit, if any, by the defaulting water user is not sufficient to fully extinguish the liability of said user to the City for the water connection or water service.

### **13.01.360 Responsibility for Water Leakage.**

All property owners, or their agents and tenants, shall be held responsible as consumers for loss of water due to leakage in the pipe or plumbing beyond the discharge side of the meter or on the property. If lost water is not paid in accordance with the provisions of this Chapter and in accordance with rates established by Resolution or Ordinance by the City Council, the water service may be discontinued until all amounts due are paid. Water service will not be restored until all leaks have been repaired to the satisfaction of the Public Works Department.

### **13.01.370 Water Meters.**

- A. **Water Metering Required.** All water delivered by the City to its customers shall be metered through water meters owned by the City. However, the City Manager or his or her designees may authorize unmetered water use for temporary special purposes, and enter into agreements for the assessment of charges thereof.
- B. **Sub-Metering.** It shall be unlawful for any person to construct, occupy or allow to be occupied any structure in which the construction plan provides for a master meter and sub-metering of water consumption of one or more owners or tenants, unless the plan has been approved by the City Manager or his or her designees. Each occupied structure and any unimproved parcel shall be served water through a separate metered connection, except that structures located on a single parcel and under the same ownership, office buildings, hotels, motels, apartment houses, courts and multifamily dwellings may be served by a single metered connection.
- C. **Meters to be Approved by City.** The size, type, location and right to own and control all meters installed or used by consumers of its water shall be determined by the Public Works Department.
- D. **Ownership and Installation.** All meters installed on water service connections shall be and shall remain the property of the City and shall be removed only by the City. Installation of new meters and construction of meter vaults for new construction shall be at the expense of the contractor or customer.
- E. **Maintenance and Repair:** The City shall maintain and repair all domestic, commercial and industrial service water meters and shall replace meters periodically, when necessary, if rendered unserviceable by ordinary use. When replacement or repairs to any meter are made necessary by the willful act, neglect or carelessness of the owner or occupant of the premises serviced, all expenses of such replacement shall be borne by the owner or occupant of the premises.
- F. **Testing.** If a user submits a written request for a test of his or her water meter, the Public Works Department may, if the circumstances deem it advisable, order a test

of the meter measuring the water delivered to such user. If such request to test the meter is made within twelve (12) months after the date of the last previous test, the user will be required to pay the costs of such test if the meter is found in such test to record from ninety-seven (97) percent to one hundred-and-three (103) percent of accuracy under testing methods satisfactory to the Public Works Department. In the event that the meter is found to be recording less than ninety-seven (97) percent or more than one hundred-and-three (103) percent of accuracy, the City shall make such adjustments in the user's bill as are just and fair under the circumstances.

- G. Stopped Meters. If meters fail to register at any time, the water delivered during this period shall be estimated on the basis of previous consumption. If the user has no previous consumption then a reasonable estimate may be made by the Finance Department or Public Works Department based on historical information maintained by the City.
- H. Construction Meters and Roving Meters. Construction meters are to be installed or moved by the contractor under the supervision of City personnel. Roving meters are to be installed on equipment by the contractor. A deposit may be required for construction or roving meters owned by the City and will be forfeited if the meter is lost, damaged or stolen. Meter readings are to be reported by the user to the Public Works Department or Finance Department monthly. Failure to provide a monthly meter reading will cause the Public Works Department to estimate usage and bill accordingly. A minimum charge will be assessed if no usage is recorded on the meter.
- I. Loaned Meters. No person shall refuse to deliver any meter or other appliance loaned to him or her by the Public Works Department for the purpose of furnishing water through the meter and registering the quantity thereof.
- J. Access to Meters. Access to water meters by City personnel must be provided at all times.
- K. Plumbers. Notwithstanding any other provision of this Chapter, in the case of leaks or other accidents damaging service lines or other apparatus connected with the water system, plumbers or other qualified persons may shut off the water at the water box to make necessary repairs and turn on the water upon completion of such repairs without obtaining authorization.

#### **13.01.380 Interruption of Water Service.**

- A. Water Service May be Interrupted. The City will undertake to use reasonable care and diligence in order to prevent and avoid interruptions and fluctuations in water service, but it cannot and does not guarantee that an interruption in water service will not occur.
- B. Repairs, Connections, Extensions and Maintenance. The City reserves the right to temporarily discontinue and to reconnect water service without notice to all

users for the purpose of making repairs, connections, extensions and cleaning of mains, machinery, storage reservoirs or any other appurtenances to the water supply and distribution system. All users having boilers, air conditioning equipment or other water-consuming devices which may become damaged due to interruption of water service, and which are supplied directly with City water, need to take action to avoid or minimize their risk. The City shall not be liable for any damage that may occur on account of the water being cut off for any purpose.

- C. **Water Pressure.** The City shall not be liable for any damage to plumbing, pipes or fixtures on premises caused by pressure from the City water system.
- D. **Notice.** While it is the intention of the City to give notice in advance of any work (which is not considered an emergency) which must be done that will necessitate Any interruption of the supply, such notice is to be considered a courtesy, and not a requirement on the part of the City. Property owners must so regulate their installations connected to the City water supply system, that damage will not occur if water is shut off or turned back on without notice.

#### **13.01.390 Water Supply and Pressure.**

- A. **Water Supply and Pressure.** The City does not guarantee a uniform pressure, or an uninterrupted supply of water, and customers are cautioned to provide appropriate devices to satisfy specific pressure requirements and sufficient storage of water where absolutely uninterrupted water supply and pressure must be assured.
- B. **Minimum Water Pressure.** Based on the California Department of Health Services (DHS) regulations, the City provides each customer with a minimum of twenty (20) pounds per square inch (psi) water pressure as measured at the water main in the street.

#### **13.01.400 Disconnection of Service-Condemed Buildings.**

Whenever a premise supplied with water has been found by the proper authorities to be dangerous to human life and unfit for human habitation, and notice of such findings has been issued by the proper authority, the City shall cause the water service to such premise to be turned off. Water service to such premise shall not be restored until the owner and/or his or her agent has secured a release or clearance from the proper authorities.

#### **13.01.410 Repair and Replacement of House Lines.**

It shall be the responsibility of the owner of the property or customer to make all repairs and replacements of house lines from the discharge side of the water meter to the structure. A City permit is required for the replacement of a house line.

#### **13.01.420 Authorized City Representatives Have Free Access.**

- A. **Service Access.** Free access at ordinary hours shall be granted to the City and its authorized representatives to any place supplied with water service from the municipal system for the purpose of examining the apparatus, the amounts of water used, manner of its use, to make any and all necessary adjustments to said system, and to assure conformity to all City water ordinances, resolutions, policies and regulations.
- B. **No Service Without Access.** Whenever the owner or the occupant of any premises provided service by the City restrains authorized City employees from making such necessary inspections, water service may be refused or discontinued.

#### **13.01.430 Abandonment of Service Lines and House Lines.**

- A. **Permanent Abandonment.** All service lines and house lines which permanently abandoned shall be securely capped or plugged at a location designated by the City Public Works Department.
- B. **Temporary Abandonment.** Water service lines, which will be abandoned temporarily, shall be cut and plugged at the property line leaving the meter installation and meter box intact.
- C. **Inspection.** Any water service pipe temporarily abandoned for more than two (2) years must be inspected by the Public Works Department before that pipe can be placed into operation. If the service line or house line does not conform to minimum standards, the service pipe shall not be used and shall be abandoned permanently by the owner.

#### **13.01.440 Outdoor Water Sprinklers.**

- A. **Water Pressure.** It shall be unlawful for any person to use such number of outdoor water sprinkler outlets simultaneously or to use such sprinklers or combinations of sprinklers or outlets as will, in the opinion of the Public Works Department, materially affect the pressure or water supply of the City water system or any part thereof. The Public Works Department may specify by

regulation combinations or number of sprinkler and outlets which may have such effect.

- B. Notice. The Public Works Department shall, after determination that such improper sprinkler use exists, notify the offending water user, or the owner of the premises whereon such use occurs, of such determination in writing and order such use discontinued.

