



Pedro "Pete" M. Sanchez, Mayor
Mike Hudson, Mayor Pro-Tem
Jane Day
Sam Derting
Michael A. Segala

First and Third Tuesday
Every Month

A G E N D A

**REGULAR MEETING OF THE
SUISUN CITY COUNCIL**

AND

**SUISUN CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY**

TUESDAY, APRIL 17, 2012

7:00 P.M.

SUISUN CITY COUNCIL CHAMBERS -- 701 CIVIC CENTER BOULEVARD -- SUISUN CITY, CALIFORNIA

(Next Ord. No. – 722)

(Next City Council Res. No. 2012 – 21)

Next Suisun City Council Acting as Successor Agency Res. No. SA2012 – 05)

(Next Housing Authority Res. No. HA2012 – 02)

ROLL CALL

Council / Board Members
Pledge of Allegiance
Invocation

PRESENTATIONS/APPOINTMENTS

(Presentations, Awards, Proclamations, Appointments).

1. Presentation by Jonathan Harvey, Captain, The Salvation Army on the KROC Center.
2. Presentation of a Proclamation to Rod Malloy, Chief Operations Officer, Mission Solano, Recognizing April 21, 2012 as "Mission Solano Earth Day".
3. Approving Appointment(s) to the Oversight Board of the Suisun City Council Acting as Successor Agency to the Redevelopment Agency of the City of Suisun City. Mayor's At-Large Appointment.
4. Presentation: Fairfield and Suisun Transit (FAST) - (Mona Babauta, Transit Manager).

PUBLIC COMMENT

(Requests by citizens to discuss any matter under our jurisdiction other than an item posted on this agenda per California Government Code §54954.3 allowing 3 minutes to each speaker).

CONFLICT OF INTEREST NOTIFICATION

(Any items on this agenda that might be a conflict of interest to any Councilmembers / Boardmembers should be identified at this time.)

DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7335 ■ BUILDING 421-7310 ■ FINANCE 421-7320

FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS 421-7340

SUCCESSOR AGENCY 421-7309 FAX 421-7366

CONSENT CALENDAR

Consent calendar items requiring little or no discussion may be acted upon with one motion.

City Council

5. Council Adoption of Resolution No. 2012-___: Adopting the Public Agency Retirement Systems (PARS) Section 457 FICA Alternative Retirement System (ARS) Plan for all Employees Not Otherwise Covered under the City's CalPERS Retirement Plan and Appointing the Assistant City Manager/Administrative Services Director as the Plan Administrator – (Anderson).
6. Council Adoption of Resolution No. 2012-___: Authorizing the City Manager to Recruit and Appoint one Police Sergeant – (Anderson).
7. Council Adoption of Ordinance No. 721: Amending Title 8, Chapter 8.04 – “Fireworks” to Permit the Sales of Safe and Sane Fireworks; and to Regulate other Fireworks Related Activities. (Introduced and Reading Waived on 4/3/12) – (O'Brien).
8. Council Adoption of Resolution No. 2012-___: Adopting the Sixth Amendment to the Annual Appropriation Resolution No. 2011-62 to Appropriate \$21,000 for the FY 2011 Edward Byrne Memorial Justice Assistance Grant - (Garben).

Joint City Council / Suisun City Council Acting as Successor Agency

9. Council/Agency Approval of the March 2012 Payroll Warrants in the amount of \$618,055.07. Council Approval of the March 2012 Payable Warrants in the amount of \$1,038,054.49 – (Finance).

GENERAL BUSINESS**City Council**

10. Council Adoption of Resolution No. 2012-___: Authorizing the City Manager to Approve a Right-of-Way Cooperative Agreement between the City of Suisun City and the City of Fairfield and Authorizing the City Manager to Approve Addendum No. 1 to the Agreement including Storm-Drain Improvements along the North Side of Old Railroad Avenue – (Kasperson).

PUBLIC HEARINGS:**REPORTS: (Informational items only.)**

11. City Manager/Executive Director/Staff
 - Status of General Plan Update – (Wooden).
 - Status of Walmart – (Bragdon).
12. Mayor/Council -Chair/Boardmembers

CLOSED SESSION

Pursuant to California Government Code Section 54950 the Suisun City Council will hold a Closed Session for the purpose of:

13. CONFERENCE WITH LABOR NEGOTIATOR

Agency negotiator: Suzanne Bragdon, City Manager, Ron Anderson, Assistant City Manager, and Tim Mattos, Police Commander.

Employee organization: SCPOA (Suisun City Police Officers' Association)

14. CONFERENCE WITH LABOR NEGOTIATOR

Agency negotiator: Suzanne Bragdon, City Manager, Ron Anderson, Assistant City Manager, and Dan Kaspersen, Public Works and Building Director.

Employee Organization: SCEA (Suisun City Employees' Association).

15. CONFERENCE WITH LABOR NEGOTIATOR

Agency negotiator: Suzanne Bragdon, City Manager, Ron Anderson, Assistant City Manager, and Jason Garben, Economic Development Director.

Employee organization: SCMPEA (Suisun City Management and Professional Employees' Association)

CONVENE OPEN SESSION

Announcement of Actions Taken, if any, in Closed Session.

ADJOURNMENT

A complete packet of information containing staff reports and exhibits related to each item for the open session of this meeting, and provided to the City Council, are available for public review at least 72 hours prior to a Council /Agency/Authority Meeting at Suisun City Hall 701 Civic Center Blvd., Suisun City. Agenda related writings or documents provided to a majority of the Council/Board/Commissioners less than 72 hours prior to a Council/Agency/Authority meeting regarding any item on this agenda will be made available for public inspection during normal business hours. An agenda packet is also located at the entrance to the Council Chambers during the meeting for public review. The City may charge photocopying charges for requested copies of such documents.

PLEASE NOTE:

1. The City Council/Agency/Authority hopes to conclude its public business by 11:00 P.M. Ordinarily, no new items will be taken up after the 11:00 P.M. cutoff and any items remaining will be agendized for the next meeting. The agendas have been prepared with the hope that all items scheduled will be discussed within the time allowed.
2. Suisun City is committed to providing full access to these proceedings; individuals with special needs may call 421-7300.
3. Agendas are posted at least 72 hours in advance of regular meetings at:

City Hall	Fire Station	Senior Center
701 Civic Center Boulevard	621 Pintail Drive	318 Merganser Drive

Office of the Mayor

Suisun City, California

Proclamation



WHEREAS, Mission Solano, a nonprofit organization, helps build and sustain healthy communities in the City of Suisun City, enhancing the quality of life for local residents of all ages and backgrounds; and

WHEREAS, the nonprofit sector works as a responsible partner with private enterprise and government to alleviate the most pressing social issues of our time to include our beloved homeless Veterans; and

WHEREAS, the nonprofit organization partnerships exemplified by Mission Solano contribute significantly to a viable local economy by providing Suisun City-residents with jobs, goods, and services with a \$3 million local economic impact in 2011; and

WHEREAS, Nonprofit leaders are often entrepreneurs, creating new solutions to problems and forging strategic ventures to fill previously unmet needs as demonstrated by the harmonized partnerships between Mission Solano, Sunset Bay Kayaks, Solano Garbage Company, Potrero Hills Landfill, Fairfield-Suisun Sewer District, and has unified Suisun City and Fairfield; and

WHEREAS, the project and vision of Mission Solano's Earth Day in Suisun City is supported by generous donors, partners, and volunteers experiencing opportunities for community cleanup; participation in the transformation of collected refuse into beautiful art; landmark tree planting, e-waste recycling, civic engagement, and community building; and

WHEREAS, during the most distressed economic period of our lifetimes, the partnerships of Mission Solano and Suisun City's business, civic and government sectors deserve acknowledgment, affirmation, and celebration.

NOW, THEREFORE, BE IT RESOLVED, THAT I Pete Sanchez, Mayor of the City of Suisun City, do hereby proclaim April 21, 2012 as:

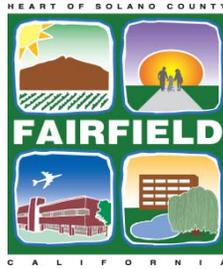
"Mission Solano Earth Day"

and encourage all Suisun City and surrounding residents to attend this family event and to continue their exemplary commitment to charity through support of Mission Solano and our local nonprofit organizations.

In witness whereof I have hereunto set my hand and caused this seal to be affixed.

ATTEST: _____

DATE: _____



MEMORANDUM

PUBLIC WORKS DEPARTMENT

DATE: April 11, 2012

TO: City of Suisun City Council

FROM: Mona Babauta, Transit Manager, Fairfield and Suisun Transit (FAST)

SUBJECT: Proposed FAST Service Changes

RECOMMENDED ACTION

Information Only.

STATEMENT OF ISSUE

Fairfield and Suisun Transit is seeking ways to improve system efficiency and cost-effectiveness, increase ridership, ensure long-term sustainability, and maximize competitiveness for regional, State and Federal funding through proposed service changes.

DISCUSSION

Fairfield and Suisun Transit are proposing service changes for the following, primary reasons: 1) to adapt to changing community needs, demographics, and travel patterns; 2) to respond to changing financial conditions, funding levels, and projected budget shortfalls; 3) to respond to State-mandated performance measures, as well as those dictated by the Metropolitan Transportation Commission, such the 20% farebox recovery ratio requirement (20% of operating expenses must be recovered through passenger fares), and; 4) to respond to ridership feedback and suggestions gathered through customer surveys, comment cards, the Unmet Transit Needs Hearing process, and the Fairfield/Suisun/Cordelia Community Based Transportation Plan (CBTP).

Memo to City of Suisun City Council
Re: Fairfield and Suisun Transit Proposed Service Changes
Date: April 11, 2012

FINANCIAL IMPACT

Service changes are being proposed within existing budget constraints. Therefore, no increase in budget appropriations is expected to occur for on-going, contracted operations. One-time costs may be experienced, however, in order to implement the proposed service changes such as the removal and installation of bus stops.

PUBLIC CONTACT/ADVISORY BOARD RECOMMENDATION

Six public meetings are currently scheduled as of April 11, 2012 in the Cities of Fairfield and Suisun:

- April 11, 2012, 9am, Fairfield Senior Center
- April 17, 2012, 6pm, Fairfield Transportation Center
- April 23, 2012, 2pm, Suisun Senior Center
- May 2, 2012, 12pm, Fairfield Senior Center
- May 2, 2012, 5pm, Fairfield City Council Chambers
- May 7, 2012, 4:30pm, Fairfield Transportation Center

Additionally, information provided at these public meetings will also be available at www.fasttransit.org, FAST's Facebook page, and at the front counter of the Fairfield Transportation Center.