#### **13.01.450 Water Use Curtailment.**

In time of water scarcity, whenever it shall in the judgment of the City Council by Resolution be necessary to limit the use of water, it shall be unlawful for any person by himself or herself, family, servants or agents to violate any Resolution made by the City Council pursuant to this Section or pursuant to Chapter 13.40 of the Calexico Municipal Code. If any violation shall occur, then in addition to any other penalty, the water service to the premises upon which such violation occurs may be shut off. If shut off for this reason, it shall not be turned on again until the payment of an amount set by the City Council for each violation of the said resolution is received.

#### **13.01.460 Trespass and Damage to Water System.**

- A. Prohibited. It shall be unlawful for any person to destroy, deface, damage, injure, tamper or interfere with the operation of any part, pipe, fixture, appliance, appurtenance or property of the City of Calexico water system, or shall place or cause to be placed, or induced into the City of Calexico water system or any source of water supplying said system, any substance poisonous to human life or harmful to human health or detrimentally affecting the taste, smell, color, odor, or other aesthetic characteristic of the water.
- C. Trespassing Upon Water Works. It shall be unlawful to trespass inside the Fenced enclosure of any City-owned water or Public Works Department facility or in any other manner to interfere with or prevent the operation of such systems and the water supply therefore, or any portion thereof.
- D. Clear Access. It shall be unlawful for any person to store, maintain or keep any goods, merchandise, materials or rubbish within a distance of five (5) feet of, or to interfere with, the access or operation of any water meter, gate valve, fire hydrant, or other apparatus in use on any water service, connection, water main or fire protection service.
- E. Restitution. All damages or injury to the lines, meters or other materials of the City on or near a user's premises caused by any act or neglect of the user or his or her agents shall, in the discretion of the City, be repaired by or at the expense of the user. The user shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue to the City through its efforts to repair

or recover expenses for the repair of the damage to the lines, meters or other equipment of the City water system or Public Works Department.

**13.01.470 Water Use by Contractors.**

The Public Works Department may permit use of water from fire hydrants by contractors of public work, or by public utilities that are engaged in work on public streets, subject to the conditions of this chapter. A charge shall be paid in advance for use of water from fire hydrants which shall be set by the City Council by Resolution.

**13.01.480 Maintenance and Control of Public Fire Hydrants.**

Public fire hydrants are the property of the City of Calexico and are under the control of and shall be kept by the Public Works Department. Private fire hydrants on private property shall be kept in repair by the private property owner.

**13.01.490 Drawing of Water from Fire Hydrants.**

- A. Unauthorized Use. It shall be unlawful for any person, except a member of the Fire Department, Public Works Department or other authorized City employee in the scope of employment, to open or use water from a fire hydrant, or to take off the cap without permission from the Public Works Department, or to remove the cap by using any wrench other than the wrench made specifically for that purpose.
- B. Permit Required. No person other than a duly authorized employee of the City shall use water from, or connect any apparatus to, a fire hydrant, nor shall any person remove, obliterate, deface, or obstruct any permit. Any permit, wrench, connecting apparatus, valve, hose, or other apparatus attached to a fire hydrant in violation of this Section shall be subject to confiscation by the City.

**13.01.500 Use of Water Service During Fire.**

In the event of a fire within the City, a fireman or employee of the Public Works Department may order that all valves, taps and property stops connected to the plumbing systems of any property supplied with water service be closed and remain closed until the fire is extinguished.

**13.01.510 Fire Sprinkler System Inspections.**

Every customer receiving water from the Public Works Department through a fire sprinkler system for the purpose of fire protection which is not metered shall at all

reasonable times permit the Public Works Department, Fire Department or other authorized employee to enter the premises and building for examination of pipes and fixtures to ensure that the system is maintained only for fire protection. Refusal by such customer shall result in refusal of water supply from the Public Works Department until such permission is granted.

**13.01.520 Private Fire Service Water Mains, Sprinkler Systems and Fire Service Storage Tanks.**

- A. Sprinkler and Fire Service Connections. No connection for a sprinkler or private fire service main shall be permitted unless application therefore has been made to and granted by the Public Works Department and approved by the Fire Department and City Building Official. In no instance shall any connection be made with any sprinkler or private fire service main without the written consent of the Public Works Department. Should it be found that any unauthorized connection has been made, or that any water has been used from a sprinkler or private fire service main for any other purpose than extinguishing a fire, or that a waste of water is permitted from such connection through leaks in the pipes or fixtures, the water service may be discontinued until a meter prescribed by the Public Works Department has been installed at the expense of the customer. Fire sprinkler systems and fire service connections shall be installed with a detection meter of a size and type approved by the City Engineer.
- B. Financial Responsibility. The furnishing, installation, maintenance and inspection of all meters and services, checks, bypasses, valves, piping, etc., necessary for the installation and operation of sprinkler systems and fire services shall be at the expense of the customer.
- C. Insurance Services Office Guidelines. Fire protection systems shall be provided in accordance with Insurance Services Office (ISO) guidelines.
- D. Ground Storage Reservoirs or Fire Pumps. When ground storage reservoirs or fire pumps are installed on private property, such pumps shall discharge into a fire system approved by the Public Works Department, Fire Department and City Building Official. An approved check valve shall be installed in the owner's fire service between the point where the pump discharges into such service and the connection of such fire service to the City water mains to prevent backflow from the fire pump into the City distribution system. The water in such fire storage tanks will be maintained in a potable condition and subject to periodic inspection by Public Works Department personnel. Such tanks and water quality shall be maintained in compliance with the standards and requirements of the State Department of Health and the City. Such tanks shall not be of the pressure type. The delivery of City water to the tank shall be above the tank flow line with a one foot air gap. The supply line to this tank shall not be controlled by a quick acting valve which will cause water hammer in the distribution system. Water tanks

shall be equipped with an overflow pipe at least twelve (12) inches below the City inlet pipe. The overflow pipe shall be protected as to prevent access of insects, birds, or animal life into the reservoir. The pipe shall be at least two (2) inches in diameter larger than the inlet supply line from the City distribution system. Such storage tank shall be provided with a drainpipe and valve for easy drainage of the tank. The drain pipe may not be connected to the City sanitary sewer system.

**13.01.530 Purpose of City Water Backflow Prevention and Cross-Connection Program.**

The purpose of the City's water backflow prevention and cross connection program is to:

- A. **Protect City Water System.** Protect the public potable water supply of the City of Calexico from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) or customer's private water system(s) such contaminants or pollutants that could backflow into the public water system.
- B. **Eliminate Water Cross Connections or Potential Water Cross Connections.** Promote the elimination or control of existing water cross connections, actual or potential, between the customer's in-plant potable water system(s) and non-potable water systems, plumbing fixtures, and industrial piping systems.
- C. **Cross-Connection Program.** Provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems.

**13.01.540 Water Cross Connections and Potential Water Cross Connection Prohibited.**

The installation or maintenance of a water cross connection or potential water cross connection is prohibited. Any such cross connection or potential cross connection now existing or hereafter installed is hereby declared a public health hazard and a public nuisance and shall be abated immediately. Water service will be discontinued to any premises upon failure to comply with the provisions of this chapter. For protection of the City's water supply from backflow, furnishing of water service shall be contingent upon the customer providing cross connection control approved by the City of Calexico.

**13.01.550 Responsibility for City Backflow Prevention and Cross Connection Program.**

The City Engineer and Public Works Department shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of

contaminants or pollutants through any water service connection. The City Engineer and Public Works Department shall determine the type, design, layout and location of backflow prevention devices required at each premises.

**13.01.560 Responsibility of Owner and Customer for Water Cross Connections, Potential Cross Connections and Backflow Prevention.**

The owner or customer shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the owner's or customer's water service connection. If, in the judgment of the City Engineer or Public Works Department or their authorized representatives, an approved backflow prevention device is necessary for the safety of the public water supply system, the City Engineer or the Public Works Department shall give notice to the owner or customer to install such approved backflow prevention device at each service connection to the premises. The owner or customer shall immediately install such approved device or devices at his or her own expense. Failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The City Engineer or Public Works Department may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required.

**13.01.570 Water Backflow Prevention and Cross-Connection Program.**

The City of Calexico shall protect the public water supply from contamination by implementation of a backflow prevention and cross-connection control program. The program, or any portion thereof, may be implemented ( 1) directly by the City of Calexico, (2) by contract with a private firm or organization, (3) by means of a contract with the local health agency, or (4) with another agency approved by the local health agency. Calexico's cross-connection control program shall be for the purpose of addressing the requirements of Sections 7585 through 7605 of the California Code of Regulations, Title 17, Division 1, Chapter 5, Group 4. It includes, but is not limited to, the following:

- A. Rules and Regulations. The adoption of operating rules, regulations, ordinances And resolutions to implement the cross-connection program.
- B. Surveys. The conducting of surveys to identify water user premises where cross connections or potential cross connections are likely to occur.
- C. Backflow Protection. The provision of backflow protection by the water user at the user's connection or within the user's premises or both.
- D. Cross-Connection Specialist. The provision of at least one person trained in cross connection control to carry out the cross-connection program.

- E. Testing. The establishment of a procedure or system for testing backflow preventers.
- F. Records. The maintenance of records of locations, tests, and repairs of backflow prevention devices.

#### **13.01.580 Investigations by Public Works Department.**

It shall be the duty of the Public Works Department and its authorized representatives to cause surveys and investigations to be made of residential, commercial and industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every two (2) years or as often as the inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five (5) years.

#### **13.01.590 Right to Enter Premises.**

The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross connections and that the inspector or his or her authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the inspector any information which he or she may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the inspector, be evidence of the presence of improper connections as provided in this Chapter.

#### **13.01.600 Evaluation of Water User Health Hazards.**

The City of Calexico shall evaluate the degree of potential health hazard to the public water supply which may be created as a result of conditions existing on a user's premises. The City of Calexico, however, shall not be responsible for abatement of cross connections which may exist within a water user's premises. As a minimum, the evaluation should consider ( 1) the existence of cross connections, (2) the nature of materials handled on the property, (3) the probability of backflow occurring, (4) the degree of piping system complexity and (5) the potential for piping system modification. Special consideration shall be given to the premises of the following types of users:

- A. Hazardous Substances, Hazardous Materials, Biological Wastes, Biological

By-Products, Processing Fluids or Industrial Fluids. Premises where hazardous substances, hazardous materials, biological wastes, biological by-products, processing fluids or industrial fluids harmful to health are handled under pressure or in a manner which could permit their entry into the public water system. This includes chemical or biological processing waters and water from public water supplies which have deteriorated in sanitary quality.

- B. Auxiliary Water Supply. Premises having an auxiliary water supply, unless the auxiliary supply is accepted as an additional source by the City of Calexico and is approved by the local health agency.
- C. Internal Cross Connections. Premises that have internal cross-connections that are not abated to the satisfaction of the City of Calexico or health agency.
- D. Restricted Entry Areas. Premises where cross connections are likely to occur and entry is restricted so that cross-connection inspections cannot be made with sufficient frequency or on sufficiently short notice to assure that cross connections do not exist.
- E. History of Cross Connections. Premises having a repeated history of cross connections being established or re-established.

**13.01.610 User Supervisor.**

The health agency and the City of Calexico, may at their discretion, require an industrial water user to designate a user supervisor when the water user's premises have a multi-piping system that conveys various types of fluids, some of which may be hazardous and where changes in the piping system are frequently made. The user supervisor shall be responsible for the avoidance of cross-connections during the installation, operation and maintenance of the water user's pipelines and equipment.

**13.01.620 Approval of Backflow Prevention Devices.**

Backflow prevention devices required by this Chapter shall have passed laboratory and field evaluation tests performed by a recognized testing organization which have demonstrated their competency to perform such tests to the Department of Health Services (DHS).

**13.01.630 Type and Construction of Backflow Prevention Devices.**

- A. Air-Gap Separation (AG) Backflow Prevention Device. An Air-Gap Separation (AG) Backflow prevention device shall be at least double the diameter of the

supply pipe, measured vertically from the flood rim of the receiving vessel to the supply pipe; however, in no case shall this separation be less than one (1) inch.

- B. Reduced Pressure Principle (RP) Backflow Prevention Device. A required reduced pressure principle (RP) backflow prevention device shall, as a minimum, conform to the AWWA Standard C506-78 (R83) adopted on January 28, 1978 for Reduced Pressure Principle Type Backflow Prevention Devices which is herein incorporated by reference.
- C. Double Check Valve Assembly (DC) Backflow Prevention Device. A required Double Check Valve Assembly (DC) Backflow Prevention Device shall, as a minimum conform to the AWWA Standard C506-78 (R83) adopted on January 28, 1978 for Double Check Valve Type Backflow Prevention Devices which is herein incorporated by reference.

#### **13.01.640 Determination and Inspection of Backflow Prevention Devices.**

The Public Works Department or City Engineer or their authorized representatives shall determine the type, design and layout of backflow prevention devices required at each premises. All devices shall be installed at the expense of the customer. The backflow prevention devices shall be inspected, tested and approved by the City Engineer or the Public Works Department or their authorized representatives as a condition of water service to the premises. The backflow prevention devices shall be inspected, tested and approved by the City Engineer or Public Works Department as a condition of service to the premises. If in the judgment of the Public Works Department or City Engineer, an approved backflow prevention device is required at the water service connection for the protection of the water system, the Public Works Department or City Engineer or their authorized representative shall give notice in writing to the consumer, and the notice shall direct the consumer to install an approved backflow assembly at specific locations on his or her premises. Failure, refusal or inability on the part of the customer to install the backflow prevention assembly, shall constitute grounds for discontinuing water service to the premises until such requirements have been met.

#### **13.01.650 Location of Backflow Prevention Devices.**

- A. Air-Gap Separation Backflow (AG) Prevention Device. An Air-Gap Separation (AG) Backflow Prevention Device shall be located as close as practical to the user's connection and all piping between the user's connection and the receiving tank shall be entirely visible unless otherwise approved in writing by the City of Calexico and the health agency.
- B. Reduced Pressure Principle (RP) Backflow Prevention Device. A Reduced Pressure Principle (RP) Backflow Prevention Device shall be located as close as practical to the user's connection and shall be installed a minimum of twelve inches (12") above grade and not more than thirty-six inches (36") above grade

as measured from the bottom of the device and with a minimum of twelve inches (12") side clearance.

- C. Double Check Valve Assembly (DC) Backflow Prevention Device. A Double Check Valve Assembly (DC) Backflow Prevention device shall be located as close as practical to the user's connection and shall be installed above grade, if possible, and in a manner where it is readily accessible for testing and maintenance.

### **13.01.660 Minimum Backflow Prevention Protection Required.**

The type of protection that shall be provided to prevent back flow into the public water supply shall be determined by the City of Calexico and be commensurate with the degree of hazard that exists on the consumer's premises. The type of protective device that may be required (listed in an increasing level of protection) includes: Double Check Valve Assembly (DC) Backflow Prevention Device, Reduced Pressure Principle (RP) Backflow Prevention Device and an Air-Gap Separation (AG) Backflow Prevention Device. The water user may choose a higher level of protection than required by the City of Calexico. The minimum types of backflow protection required to protect the public water supply, at the water user's connection with various degrees of hazard, are given below. Situations not covered below shall be evaluated on a case-by-case basis and the appropriate backflow protection shall be determined by the City of Calexico.

- A. Sewage, Hazardous Substances, Hazardous Materials, Biological Wastes, Biological By-Products, Processing Fluids, or Industrial Fluids.
  - 1. Minimum Protection: Air-Gap Separation (AG) Backflow Prevention Device. Premises where hazardous substances, biological wastes or biological byproducts, processing fluids or industrial fluids or any other objectionable or toxic substances are handled in a fashion as to create an actual or potential hazard to the public water system. This does not include a single-family residence that has a sewage lift pump.
  - 2. Minimum Protection: Reduced Pressure Principle (RP) Backflow Prevention Device. Premises where there are irrigation systems into which fertilizers, herbicides, or pesticides are, or can be, injected.
- B. Auxiliary Water Supplies.
  - 1. Minimum Protection: Air-Gap Separation (AG) Backflow Prevention Device. Premises where there is an unapproved auxiliary water supply which is interconnected with the public water system. A Reduced Pressure Principle (RP) Backflow Prevention Device or Double Check Valve Assembly (DC) Backflow Prevention Device may be provided in lieu of an Air Gap (AG) Backflow Prevention Device if approved by the City of Calexico.

2. Minimum Protection: Reduced Pressure Principal (RP) Backflow Prevention Device. Premises where there is an unapproved auxiliary water supply and there are no interconnections with the public water system. A Double Check Valve Assembly (DC) Backflow Device may be provided in lieu of a Reduced Pressure Principle (RP) Backflow Prevention Device if approved by the City of Calexico.