ALTERNATIVE ACTION

The existing transit system could be maintained, or revisions to the proposed service changes could occur as directed by the City Councils of the Cities of Fairfield and Suisun.

DOCUMENTS ATTACHED

PowerPoint Presentation on Proposed Service Changes.

STAFF CONTACT

Mona Babauta, Transit Manager
707.434.3804
MBabauta@fairfield.ca.gov



Fairfield and Suisun Transit

PROPOSED SERVICE CHANGES



PROPOSED SERVICE CHANGES—WHY?

- ✘ To adapt to changing community needs, demographics, travel patterns, etc.
- ✘ To respond to changing financial conditions, funding levels for operations, projected budget shortfalls, etc.
- ✘ To respond to performance measures and standards dictated by funding agencies and legislation to ensure continued eligibility for funding (i.e. Transit Sustainability Project (TSP) by Metropolitan Transportation Commission, 20% farebox recovery mandate in State Transportation Development Act (TDA))
- ✘ To respond to public and ridership feedback and interests
 - + Proposed Changes are in response to MTC Unmet Transit Needs Hearings, Cordelia/Green Valley CBTP, Public Complaints/Comments.

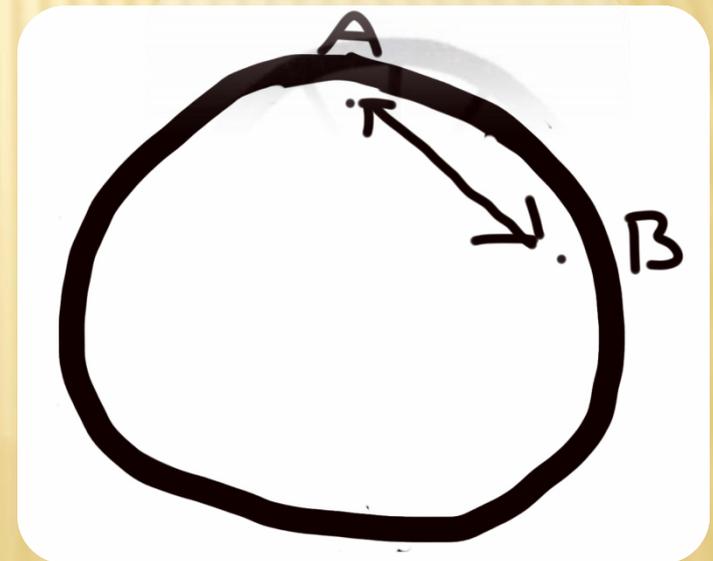
PROPOSED SERVICE CHANGES-WHY?

Other service challenges that need to be addressed:

- ✘ Need to improve performance: Farebox Recovery on Routes 2, 5, and 6 are well under the State mandated 20% farebox recovery ratio requirement for maintaining TDA funding eligibility.
- ✘ Need to deploy resources more efficiently to maximize quality/level of service to community: Duplicative service along certain corridors currently exist.
- ✘ Need to improve user-friendliness of transit system to increase ridership/farebox recovery: To travel to/from certain destinations, two routes may be necessary to minimize travel time. (Traveling to/from Armijo High School is a good example.)

PROPOSED SERVICE CHANGES-HIGHLIGHTS

1. Improve Efficiency and Connectivity:
Establish “**Hub & Spoke**”, Timed Transfer System. Fairfield Transportation Center is main “Hub”.
2. Improve Customer Experience and Ridership
 1. More direct/quicker service on main arterials in higher density areas of Fairfield and Suisun to improve cost-effectiveness of system and customer satisfaction.
 2. Eliminate long routes and inconvenient loops.
 3. More bi-directional service make system more intuitive.
 4. Increase frequency to 30-minutes on all but one route (Travis AFB Shuttle).

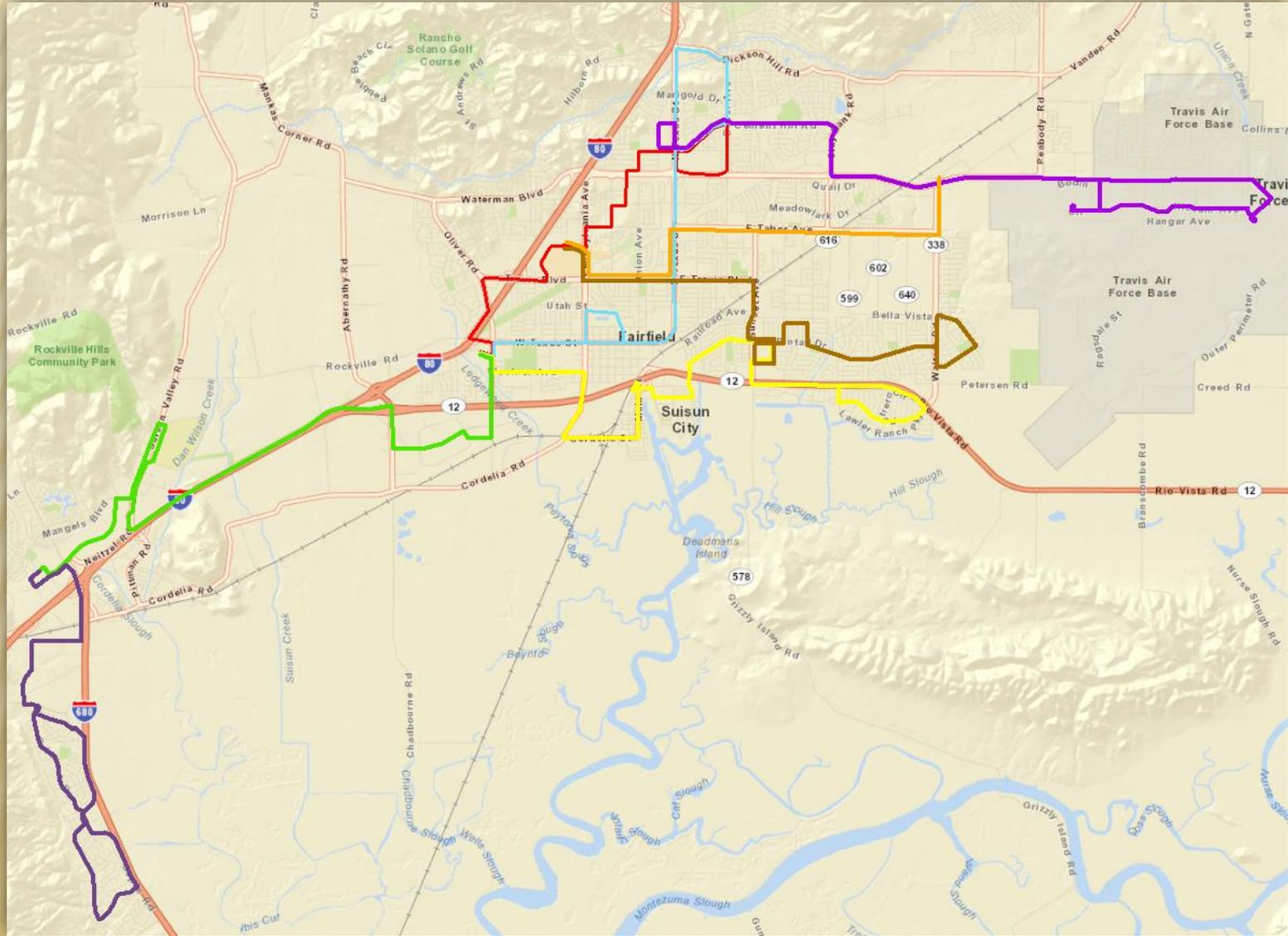


PROPOSED SERVICE CHANGES-HIGHLIGHTS CONTINUED

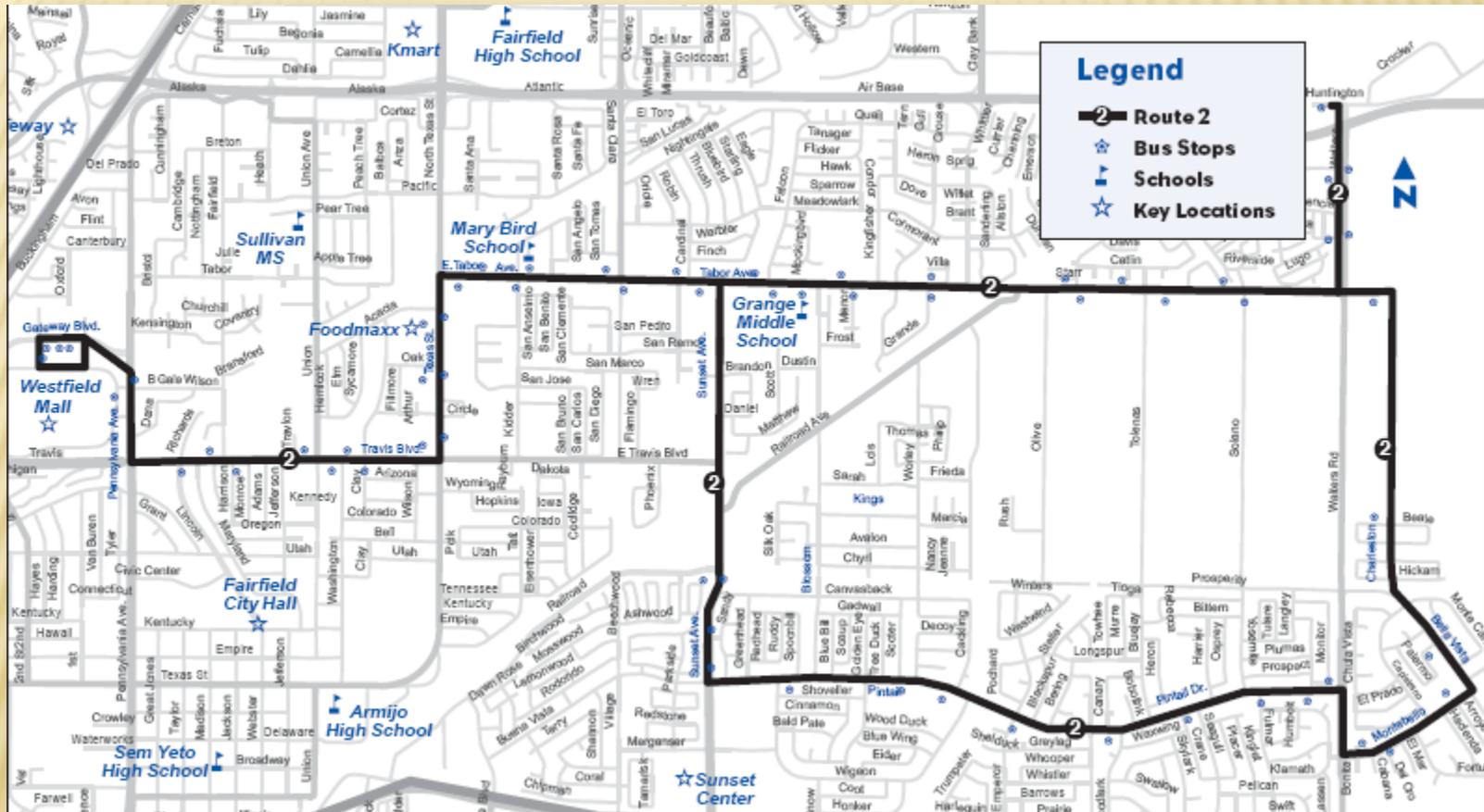
- ✘ Community Shuttle in Cordelia
 - + Expanded service to Green Valley Shopping Center, Costco and Fairfield Cordelia Library to increase ridership.
- ✘ Travis AFB Shuttle Connection to KMART/Wal-Mart to increase ridership.
- ✘ Improve service within constraints of current budget.
- ✘ Retain Service Coverage for Core Riders: Under proposed system 97% of current riders will continue to be served within $\frac{1}{4}$ of a mile.