#### C. Recycled Water.

1. Minimum Protection: Air-Gap Separation (AG) Backflow Prevention Device. Premises where the public water system is used to supplement the recycled water supply.
2. Minimum Protection: Reduced Pressure Principal (RP) Backflow Prevention Device. Premises where recycled water is used other than as allowed in Paragraph Section 13.01.660(C)(3), and there is no interconnection with the potable water system.
3. Minimum Protection: Double Check Valve Assembly (DC) Backflow Prevention Device. Residences using recycled water for landscape irrigation as part of an approved dual plumbed-use area.

#### D. Fire Protection Systems.

1. Minimum Protection: Double Check Valve Assembly (DC) Backflow Prevention Device. Premises where the fire system is directly supplied from the public water system and there is an unapproved auxiliary water supply on or to the premises (not interconnected).
2. Minimum Protection: Air-Gap Separation (AG) Backflow Prevention Device. Premises where the fire system is supplied from the public water system and interconnected with an unapproved auxiliary water supply. A Reduced Pressure Principal (RP) Backflow Prevention device may be provided in lieu of an Air-Gap Separation (AG) Backflow Prevention Device if approved by the City of Calexico.
3. Minimum Protection: Double Check Valve Assembly (DC) Backflow Prevention Device. Premises where the fire system is supplied from the public water system and where either elevated storage tanks or fire pumps which take suction from private reservoirs or tanks are used.
4. Minimum Protection: Double Check Valve Assembly (DC) Backflow Prevention Device. Premises where the fire system is supplied from the public water supply and where recycled water is used in a separate piping system within the same building.

- E. Restricted Entry Areas Minimum Protection: Reduced Pressure Principal (RP) Backflow Prevention Device. Premises where entry is restricted so that inspections for cross connections cannot be made with sufficient frequency or at sufficiently short notice to assure that water cross connections do not exist.
- F. History of Water Cross Connections Minimum Protection: Reduced Pressure Principal (RP) Backflow Prevention Device. Premises where there is a repeated History of cross connections being established or re-established.
- G. Substances Objectionable, but Not Hazardous to Health Minimum Protection: Double Check Valve Assembly (DC) Backflow Prevention Device. Premises where there is water or a substance that would be objectionable, but not hazardous to health, if introduced into the water system.

**13.01.670 Contamination Costs and the Consumer.**

The water customer or consumer shall be responsible for back siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

**13.01.680 Lawn Sprinkler Backflow Prevention Specifications.**

- A. Backflow Prevention Device Required. A lawn sprinkler system connected to residential, commercial or industrial premise shall be equipped with an approved backflow prevention device placed between the sprinkler stop and waste valve and the first sprinkler outlet. The approved backflow prevention device shall be placed at a height as provided in the applicable City plumbing code. The stop and waste valve and approved backflow prevention device shall be in the sprinkler line after it branches from the water service pipe or building plumbing.
- B. Installation. The stop and waste valve for a lawn sprinkler shall be at the same depth as the water service pipe. However, the lawn sprinkler system may be laid to a lesser depth at the option of the owner. Such additional stop and waste valves, as are required to properly drain the sprinkler piping shall also be installed. All backflow prevention devices shall be inspected by an authorized City employee prior to utilization of the system. Water service may be refused on existing lawn sprinkler systems which are not equipped with a stop and waste valve and an approved backflow prevention device.

**13.01.690 Testing and Maintenance of Backflow Prevention Devices.**

- A. Responsibility. It shall be the duty of the water user at any premises on which

backflow prevention devices are installed to have these devices maintained, inspected, tested and repaired in accordance with the directives of the Public Works Department or City Engineer.

- B. Maintenance. The City of Calexico shall assure that adequate maintenance and periodic testing are provided by the water user to ensure their proper operation.
- C. Tester Competency. Backflow prevention devices shall be tested by persons who have demonstrated their competency in testing of these devices to the City of Calexico or health agency.
- D. Inspection and Testing. Backflow prevention devices shall be inspected and tested at least annually or more frequently if determined to be necessary by the health agency or the City of Calexico. When devices are found to be defective, they shall be repaired or replaced in accordance with the provisions of this chapter. Any defects found in any backflow device shall be corrected by the customer within three (3) days. Failure to correct such defects is cause for discontinuance of water service.
- E. Testing Timing. Backflow prevention devices shall be tested immediately after they are installed, relocated, or repaired and not placed in service unless they are functioning as required.
- F. Testing Notification. The City of Calexico shall notify the water user when testing of backflow preventers is needed. The notice shall contain the date when the test must be completed.
- G. Testing Reports. Reports of testing and maintenance shall be maintained by the City of Calexico for a minimum of three (3) years.

**13.01.700 Violations and Penalties for Water Cross Connections, Potential Cross Connections and Backflow Prevention Regulations.**

- A. Deny or Discontinue Service. The City shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by the City is not installed, tested, maintained and repaired in a manner acceptable to the City, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.
- B. Compliance Required. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the City, and the required reconnection fee is paid.

- C. No Liability. Neither the City nor its agents or assigns, shall be liable to any customers of the City for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this ordinance, whether or not said termination of the water supply was with or without notice.
- D. Cleanup Costs. The water customer or consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of cleanup of the potable water supply system.
- E. Notice. Any person found to be violating any provision of this Chapter shall be served with written notice stating the notice of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.
- F. Fines and Penalties. Any person violating any of the provisions of this Chapter In addition to the fine provided, shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation, whether the same was caused before or after notice.

**13.01.710 Enforcement.**

It shall be the duty of the Police Department, Fire Department and all other departments and employees to give vigilant aid to the Public Works Department in the enforcement of the provisions of this Chapter.

**13.01.720 Severability.**

If any section, subsection, sentence or clause or phrase of this chapter is, for any reason held to be unconstitutional, void or unlawful, such decision shall not affect the validity of the remaining portions of this Chapter.

**Section 3.** Except as expressly modified pursuant to this Ordinance, all provisions of the Calexico Municipal Code shall remain unmodified and in full force and effect.

**Section 4.** The City Clerk shall certify to the passage and adoption of this Ordinance, and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation.

First read at a regular meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2014 and adopted and ordered published at a regular meeting of said Council on the \_\_\_ day of \_\_\_\_\_, 2014.

**PASSED, APPROVED AND ADOPTED this \_\_ day of \_\_, 2014.**

\_\_\_\_\_  
John Moreno, Mayor

**ATTEST:**

\_\_\_\_\_  
Gabriela T. Garcia, City Clerk

**APPROVED AS TO FORM:**

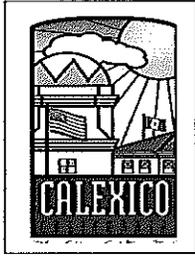
\_\_\_\_\_  
Jennifer Lyon  
City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Richard N. Warne  
Interim City Manager

**AGENDA  
ITEM**

**6**



# AGENDA STAFF REPORT

**DATE:** October 21, 2014

**TO:** Mayor and City Council

**APPROVED BY:** Richard N. Warne, Interim City Manager *RNW*

**PREPARED BY:** Michael J. Bostic, Interim Police Chief

**SUBJECT:** Resolution of the City Council of the City of Calexico  
Accepting the State COPS Funds for Fiscal Year 2013-2014

=====

**Recommendation:**

Recommend City Council approval for acceptance of funds and approval of the Resolution for State COPS.

**Background:**

For the past thirteen (13) years, the Calexico Police Department has received funding from the State of California Citizens' Option for Public Safety (COPS) program. On August 25, 2014, the County's Administrative Office notified the Calexico Police Department that it had been awarded \$94,146.87 for FY 2013-14. County administrative staff further advised that funding was the same for ALL other cities in the County.

**Discussion & Analysis:**

Recommend approval and acceptance of Resolution of grants for FY 2013-14. Upon approval of Resolution for acceptance of funds, notification will be made to the County's Administrative Office. These funds will provide salary/benefits, equipment and training for one (1) police officer.

**Fiscal Impact:**

\$94,146.87 (Revenue)

**Coordinated With:**

None.

**Attachment:**



1. Resolution of the City Council of the City of Calexico Accepting the State COPS Funds for Fiscal Year 2013-2014



RESOLUTION NO. 14-\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO ACCEPTING THE STATE COPS FUNDS FOR FISCAL YEAR 2013-14.

BE IT RESOLVED by the City Council of the City of Calexico as follows:

SECTION 1. The City Council has reviewed and hereby accepts funding from State COPS Program for \$94,146.87 for funding of one (1) police officer for one (1) year. The funding will be used as follows:

One (1) Police Officer Salary	\$49,548
Benefits for one (1) Police Officer	\$22,297
Training & Equipment for one (1) Police Officer (radio, vest, weapon, laptop, etc...)	\$22,302

SECTION 2. The City Council hereby approves the use of the General Revenue Funds to pay for the any matching funds for salary and benefits.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Calexico at the special meeting this 21st day of October, 2014.

\_\_\_\_\_  
John M. Moreno, Mayor

ATTEST:

\_\_\_\_\_  
Gabriela T. Garcia, Deputy City Clerk

State of California     )  
County of Imperial    ) ss.  
City of Calexico       )

I, Gabriela T. Garcia, Deputy City Clerk of the City of Calexico, do hereby certify that the above foregoing Resolution No. 2014-\_\_, was duly passed and adopted by the City Council of the City of Calexico on this 21<sup>st</sup> Day of October, 2014 by the following vote to wit:

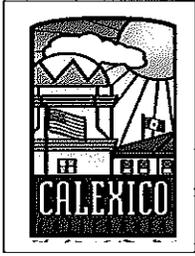
AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Gabriela T. Garcia, Deputy City Clerk

SEAL

**AGENDA  
ITEM**

**7**



# AGENDA STAFF REPORT

**DATE:** October 21, 2014

**TO:** Mayor and City Council

**APPROVED BY:** Richard N. Warne, Interim City Manager *REW*

**PREPARED BY:** Nick Servin, Public Works Director/City Engineer *NS*

**SUBJECT:** Authorize City Manager to Sign First Amendment to Agreement for Professional Services between the City of Calexico and C Young Associates for Consulting Services for the New River Improvement Project

=====

**Recommendation:**

Authorize City Manager to sign First Amendment to Agreement for Professional Services between the City of Calexico and C Young Associates for consulting services for the New River Improvement Project.

**Background:**

On May 3, 2011, the City Council of the City of Calexico authorized the Acting City Manager to negotiate, make revisions to and expand the scope of work for an existing contract with C Young Associates for assistance of the New River Improvement Project (NRIP).

**Discussion & Analysis:**

C Young Associated Agreement for Professional Services expired on September 30, 2012, but has continued to work on NRIP. It is estimated that planning and construction of the New River parkway with bike paths within portion of the New River's flood plain will be starting by late 2015. For this reason, Public Works Staff is requesting authorization from City Council to authorize the City Manager to sign First Amendment to Agreement for Professional Services between the City of Calexico and C Young Associates for consulting services for the NIRP. Do note, that the Department of Transportation and California Natural Resources Agency do require that the Agreement of Professional Services be valid in order for the City to get reimbursed for expenses accrued by the consultant.

**AGENDA  
ITEM  
7**

**Fiscal Impact:**

Original Agreement	\$60,000
First Amendment	
Department of Transportation - Federal Grant	\$48,000
California Natural Resources Agency - State Grant	<u>\$12,000</u>
Total	\$120,000

**Coordinated With:**

None.

**Attachment:**

1. C Young Associates First Amendment to Agreement for Professional Services.
2. C Young Associates Agreement for Professional Services dated May 3, 2011.
3. City Council Agenda Staff Report dated May 3, 2011.

***FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES***

This FIRST AMENDMENT to AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between the City of Calexico ("City") and C Young Associates ("Consultant") both of whom understand as follows:

WITNESSETH:

WHEREAS, on May 3, 2014, the City and Consultant entered into the original agreement by which Consultant agreed to provide consulting services for New River Improvement Project and the City agreed to compensate Consultant for those services; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree to this AMENDMENT as follows:

A. *Section 1 of the original Agreement will be replaced with the following:*

1) SCOPE OF SERVICES

The Consultant shall furnish its services in a professional manner. Consultant shall perform the services described on ~~Exhibit A~~ Exhibit A-1 which is attached hereto and incorporated herein by reference. Said services shall be completed at the direction of the City, which may include input from other public agencies as required under Public Resources Code §§ 71100-71104 and other applicable law.

B. *Section 2 of the original Agreement will be replaced with the following:*

2) TIME OF PERFORMANCE

The services of Consultant performed under this Agreement are retroactive to August 13, 2010, so long as this is permitted under the Grants. All work pursuant to this Agreement shall be subject to and in accordance with the terms of the Grants. Work shall continue until all authorized work is completed and approved by the City or until termination of this Agreement. Billing for work completed under this agreement is retroactive to August 13, 2010, subject to the Grants and approval by the appropriate agencies, including the City and any other applicable

oversight agency as required under Public Resources Code §§ 71100-71104 and other applicable law. In accordance with the Grants, all obligations under this Agreement shall be completed by ~~September 30, 2012~~ September 30, 2016.

C. *Section 3 of the original Agreement will be replaced with the following:*

### 3) COMPENSATION

Compensation to be paid to Consultant is set forth in the Schedule of Charges attached hereto as Exhibit B and incorporated herein by reference. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment. Payment under this Agreement shall not exceed ~~sixty thousand dollars (\$60,000)~~ one hundred and twenty thousand dollars (\$120,000), less the authorization from the Initial Agreement.

D. Except as provided in Sections A, B and C above, all other terms and conditions of the original Agreement will remain unchanged.

IN WITNESS WHEREOF, the City of Calexico has caused this Amendment to Agreement to be signed and executed on its behalf by its City Manager and duly attested by its City Clerk,

CITY OF CALEXICO:

\_\_\_\_\_  
Richard N. Warne, Interim City Manager

C YOUNG ASSOCIATES

\_\_\_\_\_  
Colin P. Young

APPROVED AS TO FORM:

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Jennifer M. Lyon, City Attorney

ATTEST:

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Gabriela T. Garcia, Deputy City Clerk

## EXHIBIT A-1

### SCOPE OF SERVICES

The terms of this Scope of Services may be modified at any time by the City of Calexico to comply with the State and Federal Grant requirements. This scope of services to be provided by CYA (“consultant”) is based on an hourly rate of \$175/hour and an estimated budget for an approved amount not to exceed \$60,000, less the authorization from the Initial Agreement, not including expenses. Consultant expects to spend an average of 10-15 hours per month during the remainder of 2014 and 2015.

Consultant has particular expertise to assist the City, as needed, with the components of the New River Improvement Project (NRIP) known as the Calexico New River Parkway Project (CNRPP), hereinafter “the Project”. The Project is comprised of planning and constructing a river parkway with bike paths within portions of the New River’s flood plain that passes through the City. The scope of services to be provided by Consultant on the CNRPP include, but are not limited to:

- Act as liaison, as needed, on behalf of the City to the two grant-providing agencies; Caltrans, California Natural Resources Agency.
- Assist City staff, as needed, with the process of hiring any consultants needed to perform work funded by the State and Federal grants (e.g., define the scope of work to support contract negotiations in accordance with Caltrans LAPM, participate in negotiations).
- Assist the City’s Contract Administrator, as needed, in overseeing the activities of the City’s project consultants and sub-consultants.
- Assist the City's Contract Administrator and his staff, as needed, with any management elements of the project (e.g., administering project funds).
- Attend and participate, as needed, in all meetings with regulatory agencies on behalf of the City.
- Assist City staff and the City’s consultants, as needed, in addressing all public concerns and questions regarding potential public health impacts.
- Assist City staff and other City of Calexico consultants, as needed, in efforts to acquire additional funds for completing the project (e.g., the California Endowment Fund, the U.S. Army Corp of Engineers).

## **EXHIBIT B**

### **SCHEDULE OF CHARGES**

Consultant hourly rate: \$175.

Miscellaneous expenses, equipment, printing, postage and other costs are charged at direct cost.

Travel, lodging, meals and related expenses are charged at direct cost.

Mileage will be charged at the current allowable IRS rate.

## AGREEMENT FOR PROFESSIONAL SERVICES

This agreement for professional services ("Agreement") is made and entered into as of the 3<sup>rd</sup> day of May, 2011, by and between the City of Calexico ("City") and C Young Associates ("Consultant").