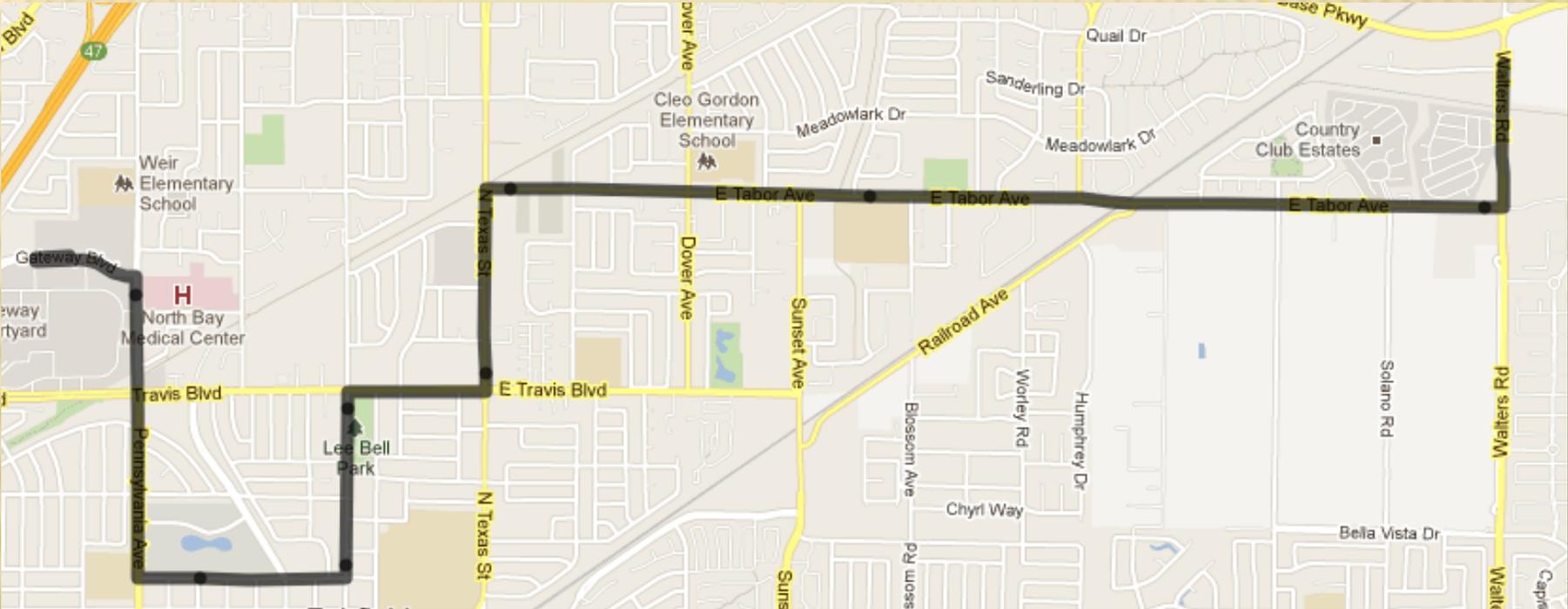
PROPOSED SYSTEM



ROUTE 2 CURRENT



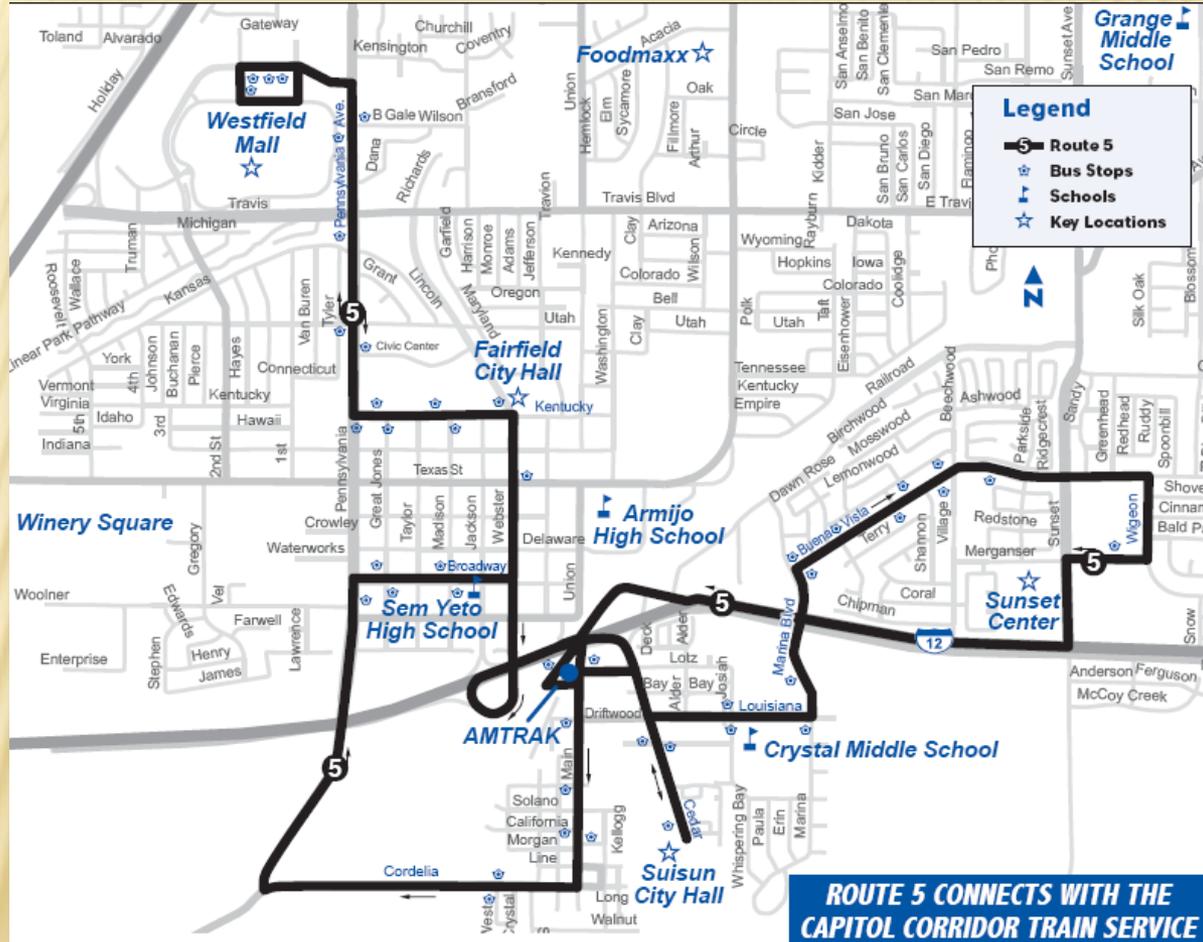
ROUTE 2 PROPOSED



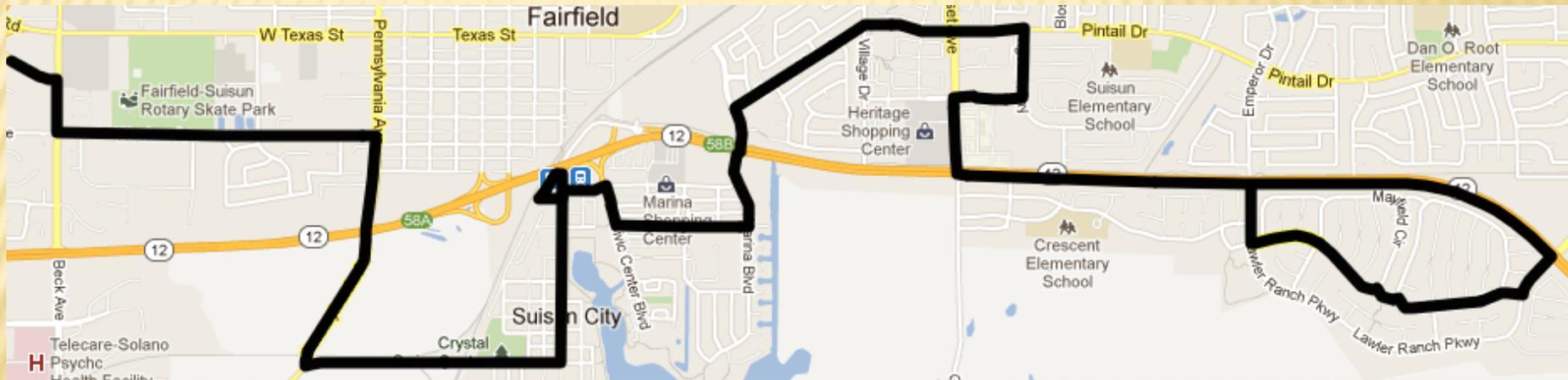
ROUTE 2 PROPOSAL

- ✘ The big loop on the east end is gone and service is extended to Civic Center and Senior Center. Route 2 ends at Huntington turnaround. It continues to provide 30 minute service with 2 buses. Connection to Travis AFB maintained.
- ✘ Key destinations served:
 - + Mall
 - + Fairfield Civic Center/Senior Center
 - + Foodmax
 - + Cleo Gordon Elementary School
 - + Grange Middle School
 - + Tabor Park
 - + Dover Mobile Home Park