### RECITALS

A. The City of Calexico has been awarded \$4 million dollars of grant funds for developing bicycle paths and public park space adjacent to the New River in Calexico (the "Project"). All costs associated with implementing the Project are covered on a reimbursement basis by two grants (the "Grants"); a grant for \$3.2 million dollars administered by the California Department of Transportation (Caltrans) approved on August 13, 2010 and a grant for \$800,000 dollars administered by the California Natural Resources Agency (CNRA) approved on March 31, 2011.

B. In order to fulfill its obligations associated with expending these funds on the Project, the City needs a consultant to complete a number of tasks, including, but not limited to: act as the interim point of contact for all environmental components of the project; assist City staff, as needed, in assembling a project team of consultants and contractors to perform the tasks identified in the Grant; assist the City's Contract Administrator and his staff, as needed, with any management elements of the project; attend and participate in various meetings with the Grant sponsor (Caltrans) and regulatory agencies on behalf of the City.

C. The City previously entered into an agreement with Consultant in June 2010 for an amount not to exceed nine thousand nine hundred dollars (\$9,900) to assist with the procurement of funds from the Grants (the "Initial Agreement"). The City desires to expand the scope of Consultant's services to the City related to the implementation of the Project under the Grants.

D. The City Council has approved an allocation of an amount not to exceed sixty thousand dollars (\$60,000), which includes the approved expenditure from the Initial Agreement and the funding from the Grants, to Consultant to complete the Consultant Services described herein (Exhibit A).

E. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement.

F. Consultant possesses the skill, experience, ability, background, and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

### AGREEMENT

1. Scope of Services. The Consultant shall furnish its services in a professional manner. Consultant shall perform the services described on Exhibit A which is attached hereto and incorporated herein by reference. Said services shall be completed at the direction of the City, which may include input from other public agencies as required under Public Resources Code §§ 71100-71104 and other applicable law.

2. Time of Performance. The services of Consultant performed under this Agreement are retroactive to August 13, 2010, so long as this is permitted under the Grants. All work pursuant to this Agreement shall be subject to and in accordance with the terms of the Grants. Work shall continue until all authorized work is completed and approved by the City or until termination of this Agreement. Billing for work completed under this agreement is retroactive to August 13, 2010, subject to the Grants and approval by the appropriate agencies, including the City and any other applicable oversight agency as required under Public Resources Code §§ 71100-71104 and other applicable law. In accordance with the Grants, all obligations under this Agreement shall be completed by September 30, 2012.

3. Compensation. Compensation to be paid to Consultant is set forth in the Schedule of Charges attached hereto as Exhibit B and incorporated herein by reference. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment. Payment under this Agreement shall not exceed sixty thousand dollars (\$60,000), less the authorization from the Initial Agreement.

4. Method of Payment. Consultant shall submit monthly billings to City. Consultant's bills shall include a detailed description of the services performed, including, but not limited to, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures.

Payment to Consultant shall be subject to authorization by the City, Caltrans (Federal oversight agency) and CNRA (State oversight agency) and any other agency as required under Public Resources Code §§ 71100-71104 and other applicable law. The City shall attempt to facilitate payment to Consultant within 10 days of receipt of invoice from Consultant.

Consultant understands that the sole source of funds for this Agreement arises from the Grants. City shall have no liability for payment to Consultant under this Agreement if funding under the Grants are withheld, reduced or eliminated for any reason. If the Grants are withheld, reduced or eliminated, the City shall have the option to either cancel this Agreement with no liability occurring to the City, or offer an Agreement amendment to Consultant to reflect the reduced amount.

5. Independent Contractor. It is understood that Consultant and any subcontractors to Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

6. Interest of Consultant. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest and shall not acquire any interest, direct or indirect, in real property in the City of Calxico. Consultant will make a reasonable effort to determine that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- a. will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the City or of any City official, other than normal agreement monitoring; and

b. possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(a)(2).)

8. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

9. Indemnity. To the fullest extent permitted by law, Consultant agrees to indemnify, defend, and hold City free and harmless from all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs, that City may incur as a result of a breach by Consultant of any representation or agreement contained in this Agreement or work performed pursuant to the Grants.

10. Insurance Requirements.

a. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, professional liability insurance appropriate for providing consulting services of the type described herein in California. Consultant shall also be required to carry Worker's Compensation Insurance at an amount to be approved by the City, unless If Consultant's firm is a sole proprietor. If Consultant is a sole proprietor, Consultant will not be required to carry Workers' Compensation Insurance, as attested to in Exhibit C. Consultant carries automobile insurance with coverage limits appropriate for a sole proprietor in California using vehicles for both personal and business use.

b. Certificates of Insurance and Endorsements. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

11. Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.

12. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession.

13. Controlling Law Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Imperial, California.

14. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc. shall be

addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City: City of Calexico, City Manager  
608 Heber Ave.  
Calexico, CA 92231

If to Consultant: C Young Associates  
1042 Skylark Drive  
La Jolla, CA 92037  
Attn: Lee R. Shull PhD

15. Consultant's Books and Records.

a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.

b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

d. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

16. Attorneys Fees and Costs. The remedies provided herein are cumulative and may be enforced separately or concurrently. Should either party be compelled to institute any legal action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to any and all attorneys fees and costs.

17. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

18. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

19. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

20. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Consultant. The parties recognize that the Consultant may hire subcontractors to complete certain services where additional consultant time and experience are necessary. The parties also recognize that there may be occasions where subcontractors may be recommended by the lead agencies participating in the process outlined in Scope of Services Exhibit A. The lead agencies consist of the CRA, Caltrans, the Mexico Border Relations Council, the City of Calexico, Cal/EPA, and the Colorado River Basin Regional Water Quality Control Board.

Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the City. Upon written request from Consultant, the City shall attempt to approve or reject the hiring of a subcontractor recommended by the consultant, within five working days of receipt of written request. If City does not approve or reject subcontractor within said five working days, Consultant shall send a second written notice to City for consent to subcontractor approval. If City does not approve or reject the hiring of a subcontractor within three working days of second receipt of request, the subcontractor will be deemed approved by the City.

If the subcontractor is rejected by the City, the City must respond in writing why the subcontractor was rejected. Rejections shall not be unreasonable. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor.

21. Business License. Consultant and/or any subcontractors shall obtain a business license from the City for any work performed pursuant to this Agreement.

22. Termination. This Agreement may be terminated by the City immediately for cause, or without cause upon three days' written notice of termination. Consultant shall be entitled to compensation for services performed up to the effective date of termination, subject to the terms of the Grants and this Agreement, including, but not limited to the terms under sections 2, 3 and 4 herein.

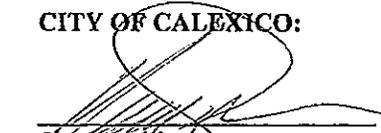
23. Counterparts and Facsimile or Electronic Signatures. This Agreement may be executed in counterparts, with signatures transmitted by facsimile or scanned electronically and transmitted by electronic mail.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]

24. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

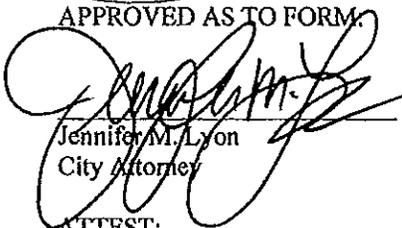
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

**CITY OF CALEXICO:**

  
\_\_\_\_\_  
Oscar Rodriguez  
Acting City Manager

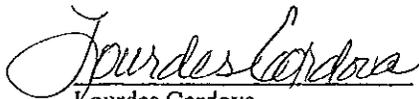
5/16/11  
Dated

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jennifer M. Lyon  
City Attorney

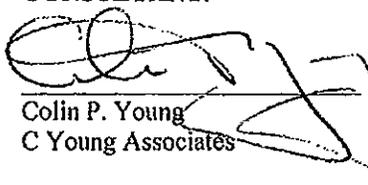
5/16/11  
Dated

ATTEST:

  
\_\_\_\_\_  
Lourdes Cordova  
City Clerk

5/16/11  
Dated

**CONSULTANT:**

  
\_\_\_\_\_  
Colin P. Young  
C Young Associates

5/22/11  
Dated

## EXHIBIT A

### SCOPE OF SERVICES

The terms of this Scope of Services may be modified at anytime by the City of Calexico to comply with the State and Federal Grant requirements. This scope of services to be provided by CYA ("consultant") is based on an hourly rate of \$175/hour and an estimated budget for an approved amount not to exceed \$60,000, less the authorization from the Initial Agreement, including expenses. Consultant expects to spend an average of 30-40 hours per month during the remainder of 2011.

Consultant has particular expertise to assist the City, as needed, with the following components of the New River Improvement Project (NRIP): (1) *Phase 1A* -- development of the NRIP Strategic Plan, and (2) *Phase 1B* -- the parkway and bike path development to be constructed within portions of the New River's flood plain that passes through the City. The scope of services to be provided by Consultant include, but are not limited to:

#### **Phase 1A: Strategic Plan Development**

- Provide senior technical advising, as requested, to the Technical Advisory Committee (TAC) on environmental and public health components of the Plan, particularly any components of the Plan that are directly related to Phase 1B.
- Assist the TAC, as needed, in public meetings and forums in responding to concerns and questions regarding environmental and public health issues associated with the New River.
- If requested by the City, represent the City at public meetings organized and hosted by the TAC, and provide assistance, as needed, on environmental and public health issues raised at such meetings.
- Provide technical review on components of the Strategic Plan, as needed, on behalf of the City.

#### **Phase 1B: Calexico Parkway and Bike Path Development Project**

- Act as liaison, as needed, on behalf of the City to the two grant-providing agencies; Caltrans, California Natural Resources Agency.
- Assist City staff, as needed, with the process of hiring a consultant to perform the work funded by the State and Federal grants (e.g., define the scope of work to support contract negotiations in accordance with Caltrans LAPM, participate in negotiations).
- Assist the City's Contract Administrator, as needed, in overseeing the activities of the City's project consultant.
- Assist the City's Contract Administrator and his staff, as needed, with any management elements of the project (e.g., administering project funds).
- Attend and participate, as needed, in all meetings with regulatory agencies on behalf of the City.
- Assist City staff and the City's consultants, as needed, in addressing all public concerns and questions regarding potential public health impacts.
- Assist City staff and other City of Calexico consultants, as needed, in efforts to acquire additional funds for completing the project (e.g., soliciting funding from the California Endowment Fund, the U.S. Army Corp of Engineers).

**EXHIBIT B**

**SCHEDULE OF CHARGES**

Consultant hourly rate: \$175.

Miscellaneous expenses, equipment, printing, postage and other costs are charged at direct cost.

Travel, lodging, meals and related expenses are charged at direct cost.

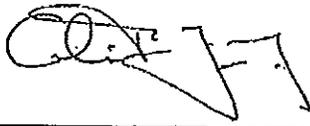
Mileage will be charged at the current allowable IRS rate.

**EXHIBIT C**

**CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE**

I hereby certify that in the performance of the work for which this Agreement is entered into, C Young Associates shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of the State of California.

Executed on this \_\_\_h day of May, 2011, at La Jolla, California.



---

**Colin P. Young**  
**Principal, C Young Associates**



**FOR CLERK USE ONLY**

City Council  
Item No. 6

**CITY COUNCIL AGENDA**

**FACT SHEET**

Utility Services

Department

May 3, 2011

Requested Date

1. Request:

- |                  |                                     |                                   |                          |
|------------------|-------------------------------------|-----------------------------------|--------------------------|
| Council Approval | <input checked="" type="checkbox"/> | Information Only/<br>Presentation | <input type="checkbox"/> |
| Other (specify)  | <input type="checkbox"/>            | Hearing                           | <input type="checkbox"/> |

2. Requested Action:

1. Authorize Acting City Manager to negotiate, make revisions to and expand the scope of work for an existing contract with C. Young & Associates for assistance with Phase One of the New River Improvement Project (NRIP), subject to the review and approval of the Acting City Manager and City Attorney.

3. Fiscal Impact:

- |         |          |                                     |         |                    |
|---------|----------|-------------------------------------|---------|--------------------|
| Revenue | Increase | <input type="checkbox"/>            | Source: |                    |
|         | Decrease | <input type="checkbox"/>            | Amount: |                    |
| Cost:   | Increase | <input checked="" type="checkbox"/> | Source: | 50% 274-53021-1250 |
|         | Decrease | <input type="checkbox"/>            | Amount: | 50% 276-53021-1250 |

4. Reviewed By:

Finance Dept. on _____	By: _____
Comments: _____	
City Attorney on _____	By: _____
Comments: _____	

*Note: Back up must be submitted along with this form. Deadline is 5:00 p.m., Tuesday, prior to the scheduled meeting date.*

**CLERK USE ONLY**

CITY COUNCIL DATE:

- |         |                          |                 |                          |
|---------|--------------------------|-----------------|--------------------------|
| Action  | <input type="checkbox"/> | Filing          | <input type="checkbox"/> |
| Consent | <input type="checkbox"/> | Presentation    | <input type="checkbox"/> |
| Hearing | <input type="checkbox"/> | Other (specify) | <input type="checkbox"/> |

Reviewed by: City Clerk \_\_\_\_\_  
Date \_\_\_\_\_

City Manager \_\_\_\_\_  
Date \_\_\_\_\_

**CITY COUNCIL  
AGENDA REPORT**

**SUBJECT:** Revisions to Consulting Contract of C. Young & Associates (CYA) for Necessary Engineering and Environmental Services for the New River Improvement Project

**AGENDA DATE:** May 3, 2011

**PREPARED BY:** Luis Estrada, Airport and Wastewater Supervisor

**REVIEWED BY:** Nick Fenley, Director of General Services

**APPROVED BY:** Oscar Rodriguez, Acting City Manager

**RECOMMENDATION:** It is recommended the City Council approve the following:

1. Authorize Acting City Manager to negotiate, make revisions to and expand the scope of work for an existing contract with C. Young & Associates for assistance with Phase One of the New River Improvement Project (NRIP), subject to the review and approval of the Acting City Manager and City Attorney.

**FISCAL IMPACT:** City general funds will not be expended for this contract. All costs associated with implementing the New River Improvement Project (NRIP) are covered on a reimbursement basis by state and federal grants. There are approximately \$4 million in state and federal funds available for Phase One of the NRIP in Calexico. These include an \$800,000 grant agreement (effective 4/1/11) from the California River Parkways Program administered by the California Natural Resources Agency, and a \$3.2 million "federal aid program" funding authorization approved by CalTrans (effective August 13, 2010.)

**BACKGROUND INFORMATION/PREVIOUS ACTION:** Over the last three years, the City Council has taken numerous actions authorizing a variety of grants, funding agreements and contracts for the NRIP. The NRIP is a multi-phased program initiated in 2010, with the ultimate goal of implementing a strategy that addresses the severe public health and environmental problems associated with the New River in California.

Pursuant to legislative action (AB 1079 (Perez) Chapter 382, Statutes of 2009), the NRIP encompasses the 66-mile reach of the New River, which extends from the international border to the Salton Sea. The City of Calexico has been legislatively

assigned a leadership and fund management role for various aspects of "Phase One" of the NRIP.

As described in the City's December 2010 "Request for Qualifications" (RFQ) for Architectural & Engineering services, the first Phase of the NRIP consists of two parts:

- *Phase 1A* – Development of the **New River Strategic Plan** in accordance with AB 1079 for the entire 66-mile reach of the New River. The City of Calexico and the Calexico New River Committee are both administrators of funds for developing this plan pursuant to a grant from the State Water Resources Control Board. Both organizations are also active participants along with other government and non-government entities in the Technical Advisory Committee charged with developing this Plan.
- *Phase 1B* – Development and implementation of the City's plans for transforming parts of the three-mile reach of the river that flows through and adjacent to the City from the international border to State Rte 98 into a safe and accessible public parkway comprised of recreational areas and bicycle and pedestrian paths. This Phase will also develop engineering alternatives for water conveyance and treatment and environmental restoration opportunities for the River itself.

#### **DISCUSSION/CURRENT ACTION:**

##### **Authorization to Proceed with Contract Revisions for C. Young & Associates (CYA) Pertaining To Phase One Consulting Services for the New River Improvement Project (NRIP)**

The City has administrative control of the State and Federal funds that have been obtained for carrying out Phase 1A and Phase 1B activities for the NRIP in Calexico. Pursuant to the CalTrans Local Assistance Procedures Manual, a "local agency" may enter into what are called "Personal Services Contracts" for up to \$100,000.