ROUTE 5 CURRENT



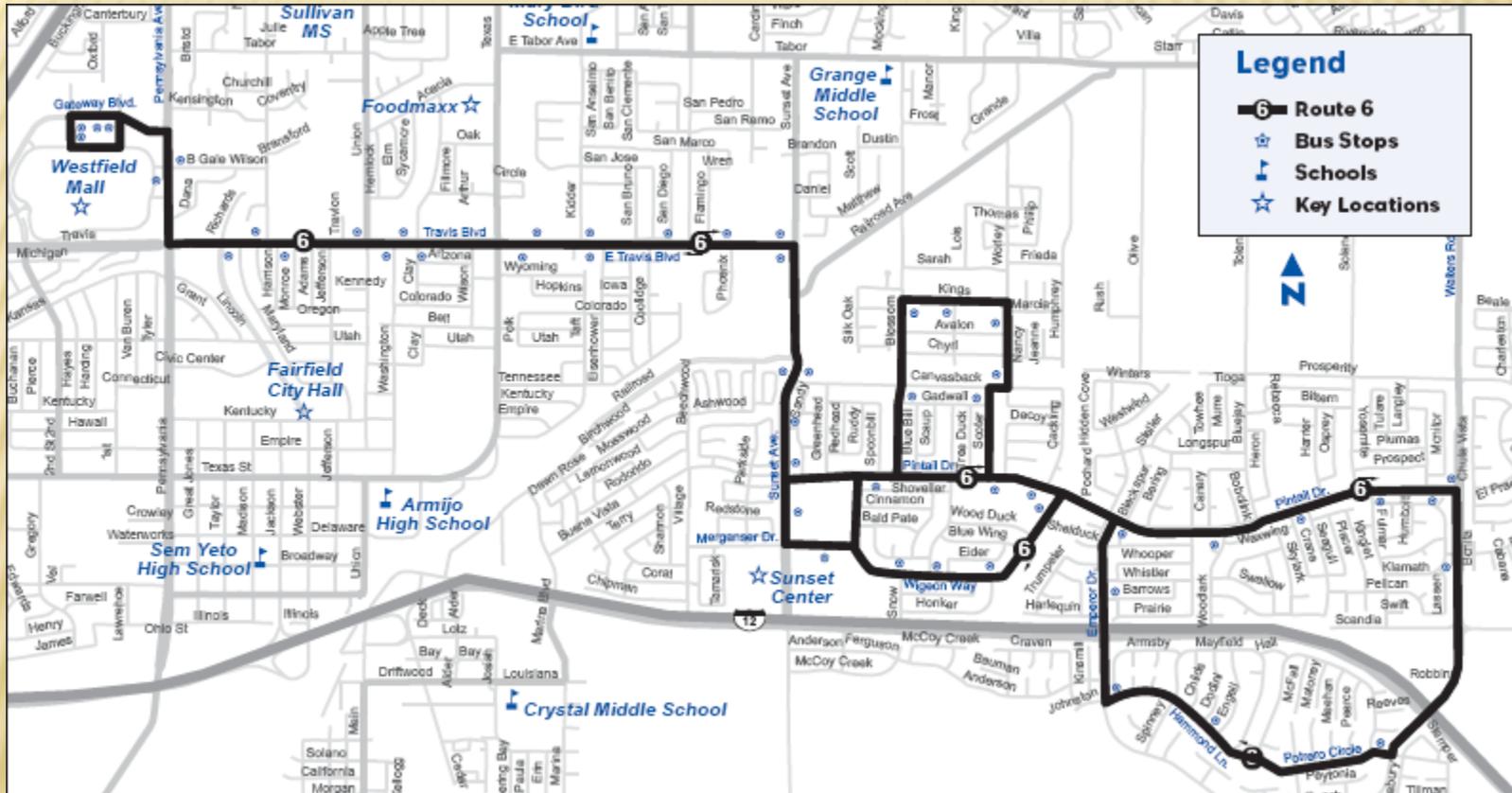
ROUTE 5 PROPOSED



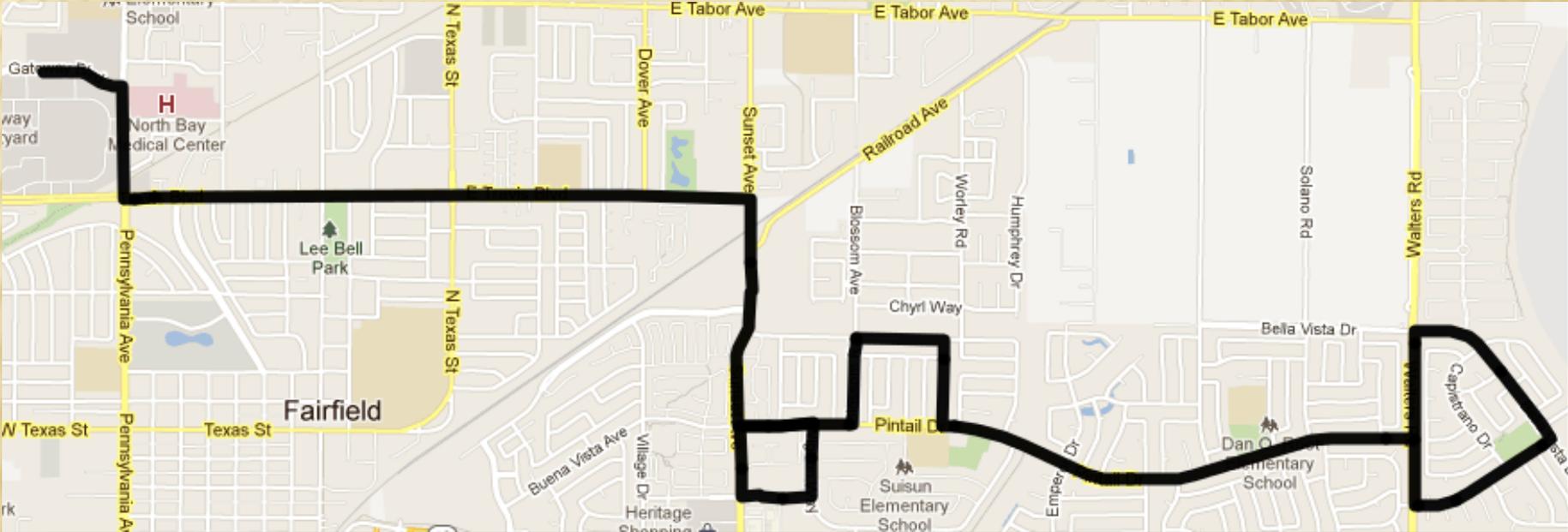
ROUTE 5 PROPOSAL

- ✘ Service to MALL is discontinued in favor of service to FTC to improve regional and local connectivity. Easy connections to the MALL are available with Route 4 at FTC and Route 6 at the Sunset Center.
- ✘ Service is extended to Lawler Ranch.
- ✘ Service to City of Suisun City Hall will be within ¼ mile walking distance.
- ✘ 30 minute service maintained.
- ✘ Key destinations served:
 - + Fairfield Transportation Center
 - + Downtown Suisun
 - + Suisun AMTRAK
 - + Crystal Middle School
 - + Suisun City Hall (Stop at Driftwood and Civic Center Dr.)
 - + Suisun Senior Center
 - + Sunset Center
 - + Lawler Ranch