As the Manual states:

"Local agencies should be fully aware that consultant services costing in aggregate no more than \$100,000 per contract, may be obtained through a relatively simple and informal method of procurement. This informal method must be sound and appropriate for the consulting services procured and provide justification for the selection. It shall be documented and supported. The method of procurement shall be an open and competitive process in selecting consultants and should consider a minimum of three different consultants whenever possible.

The \$100,000 is a cumulative limit for services provided by any individual

consultant or consulting firm. Such services must be under the direction and control of a full-time employee of the local agency in responsible charge. Compensation for construction engineering services should be based on actual costs incurred, plus-a-fixed fee, or in the case of individual compensation on an agreed-upon hourly or daily rate. Lump sum payments should not be used for construction engineering services.

For personal service contracts, the following information must be documented by the local agency and retained in the project files:

- Explanation of the services needed, and why they cannot be provided by the local agency.
- Name and qualification of the consultant who provided the services.
- Documentation of the fees showing how the fee was calculated, and that it is reasonable by comparative standards.”

Since June 2010, the City has utilized the services of C. Young & Associates (CYA) for assistance in securing the state and federal funding now available for the NRIP. In June 2010, the City Manager used his authority to approve a consulting contract not to exceed \$9900 with CYA which included the following scope of work:

1. Defining the overall scope of the NRIP.
2. Completing the Request for Authorization (RFA) forms pursuant to Caltrans procedures.

These CYA contract tasks were successfully completed, and the City now has funding agreements in place with both CalTrans for \$3.2 million and the California Natural Resources Agency for \$800,000. Given that all direct and indirect costs for Phase One of the NRIP are now covered by these two grants on a reimbursable basis, the City must move quickly to finalize the RFQ process initiated in December 2010. The City is following a very specific set of procedures utilizing the “one step RFQ” method for selecting the primary contractor to oversee Phase One of the NRIP (See LAPM, Chapter 10- Consultant Selection).

Pursuant to a December 16, 2010 Request for Qualifications the City of Calexico invited consulting firms to provide a Statement of Qualifications (SOQ) for environmental, planning and management services to the City for Phase 1 of the New River Improvement Project (NRIP). The City received two SOQ's from Dudek Environmental & Engineering Services (Dudek) and Environmental Resources Management (ERM). After reviewing the written SOQ proposals, the City Council approved the selection of Environmental Resources Management (ERM) as the most qualified consultant to assist in this effort.

It is anticipated that contract negotiations with ERM will occur over the next two months, with costs and a scope of work as the key considerations. In order to

complete these contract negotiations under the RFQ process, the City would like to continue to work with CYA over the rest of 2011. The City proposes to develop a new contract with CYA that is in strict adherence to the contract format and approval procedures of both the City and CalTrans. There are some new requirements for NRIP contracts under the CalTrans funding authorization, and we need to bring the CYA contract into compliance with these provisions.

As mentioned, Personal Services Contracts are allowed up to \$100,000 under the streamlined procedures in the CalTrans LAPM. As part of the contract revision process, the City would also like to increase the overall CYA contract amount "not to exceed" \$60,000. This would cover expenses dating back to August 13, 2010 when the CalTrans funding was actually authorized, and additional funds for 2011 work.. All costs subsequent to August 13, 2011 under this contract would be reimbursable by CalTrans and expenses after April 1, 2011 are also eligible for reimbursement by the California Natural Resources Agency. The City will not be obligated for payment under the contract unless funds are available and authorized under the applicable grant funding.

The City has followed the guidance of the CalTrans LAPM and its own professional services contracting protocols, and has contacted several other engineering and environmental consulting firms that provide services similar to CYA. These firms include Nolte Associates, Klinefelter Consulting Associates and firms from Calexico and Imperial County. After considering factors such as reasonable cost, availability of professional services, experience and familiarity with the New River issues, staff has determined that continuing to contract with CYA is the best option for the City for NRIP Phase One work.

The proposed scope of work and contract terms are contained in an April 16, 2011 letter to the City from CYA. (See attached) After Council approval, the Acting City Manager will negotiate final contract terms with CYA using the City's standard consulting contract template for NRIP consultants, which protects the City on a number of levels, including grant funding contingency language and indemnification requirements.

#### **ATTACHMENTS**

1. Resolution
2. April 19, 2011 letter to the City from CYA proposing a scope of work and cost estimates for NRIP Phase One consulting services

**RESOLUTION NO. 11- \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO,  
CALIFORNIA, AUTHORIZING THE ACTING CITY MANAGER TO NEGOTIATE  
AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT REGARDING THE  
NEW RIVER IMPROVEMENT PROJECT**

**WHEREAS**, the New River pollution has existed for decades and various state, local, and federal officials and agencies have discussed solutions.

**WHEREAS**, the City has been awarded several federal and state grants related to the New River Improvement Project.

**WHEREAS**, the terms of the various grants require development of a New River Strategic Plan and related parkway and bike path development.

**WHEREAS**, the City desires to continue the implementation of the various grant provisions.

**WHEREAS**, the City needs the services of a professional consulting firm to assist with implementation of the New River Improvement Project.

**WHEREAS**, the City has contacted three separate consulting firms inquiring about services on the New River Improvement Project, which complies with grant and City contracting requirements.

**WHEREAS**, after considering various factors, including reasonable cost, availability of professional services, experience and familiarity with New River issues, the City has determined that C. Young & Associates should provide these consulting services.

**WHEREAS**, consulting agreements related to the New River Project include terms that protect the interest the City, including grant funding contingencies and indemnification language.

**NOW, THEREFORE**, the City Council of the City of Calexico does hereby authorize the Acting City Manager to finalize negotiations on the professional services agreement regarding the New River Improvement Plan, and execute said agreement subject to review and approval of the City Attorney.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Calexico at its regular meeting held on the 3rd day of May, 2011, by the following roll call vote:

**AYES:**  
**NOES:**  
**ABSENT:**





1042 Skylark Drive  
La Jolla, CA 92037  
Tel.: (858) 945-7029

April 19, 2011

To: John McCaull, Consultant to the City of Calexico

From: Lee Shull PhD, CYA *Lee R. Shull*

Copy: Colin Young, CYA

Subject: **Proposed scope of services to the City of Calexico**

The terms of this Scope of Services may be modified at anytime by the City of Calexico to comply with the State and Federal Grant requirements. This scope of services to be provided by CYA ("consultant") is based on an hourly rate of \$175/hour and an estimated budget for an approved amount not to exceed \$60,000, not including expenses. Consultant expects to spend an average of 30-40 hours per month during the remainder of 2011.

Consultant has particular expertise to assist the City, as needed, with the following components of the New River Improvement Project (NRIP): (1) *Phase 1A* - development of the NRIP Strategic Plan, and (2) *Phase 1 B* - the parkway and bike path development to be constructed within portions of the New River's flood plain that passes through the City. The scope of services to be provided by Consultant include, but are not limited to:

**Phase 1A: Strategic Plan Development**

- Provide senior technical advising, as requested, to the TAC on environmental and public health components of the Plan, particularly any components of the Plan that are directly related to Phase 1B.
- Assist the TAC, as needed, in public meetings and forums in responding to concerns and questions regarding environmental and public health issues associated with the New River.
- If requested by the City, represent the City at public meetings organized and hosted by the TAC, and provide assistance, as needed, on environmental and public health issues raised at such meetings.

- Provide technical review on components of the Strategic Plan, as needed, on behalf of the City.

**Phase 1B: Calexico Parkway and Bike Path Development Project**

- Act as liaison, as needed, on behalf of the City to the two grant-providing agencies; Caltrans, California Natural Resources Agency.
- Assist City staff, as needed, with the process of hiring a consultant to perform the work funded by the State and Federal grants (e.g., define the scope of work to support contract negotiations in accordance with Caltrans LAPM, participate in negotiations).
- Assist the City's Contract Administrator, as needed, in overseeing the activities of the City's project consultant.
- Assist the City's Contract Administrator and his staff, as needed, with any management elements of the project (e.g., administering project funds).
- Attend and participate, as needed, in all meetings with regulatory agencies on behalf of the City.
- Assist City staff and the City's consultants, as needed, in addressing all public concerns and questions regarding potential public health impacts.
- Assist City staff and other City of Calexico consultants, as needed, in efforts to acquire additional funds for completing the project (e.g., soliciting funding from the California Endowment Fund, the U.S. Army Corp of Engineers).