ROUTE 6 CURRENT



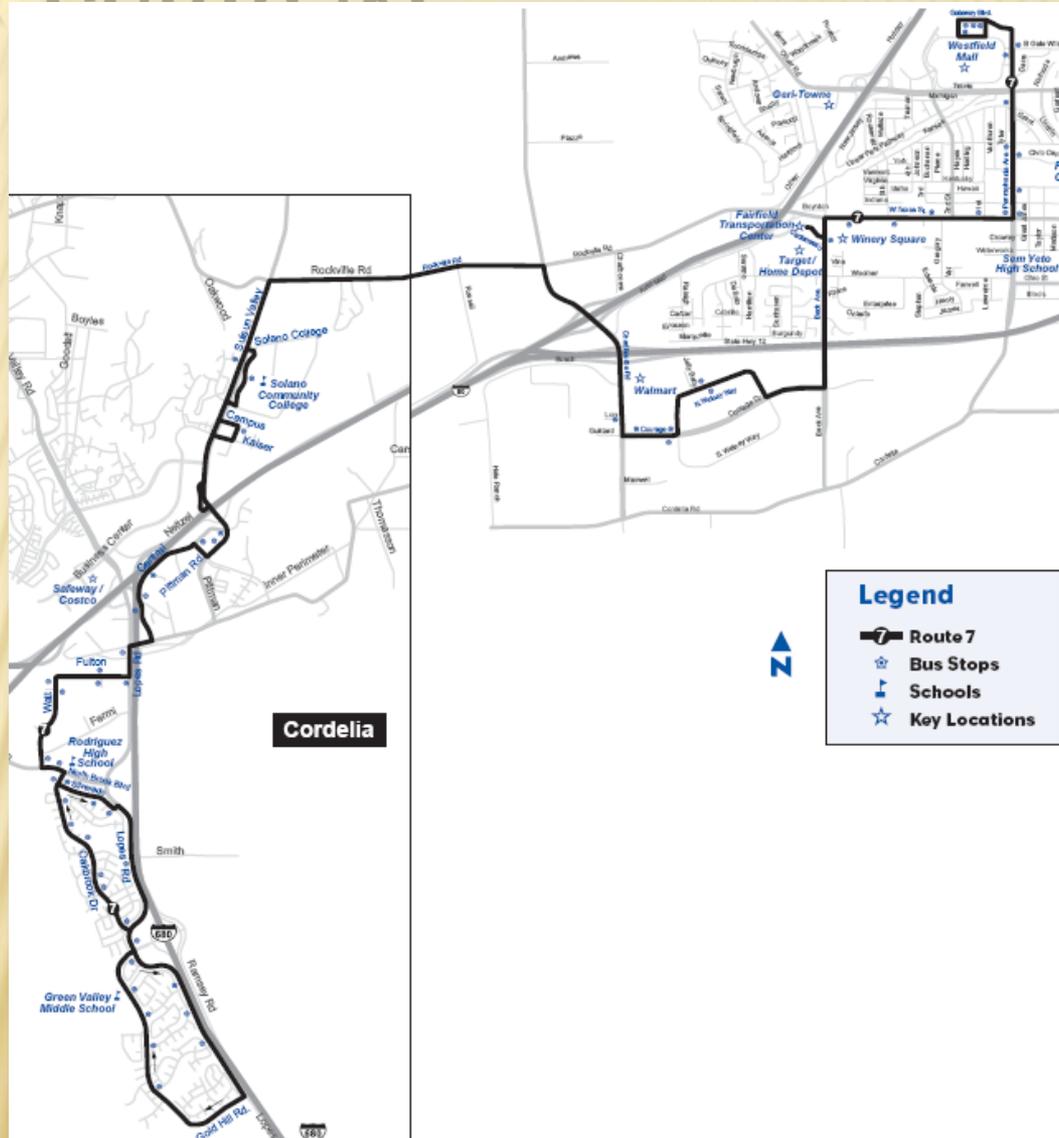
ROUTE 6 PROPOSED



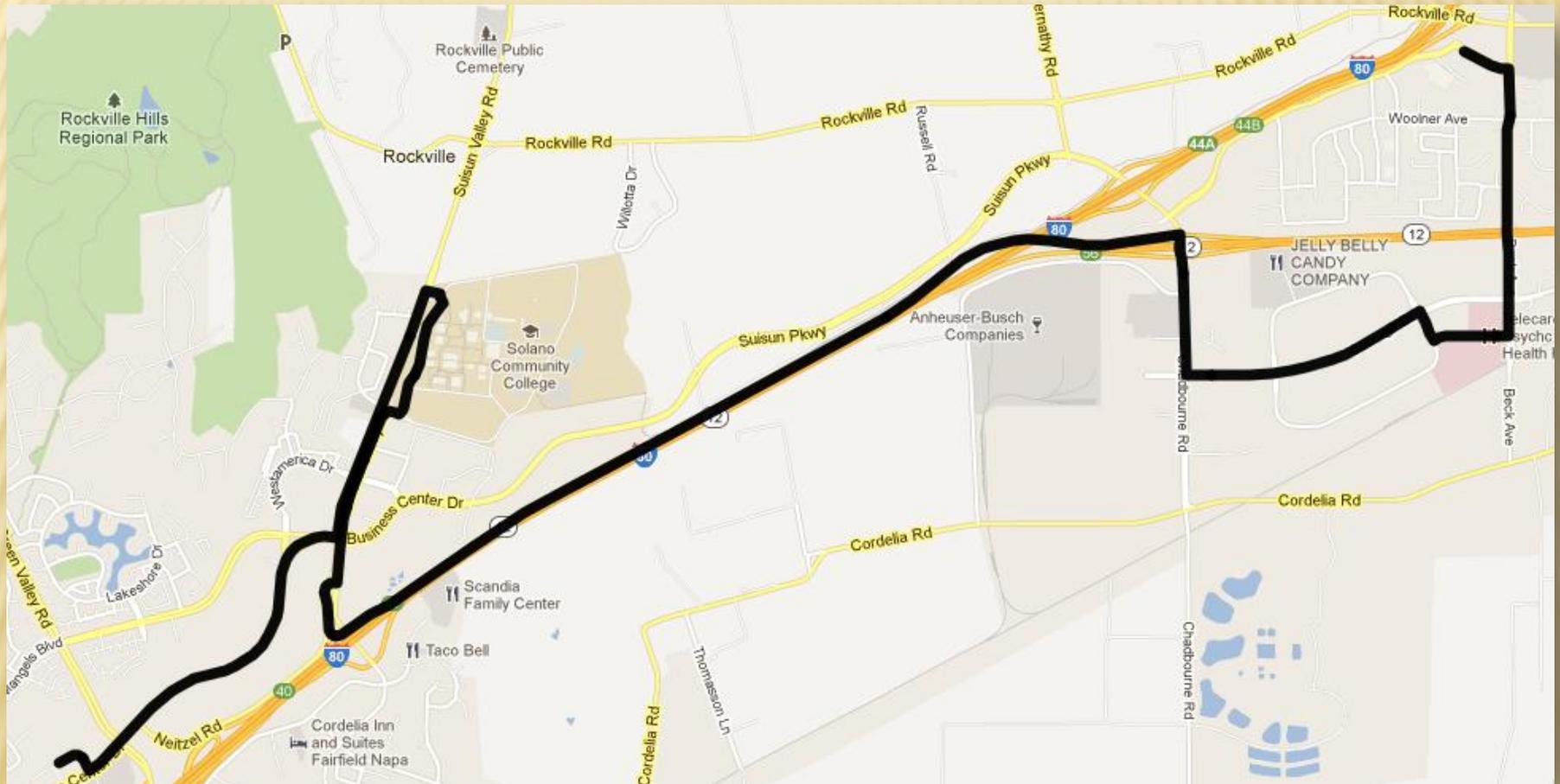
ROUTE 6 PROPOSAL

- ✘ Productivity is improved by eliminating two loops around Sunset Center. Service is extended to Petersen Ranch instead of to Lawler Ranch (latter is served by Route 5). 30 minute service maintained.
- ✘ Direct service to MALL, but does not serve FTC. Connections to FTC available at MALL with Routes 2 and 4.
- ✘ Best route for kids going TO and FROM Armijo High School. Currently, kids take 2 different routes to school depending on direction traveled.
- ✘ Connections to downtown Suisun or FTC can be made with Route 5 at Sunset Center.
- ✘ Key Destinations Served:
 - + Mall
 - + Suisun Senior Center
 - + Sunset Center
 - + Suisun City Library
 - + Suisun Elementary School
 - + Hall Park
 - + Salvation Army KROC Center

ROUTE 7 CURRENT



ROUTE 7 PROPOSED



ROUTE 7 PROPOSAL

- ✘ Route shortened by eliminating the south loop (Cordelia south of I-80) and the north end (MALL) for better service to/from Solano Community College.
- ✘ Route alignment is changed to use Hwy 12/I-80 instead of Rockville for quicker service to SCC AND extended south of SCC to serve Green Valley shopping center and Fairfield Cordelia Library.
- ✘ Timed connection or “Interline” (to avoid physical transfers) with Route 8 at Fairfield Cordelia Library; important for Rodriguez HS students.
- ✘ Service frequency is improved to 30 minutes. Timed connections to MALL at FTC with Route 4.
- ✘ Key Destinations Served:
 - + Fairfield Transportation Center
 - + Health and Human Services
 - + Jelly Belly (Stop on Courage Dr. farside N. Watney Way)
 - + Sutter Regional Medical
 - + Solano Family & Children’s Services/Solano Economic Development Corp
 - + Solano Community College
 - + Fairfield Cordelia Library/Costco

ROUTE 8 PROPOSAL

- ✘ Serves Cordelia South of I-80. Connects (interlines) with Route 7 at Fairfield Cordelia Library. Service is every 30 minutes.
- ✘ Key Destinations Served:
 - + Fairfield Cordelia Library/Costco
 - + Rodriguez High School
 - + Cordelia Hills Elementary School
 - + Green Valley Middle School
 - + Oakbrook Elementary School

PROPOSED SERVICE CHANGES-BENEFITS

- ✘ System is more intuitive / Routes easier to understand
- ✘ Improved User-Friendliness of System – consistent schedules and connections
- ✘ More transit service on the street – more frequent
- ✘ Shorter travel times on routes (no long loops) – Quicker trips
- ✘ More direct trips between major origins and destinations
- ✘ New service to major destinations (Costco, Cordelia Library)
- ✘ More efficient transit system (in terms of time & cost)---system is more sustainable over the long run – improves fare recovery and productivity
- ✘ Improved level of service in “Communities of Concern” as identified by the Metropolitan Transportation Commission (East Fairfield has large population of low-income seniors)—Better service/quality of life for those who are transit-dependent and/or have no car.

PUBLIC OUTREACH

- ✘ 6 Community Meetings Scheduled as of April 10, 2012
 - + Public Meeting Scheduled at Suisun Senior Center on April 25, 2012.
- ✘ Other Public Meetings will be timed with the East Fairfield Community Based Transportation Plan (East Fairfield CBTP) Outreach Efforts
- ✘ Outreach materials will be posted on transit vehicles and facilities.
- ✘ Materials on Proposed Changes will be available at the Fairfield Transportation Center (FTC) front counter (other locations will be added to increase accessibility), the website: www.fasttransit.org, and on our Facebook account.
- ✘ Updates to Proposed Changes to be sent via Twitter.
- ✘ Email comments on service changes to transit@fairfield.ca.gov , Call 707-434-3800, or add comments to our Facebook account.
- ✘ (Suggestions on other outreach options are welcome.)

QUESTIONS OR COMMENTS?



FAST Staff Contacts

Philip Kamhi: Pkamhi@Fairfield.ca.gov

Mona Babauta: Mbabauta@Fairfield.ca.gov

Phone: 707-434-3800

AGENDA TRANSMITTAL

MEETING DATE: April 17, 2012

CITY AGENDA ITEM: Adopt Resolution No. 2012-___: Adopting the Public Agency Retirement Systems (PARS) Section 457 FICA Alternative Retirement System (ARS) Plan for All Employees Not Otherwise Covered under the City's CalPERS Retirement Plan and Appointing the Assistant City Manager/Administrative Services Director as the Plan Administrator.

FISCAL IMPACT: The proposed agreement would save the City approximately \$13,000 to 25,000 per year, most of which would be the General Fund. The lower number is based on the current temporary reduction in the Employee's Social Security (FICA) rate; the higher number is what the City would save if that temporary arrangement went away.

The employee would also save a small amount of money because the PARS payment is before taxes, compared to after taxes with Social Security.

BACKGROUND: Public Agency Retirement Systems (PARS) has been in existence since 1983, providing alternative retirement services for public agencies. One of its more popular programs is providing a retirement alternative to Social Security, which is appealing to both the City and the temporary Employee (regular employees are covered under CalPERS). This program will expire on June 30, 2012, so it is important to sign up prior to that date.

Under the Alternative Retirement System (ARS) program, a total of 7.5% of the employee's salary must be paid into a retirement system. That 7.5% can be allocated in any fashion between the City and the employee—the City could pay some or all of it, or the employee could pay some or all of it.

STAFF REPORT: Attachment 3 gives a good summary of the services that PARS provides and how many public agencies use its services. Attachment 4 summarizes the benefits to the employee. The real advantage to the employee is that he/she is immediately vested in the plan (that is, the 10 year [40 quarters] requirement under Social Security does not apply), and the employee can withdraw some or all of the balance when he/she leaves City service. Likewise, the employee could leave the balance in the plan and let it accumulate over time. The proceeds could also be used towards buying service credits if the employee ultimately becomes a CalPERS member.

The advantage to the City is that we would save money as well, and most of it would be in the General Fund. In addition, PARS handles most of the plan administration, so there is relatively little extra work for staff in order to achieve the savings. The specific arrangement being proposed has the least impact on temporary employees. Because temporary employees only pay 4.2% of their wages towards FICA that would be their contribution under the ARS plan, and the

PREPARED BY:

Ronald C. Anderson, Jr., Assistant City Manager

REVIEWED/APPROVED BY:

Suzanne Bragdon, City Manager

City would pay the 3.3% balance. This is still considerably less than the 6.2% we currently pay. Further, when the employee rate goes back to 6.2%, the City's rate would drop to only 1.3%.

Attachment 2 summarizes the cost savings for the employee and the City under the two arrangements. Attachment 1 is the enabling resolution and Service Agreement with PARS.

RECOMMENDATION: It is recommended that the City Council:

1. Adopt Resolution No. 2012-___: Adopting the PARS Section 457 FICA Alternative Retirement System (ARS) Plan for All Employees Not Otherwise Covered under the City's CalPERS Retirement Plan and Appointing the Assistant City Manager/Administrative Services Director as the Plan Administrator.

ATTACHMENTS:

1. Resolution No. 2012-___: Adopting the PARS Section 457 FICA Alternative Retirement System (ARS) Plan for All Employees Not Otherwise Covered under the City's CalPERS Retirement Plan and Appointing the Assistant City Manager/Administrative Services Director as the Plan Administrator.
2. Comparison of PARS Alternatives.
3. Excerpts from a PARS PowerPoint, highlighting PARS, its programs and participants.
4. Excerpts from the same PowerPoint, highlighting Employee benefits from the ARS.

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RESOLUTION NO. 2012-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY
ADOPTING THE PUBLIC AGENCY RETIREMENT SYSTEMS (PARS) SECTION
457 FICA ALTERNATIVE RETIREMENT SYSTEM (ARS) PLAN FOR ALL
EMPLOYEES NOT OTHERWISE COVERED UNDER THE CITY’S CALPERS
RETIREMENT PLAN AND APPOINTING THE ASSISTANT CITY
MANAGER/ADMINISTRATIVE SERVICES DIRECTOR
AS THE PLAN ADMINISTRATOR**

WHEREAS, the City Council has determined that it is in the best interest the City and its employees to provide a Qualifying Retirement System for its employees not currently eligible for such a Qualifying Retirement System, thereby meeting the requirements of Section 11332 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) and Section 3121(b)(7)(F) of the Internal Revenue Code (IRC); and

WHEREAS, the Public Agency Retirement System (PARS) has made such a system available to the City and its eligible employees that qualifies under COBRA Section 11332, IRC Sections 3121(b)(7)(F) and 457(b), and meets the meaning of the term “retirement system” as provided in Section 218(b)(4) of the Federal Social Security Act.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby:

1. Adopts the PARS Trust, including the PARS Section 457 FICA Alternative Retirement Plan, effective June 1, 2012, the Effective Date for the benefit of employees on that date and hired thereafter; and
2. Appoints the Assistant City Manager/Administrative Services Director, or his/her successor or his/her designee as the City’s Plan Administrator for the PARS Section 457 FICA Alternative Retirement Plan/Trust; and
3. Authorizes the City’s Plan Administrator to implement the plan(s), execute the PARS legal and administrative documents on behalf of the City and to take whatever additional actions are necessary to maintain the City’s participation in PARS and to maintain PARS compliance of any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the City’s PARS plan(s).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City duly held on Tuesday, the 17th day of April 2012, by the following vote:

AYES:	Councilmembers:	_____
NOES:	Councilmembers:	_____
ABSENT:	Councilmembers:	_____
ABSTAIN:	Councilmembers:	_____

WITNESS my hand and the seal of said City this 17th day of April 2012.

Donna Pock, CMC
Deputy City Clerk

Comparison of PARS Alternatives

	Current Proposed Option*		Future Proposed Option*	
	Employee (EE)	City (ER)	Employee (EE)	City (ER)
Social Security Contribution Rates:	4.2%	3.3%	6.2%	1.3%
Employee Savings	PARS Social Security		PARS Social Security	
Gross Annual Income (average)	\$ 10,539	\$ 10,539	\$ 10,539	\$ 10,539
Less PARS Percentage	\$ (443)	\$ -	\$ (653)	\$ -
Taxable Income	\$ 10,096	\$ 10,539	\$ 9,886	\$ 10,539
Less Taxes at 20%	\$ (2,019)	\$ (2,108)	\$ (1,977)	\$ (2,108)
Less Employee's share of Social Security		\$ (443)		\$ (653)
Net Income	\$ 8,077	\$ 7,989	\$ 7,908	\$ 7,778
Net Savings/(Cost) to Employee	\$ 89		\$ 131	
City/Employer Savings				
Annual Part-time Payroll (Cal Yr 2011)	\$ 621,790		\$ 621,790	
Current annual Social Security Costs	\$ 38,551		\$ 38,551	
Costs under each option	\$ 20,519		\$ 8,083	
Gross Savings for City	\$ 18,032		\$ 30,468	
Net after Plan Fees (estimated)	\$ 13,176		\$ 25,612	

* Current Option is based on the temporary 4.2% FICA rate for employees; Future option is based on the 6.2% regular rate for employees.

Alternate Retirement System (ARS) Proposal for City of Suisun City

February 16, 2012



PUBLIC
AGENCY
RETIREMENT
SERVICES

PARS

Making retirement work for you.

PARS Highlights

- Public Agency Retirement Services (PARS)
 - Administers PARS Trust Program, a multiple employer retirement trust system for governmental agencies
- Over 500 Member Agencies
- Over 270,000 Participants
- Over 1,000 Retirement Plans
- Over \$900 Million in PARS trust assets

What PARS Does

- Specializes exclusively in retirement plan consulting and administration for public agencies since 1983
- Assists in plan design and implementation
- Performs ongoing “turn-key” plan administration

PARS Programs

- Early Retirement Incentive Plans to assist in restructuring or downsizing
- IRS approved Section 115 OPEB Trust for pre-funding Post Employment Benefits (OPEB) in compliance with GASB 45
- Retirement Enhancement Plans (REP) to supplement existing plans with a customized Defined Benefit or Defined Contribution Solution
- Alternate Retirement System (ARS) for part-time employees in lieu of Social Security

Almost 250 PARS ARS Client Agencies

Cities and Counties

Cities							
Alameda	Chowchilla	Fountain Valley	Irving	Mesquite	Palmdale	San Rafael	W Sacramento
Alhambra	Chula Vista	Galt	Irwindale	Millbrae	Palo Alto	San Ramon	Westminster
Antioch	Coppell	Gardena	La Mirada	Milpitas	Pasadena	Santa Ana – <i>new!</i>	Woodland
Am. Canyon – <i>new!</i>	Costa Mesa	Gilroy	La Palma	Modesto	Petaluma	Santa Clara	Yuba City
Arroyo Grande	Covina	Glendale	La Porte	Monrovia	Pico Rivera	Santa Maria	Yucca Valley
Azusa	Cudahy	Glendora	Laguna Beach	Moorpark	Placentia	Santee	
Bakersfield	Culver City	Grand Prairie	Lake Forest	Morgan Hill	Poway	Scotts Valley	
Banning	Davis	Grapevine	Lakewood	Morro Bay	Redding	Seal Beach	Counties
Beaumont, TX	Del Mar	Hawthorne	Lancaster	Murrieta	Reno, NV	Seaside	Calaveras
Benicia	Dixon	Hayward	Livermore	Napa	Ridgecrest	Signal Hill	Dallas
Berkeley	Downey	Henderson	Lodi	National City	Riverside – <i>new!</i>	Sonoma	Shasta
Beverly Hills	Duarte	Hercules	Long Beach	Newport Beach	Rosemead	S San Francisco	Stanislaus
Bishop	Dublin	Hermosa Beach	Longview	North Richland Hills	Rowlett	Southlake	Yuba
Birmingham City	Duncanville	Huntington Beach	Malibu	Norwalk	San Angelo	Stanton	
Campbell	El Cerrito	Huntington Park	Mammoth Lakes	Oceanside	San Gabriel – <i>new!</i>	Sunnyvale	
Capitola	Emeryville	Imperial Beach	Manhattan Beach	Odessa	San Marcos	Temple City	
Carson	Escondido	Inglewood	Marysville	Pacific Grove	San Marino	Tulare	
	Fontana	Irvine	Maywood	Pacifica	San Pablo	Watauga	

School, Community College, Educational Service, and Special Districts

School Districts				CCDs			Ed Svc Agencies
Anaheim City SD	Granada Hills Charter	Newport-Mesa USD	San Bernardino CUSD	Allan Hancock	Coast	MiraCosta	Central Region SIG
Ararat Charter School	Hays Consolidated ISD	Oakland USD	San Francisco USD	Barstow	Foothill-De Anza	Rancho Santiago	Gr Anaheim SELPA
Birmingham Charter HS	Hayward USD	Ontario-Montclair SD	San Jose USD	Cerritos	Hill Junior College	Riverside	LA County OoE
Brea Olinda USD	Huntington Beach CSD	Orange USD	Santa Monica Charter	Chabot-Las Positas	Los Angeles	State Center	Orange County DoE
Capistrano USD	Huntington Bch UHSD	Pacoima Charter	Savanna SD	Clarendon College	Los Rios		Shasta-Trinity SIG
Central SD	Hurst-Eules-Bdfrd ISD	Palmdale SD	Shasta-Trinity SIG				
Central USD	Inglewood USD	Palos Verdes Pen USD	Silver Valley USD				
Chaffey JUHSD	Irvine USD	Placentia-YL USD	Tulia ISD				
Chula Vista ESD	Keller ISD	Pomona USD	Upland USD				
Dallas ISD	La Habra City SD	Port Neches-Groves ISD	Visalia USD				
Dayton ISD	Long Beach USD	Poway USD	Vista Charter				
East Side UHSD	Los Alamitos USD	Saddleback Valley USD	Vista USD				
El Camino Real CHS	Los Angeles USD	San Bernardino CUSD	Walnut Valley USD				
Etiwanda SD	Los Angeles USD	San Francisco USD	Westminster SD				
Fenton Avenue Charter	Milpitas USD	San Jose USD	Westside USD				
Fountain Valley SD	Montague Charter	San Jose USD	Yuba City USD				
Fullerton SD	Moreno Valley USD	Santa Monica Charter					
Garland ISD	Morongo USD	Savanna SD					
Gilroy USD	Mountain View SD	Shasta-Trinity SIG					
	Mt. Diablo USD	Silver Valley USD					
	Newark USD	Tulia ISD					

Special Districts

Antelope Valley Transit Authority
Baker Community Services District
Cocalinga-Huron Rec & Park District
Desert Recreation District
East Side Mosquito Abatement District
Eastern Sierra Transit Authority
Ebbetts Pass Fire Protection District
Fulton-El Camino Recreation & Parks
Hesperia Recreation and Park District
MESA - City of Emeryville
Mission Oaks Recreation & Park District

Murphys Fire Protection District – *new!*
Orange County Vector Control District
Oro Loma Sanitary District
Pleasant Hill Recreation & Park District
Rio Linda Elverta Recreation and Parks
Sacramento Metro Fire District – *new!*
San Diego Association of Governments
Truckee Fire Protection District
Truckee-Donner Recreation and Parks
Valley of the Moon Fire Protection District



Benefits to the Employees

	PARS-ARS	Social Security
Vesting	100% immediate vesting (ownership)	40 Credits
Contributions	Deducted pre-tax	Deducted after-tax
Benefit Limit	Contributions and investment earnings increase account balance without limit	Once limit is met, additional contributions do not result in higher benefits

Benefits to the Employees

- **Immediate eligibility for lump-sum distribution at:**
 - Retirement – Permanent Disability
 - Termination – Death
- **If an employee goes from part-time to full-time, they are eligible for a lump sum “in-service” distribution if the following:**
 - No contributions into the plan for two years
 - Account balance is less than \$5,000
 - There has been no previous “in-service” distribution
- **Distribution flexibility**
 - Lump-sum cash pay out
 - IRA or eligible retirement plan rollovers
 - Purchase of PERS service credit (if eligible)

Benefits to the Employee

- **Expedient monthly distributions**
- **Toll-free customer service line (24-hour voicemail)**
- **Plan communication materials**
- **Annual statements**

AGENDA TRANSMITTAL

MEETING DATE: April 17, 2012

CITY AGENDA ITEM: Council Adoption of Resolution No. 2012 - __: Authorizing the City Manager to Recruit and Appoint one Police Sergeant.

FISCAL IMPACT: Since the former incumbent was a top step, the City would save about \$25,000 to \$28,000 depending upon the experience of the person hired to replace the former incumbent.

BACKGROUND: With the adoption of the FY 2011-12 Annual Budget, the City Council established a policy of having the Council review and approve any requests to fill vacant positions.

STAFF REPORT: With the adoption of the FY 2011-12 Annual Budget, the Suisun City Police Department froze one Police Officer position. In response to the fiscal crisis created by the actions of the State of California, two additional Police Officer positions have been frozen. One of the four Police Sergeant positions has become vacant with the retirement of Jim Marshall.

The Police Chief has established minimum staffing levels in the General Orders which is one Police Sergeant and two Police Officers on every shift. Therefore, we are requesting the direction from Council to fill the vacant Police Sergeant position, in order to meet minimum staffing needs. If this requested-to-be-filled vacancy were not filled, officers would need to be assigned to work mandatory Overtime to backfill those vacancies. Our department is currently working the 3/12 schedule. Any forced Overtime could have a negative impact on officer fatigue and morale. Although Overtime saves the City money by not having to pay PERS benefits for an additional officer, the savings is estimated at only 7% above what we would pay an officer to work Overtime.

RECOMMENDATION: It is recommended that the City Council adopt Resolution No. 2012 - __: Authorizing the City Manager to Recruit and Appoint one Police Sergeant.

ATTACHMENTS:

1. Resolution No. 2012 - __: Authorizing the City Manager to Recruit and Appoint one Police Sergeant.

PREPARED BY:

Ronald C. Anderson, Jr., Assistant City Manager

REVIEWED/APPROVED BY:

Suzanne Bragdon, City Manager

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RESOLUTION NO. 2012-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY
AUTHORIZING THE CITY MANAGER TO RECRUIT AND
APPOINT ONE POLICE SERGEANT**

WHEREAS, with the retirement of Jim Marshall, the Police Department will have one Police Sergeant vacancy effective April 3, 2012; and

WHEREAS, the Police Department has established minimum staffing levels within its General Orders of one Police Sergeant and two Police Officers for each shift; and

WHEREAS, the Department will have to use Overtime to backfill the Police Sergeant vacancy if unfilled, increasing the potential for officer fatigue; and

WHEREAS, filling this vacancy permanently would enable the Department to continue to provide the current level of services to the community.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager to recruit and appoint one Police Sergeant to fill the vacant position.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City duly held on Tuesday, the 17th day of April 2012, by the following vote:

AYES:	Councilmembers:	_____
NOES:	Councilmembers:	_____
ABSENT:	Councilmembers:	_____
ABSTAIN:	Councilmembers:	_____

WITNESS my hand and the seal of said City this 17th day of April 2012.

Donna Pock, CMC
Deputy City Clerk

AGENDA TRANSMITTAL

MEETING DATE: April 17, 2012

CITY AGENDA ITEM: Council Adoption of Ordinance No.: 721: Amending Title 8, Chapter 8.04 – “Fireworks.” To Permit the Sales of “Safe and Sane Fireworks”; and to Regulate Other Fireworks-Related Activities.

FISCAL IMPACT: None at this time, although the anticipation is that the sale of fireworks could generate ideally \$75,000 or more annually for community events, specifically the annual July 4th celebration, in addition to a percentage for participating non-profit organizations. The Public Display section of the ordinance would be cost neutral, because of the additional requirements that all City costs will be included in the permit fee.

BACKGROUND: At the April 3, 2012 Council meeting, Ordinance No.____ was introduced and the Reading waived. A Public Hearing was conducted by Council to consider text amendments to the Fireworks Chapter of the City Code, Title 8, Chapter 8.04.

Suisun City Code Chapter 8.04 – Fireworks was last changed in 1983. The sale of all fireworks including “Safe and Sane” was prohibited. This ordinance would once again allow the sales of “Safe and Sane fireworks” inside the City limits.

Since 1983, the City has changed. Several new venues are available for public display or theatrical fireworks, as well as the possibilities of video and movie productions that could use some form of fireworks.

After a careful review of current State laws, our existing fireworks chapter, and modern uses of fireworks, staff determined amending the whole of chapter 8.04 was a better course of action.

STAFF REPORT: Staff has reviewed fireworks ordinances that a number of California cities have enacted in recent years. Attached to this report is an ordinance that draws on best practices employed in communities throughout the state. This ordinance would amend the current sections of the Fireworks Chapter, Title 8, Chapter 8.4 of the Suisun City Code, so that it is compliant with current State laws and regulations. The new chapter would address:

8.04.010 – Definitions

8.04.020 – Possession, Sales, Or Discharge Generally

8.04.030 - Industrial, Commercial, Agricultural, Religious Use.

8.04.040 - Public Display and Theatrical, or Special Effect Pyrotechnic Use

8.04.050 – Safe and Sane Fireworks.

8.04.060 – Concurrent Authorities.

PREPARED BY:

REVIEWED/APPROVED BY:

Michael O’Brien, Fire Chief
Suzanne Bragdon, City Manager

Attached to this report is the staff report from the April 3, 2012 meeting, as well as the proposed ordinance. In accordance with Section 36937 of the Government Code of the State of California, this Ordinance would take effect and be in force thirty (30) days from and after the date of its passage.

STAFF RECOMMENDATION: It is recommended that the City Council adopt Ordinance No.: 721: Amending Title 8, Chapter 8.04 – “Fireworks.” To Permit the Sales of “Safe and Sane Fireworks”; and to Regulate Other Fireworks-Related Activities.

ATTACHMENTS:

1. Ordinance No.: 721: Amending Title 8, Chapter 8.04 – “Fireworks.” To Permit the Sales of “Safe and Sane Fireworks”; and to Regulate Other Fireworks-Related Activities.
2. Agenda Staff Report from April 3, 2012.

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ORDINANCE NO. 721

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY,
CALIFORNIA, AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”
TO PERMIT THE SALES OF SAFE AND SANE FIREWORKS,
AND TO REGULATE OTHER FIREWORKS RELATED ACTIVITIES**

WHEREAS, the City Council of the City of Suisun City (the “City Council”) wishes to amend the Fireworks Ordinance to allow the sale of Safe and Sane Fireworks consistent with the State Fireworks Law, Health and Safety Code section 12500 et seq.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUISUN CITY, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1.

Title 8, Chapter 8.04 of the Suisun City Code “Fireworks” is hereby amended as follows:

~~**8.04.010 – Possession, sale or discharge generally.**~~

~~It is unlawful to possess, sell or discharge any and all fireworks, as the same are defined by the Health and Safety Code of the state and fire codes as adopted by the city, within the city.~~

~~*(Ord. 477 § 1(part), 1983)*~~

ADD

8.04.010 - Definitions.

The following words and phrases, as used in this Chapter, are defined as follows:

- A. "Dangerous Fireworks" shall mean “Dangerous Fireworks” as defined in California Health and Safety Code Sections 12505 and 12561, and the relevant sections of Title 19, California Code of Regulations, and Subchapter 6, which are hereby incorporated by reference.

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

- 1 B. “Fireworks Stand” shall mean any structure of a temporary nature used in the sale,
2 offering for sale or display for sale of “Safe and Sane Fireworks.”
- 3
4 C. “Fireworks Wholesaler” shall mean any person, other than an importer, exporter or
5 manufacturer, who purchases fireworks from a manufacturer, importer or exporter for
6 resale to a retailer or any other person for resale, or any person who sells fireworks to
7 other wholesalers or retailers for resale.
- 8 D. "Nonprofit Organization" shall mean any nonprofit association, charity or corporation
9 organized primarily for veteran, patriotic, welfare, civic betterment, religious, athletic or
10 charitable purposes pursuant to the Internal Revenue Code or California Revenue and
11 Taxation Code, or a group that is an integral part of a recognized national organization
12 having such tax-exempt status, or an organization affiliated with and officially recognized
13 by an elementary school, middle school and/or high school and/or school district that
14 serves, in whole or in part, the residents of the City of Suisun City.
- 15
16 E. “Person” shall mean a natural person or a legal entity that is also an owner, tenant, lessee
17 and/or other person with any right to possession or control of the property where a
18 violation of this code occurred.
- 19 F. “Serving Suisun City Residents and Businesses" shall be determined by, but not limited
20 to, principal or permanent location within City limits, a significant service population of
21 City residents, and a significant percentage of members residing in or owning businesses
22 in the City.
- 23
24 G. “Qualified Applicants” shall mean any group or organization that has met all of the
25 following criteria for a continuous period of not less than one full year preceding
26 submittal of an application for a permit to sell required by this Chapter, and that continues
27 to meet the criteria for the duration of any permit to sell issued by the City of Suisun City
28 pursuant to this Chapter:

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

- 1 a. The organization shall be a Nonprofit Organization. Only one application per
2 Nonprofit Organization will be allowed. If an organization is affiliated with a
3 recognized educational institution as defined in this Section, but maintains a
4 separate tax-exempt status with the Internal Revenue Service or the California
5 Franchise Tax Board, said nonprofit organization shall be allowed a separate
6 application.
- 7 b. The organization shall be organized primarily for veterans, patriotic, welfare, civic
8 betterment, religious, athletic, educational, youth development or charitable
9 purposes. City Council, at its discretion, may determine priorities and preferences
10 amongst the population served by the nonprofit organization for purposes of
11 selecting organizations to sell fireworks pursuant to this ordinance.
- 12 c. Has a minimum bona fide membership of at least ten (10) members who have
13 agreed to participate and staff a fireworks sales stand.
- 14 d. Has not been found by any court of competent jurisdiction or City administrative
15 hearing officer to be in violation of any civil or criminal local, state or federal law
16 within twenty-four (24) calendar months prior to the organization’s submittal of an
17 application for a permit to sell fireworks;
- 18 e. Has not had a permit to sell fireworks revoked within twenty-four (24) months
19 prior to the organization’s submittal of an application for a permit to sell
20 fireworks.

21
22 H. "Safe and Sane Fireworks" (or "state-approved fireworks") shall mean “Safe and Sane
23 Fireworks” as set forth in California Health and Safety Code Sections 12529 and 12562
24 and the relevant sections of Title 19, California Code of Regulations, Subchapter 6, which
25 are hereby incorporated by reference.

26
27 **8.04.020 - Industrial, commercial, agricultural, religious use.**

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 ~~Any specific pyrotechnic devices or compositions enumerated in the Health and Safety~~
2 ~~Code of the state shall be exempt from the provisions of Section 8.04.010 whenever the~~
3 ~~State Fire Marshall, with the advice of the State Board of Fire Services, has investigated~~
4 ~~and determined the pyrotechnic devices or compositions to be limited to industrial,~~
5 ~~commercial and agricultural use, or for religious ceremonies, and when authorized by a~~
6 ~~permit granted by the city, as provided for by Section 12508 of the Health and Safety Code.~~

5 ~~(Ord. 477 § 1(part), 1983)~~

6 **ADD**

7 **8.04.020 – Possession, Sales, Or Discharge Generally**

8
9 It is unlawful to possess, sell, or discharge any and all fireworks, the same as defined by the
10 California Health and Safety Code, and the California Fire Code as adopted by the City,
11 within the Suisun City limits unless specifically allowed in this Title, Chapter 8.04.

12
13 **~~8.04.030 – Public displays.~~**

14 ~~It is lawful for any properly licensed person or organization to put on a public display of~~
15 ~~fireworks within the city, if the operator meets the provisions of applicable city ordinances~~
16 ~~and the Health and Safety Code of the state.~~

17 **ADD**

18 **8.04.030 - Industrial, Commercial, Agricultural, Religious Use.**

19 Any specific pyrotechnic devices or compositions enumerated in the California Health and
20 Safety Code shall be exempt from the provisions of Section 8.04.030 whenever the State Fire
21 Marshall, with the advice of the State Board of Fire Services, has investigated and determined
22 the pyrotechnic devices or compositions to be limited to industrial, commercial and
23 agricultural use, or for religious ceremonies, and when authorized by a permit granted by the
24 City, as provided for by Section 12508 of the California Health and Safety Code.

25 (Ord. 477 § 1(part), 1983)

26 **ADD**

27 **8.04.040 - Public Displays and Theatrical, or Special Effect Pyrotechnic Use**

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

- 1 A. The Fire Chief shall have the authority to grant permits for those activities enumerated
2 in Section 12640 of the California Health and Safety Code, including supervised
3 public displays of fireworks by a public agency, fair association, amusement park, or
4 other organization, private company, or private individual, or for the use of fireworks
5 by artisans in pursuit of their trade. The Fire Chief may grant permits for the use of
6 theatrical, and/or special effects pyrotechnics in entertainment productions with or
7 without a live audience, or a video or cinematic production.
- 8 B. Each such use or display shall be handled by a properly licensed class of pyrotechnic
9 operator (as defined by Section 12527 of the California Health and Safety Code), and
10 shall be of such character and so located, discharged or fired as approved by the Fire
11 Chief, to not be hazardous or endanger any property or persons.
- 12 C. Application Fee and Permit Fees for Public Fireworks Displays.
- 13 (a) Every application for a permit to conduct a public display of fireworks or for other
14 use of fireworks as permitted by section **8.04.040** shall be accompanied by a non-
15 refundable fee. (See Master Fee Schedule)
- 16 (b) Permit fees will be based on an initial fee (see Master Fee Schedule) and required
17 standby fees for City Departments, including, but not limited to, Fire, Police and
18 Public Works, as determined by the nature of the event and required municipal
19 services.
- 20 (c) Forms, processes and procedures shall be developed by the City Manager,
21 consistent with policy directives of the City Council.

22 **ADD**

23 **8.04.050 – Safe and Sane Fireworks.**

- 24 A. It shall be lawful to possess, sell, use, display or discharge, within the City, those
25 fireworks defined and classified as "Safe and Sane Fireworks" (or "state-approved
26 fireworks") in the California State Fireworks Law (Sections 12500, et seq., of the
27 California Health and Safety Code and the relevant sections of Title 19, Code of
28 Regulations, Subchapter 6) during that time period specified in this Chapter.

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

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B. Safe and Sane Fireworks Use – Limitation on Places and Hours of Discharge.

- (a) It shall be unlawful to discharge any "Safe and Sane Fireworks" except during the hours established by directive of the City Council.
- (b) It shall be unlawful for any person to ignite, discharge, project or otherwise fire or use, any "Safe and Sane Fireworks," or permit the ignition, discharge or projection thereof, upon or over or onto the property of another without his/her consent or to ignite, discharge, project or otherwise fire or make use of any "Safe and Sane Fireworks" within ten (10) feet of any residence, dwelling, or other structure.
- (c) It shall be unlawful for any person to ignite, discharge, and project or otherwise fire or use any "Safe and Sane Fireworks," or permit the ignition, discharge or projection thereof on any public park and/or city-owned property except in designated areas determined by order of the City Manager or designee.
- (d) Additionally, it shall be unlawful for any person to ignite, discharge, project, or otherwise fire or use any "Safe and Sane Fireworks," or permit the ignition, discharge or projection thereof at any location in the City within the Suisun City Waterfront District, more specifically during the hours of any public event commemorating Independence Day. For purposes of this section, the Waterfront District shall be the area bounded by Morgan Street, Main Street, Lotz Avenue and Civic Center Boulevard (including Day Park), excluding designated discharge locations designated by the Fire Chief.

C. Each year the Fire Chief may present for City Council approval a list of designated areas or City property for the public’s use of “Safe and Sane Fireworks”

D. No fireworks shall be discharged in "high fire hazard areas," as designated by the Fire Chief.

E. Safe and Sane Fireworks – Supervision of Minors.

It shall be unlawful for any person having the care, custody or control of a minor (under 18 years old) to permit such minor to discharge, explode, fire or set off any

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

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“Dangerous Fireworks,” at any time, or to permit such minor to discharge or set off any "Safe and Sane Fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this Chapter.

F. Safe and Sane Fireworks Sale during the Fourth of July Period. Submission of applications by Qualified Applicants

- (a) No nonprofit organization shall submit more than one (1) application for a permit. If the City receives two (2) or more applications containing the same tax identification number, only one (1) application shall be accepted. If more than one application is submitted on behalf of any nonprofit, all such requests shall be voidable at the discretion of the City Manager.
- (b) Each application will be screened by the City Manager to determine if the Nonprofit Organization submitting it meets the criteria to be classified as a “Qualified Applicant.”
- (c) Every application for a permit shall be accompanied by a non-refundable application fee as set forth in the City’s Master Fee Schedule as imposed by this Ordinance. This application fee shall be in addition to any permitting and regulatory fees imposed by this Chapter.
- (d) All applications for Fireworks Sales Permits shall be submitted in writing to the City Clerk on forms supplied by the City. The application shall be made in duplicate. The original of the application shall be retained by the City Clerk and one copy shall be transmitted to the City Manager.
- (e) For the year 2012, applications must be filed from the effective date of this Ordinance through May 30, 2012. For the year 2013, applications may be filed from January 1 through February 1, inclusive. Applications filed before or after these periods shall not be accepted.

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 (f) Applications for Fireworks Sales Permits will be reviewed by the Fire Department,
2 Police Department, and the City Clerk, as needed, pursuant this Ordinance.
3 Fireworks Sales Permits shall be issued by the Fire Chief.
4

5 **G– Safe and Sane Fireworks Sales– Denial of Application.**

6 (a) Any denial of a permit pursuant to this Section may be appealed pursuant to the
7 procedures set forth in Section Title 1, Chapter 1.20 of the City Code.
8

9 **H Safe and Sane Fireworks – Prerequisite for Issuance of Fireworks Sales Permit.**

10 (a) The maximum number of permits that may be issued to qualified applicants and
11 the maximum number of "Safe and Sane Fireworks" stands that will be permitted
12 pursuant to this Chapter during any one (1) calendar year shall be determined by
13 policy directive of the City Council.

14 (b) The City Council shall determine by directive the method and procedure for
15 selection of Nonprofit Organizations to which permits shall be issued.

16 (c) Two (2) or more eligible nonprofit organizations may jointly submit an application
17 pursuant to this Chapter and may jointly receive a permit to sell fireworks pursuant
18 to this Chapter. In addition, if a qualified applicant is selected as a permittee, it
19 may select one or more other qualified applicants to join it in a joint venture
20 operation of the fireworks stand and jointly receive a permit to sell fireworks
21 pursuant to this Chapter.

22 (d) Permits issued pursuant to this Section are valid only during the calendar year
23 issued.

24 (e) The City Fireworks Sellers Permit is a temporary vendor’s permit is a temporary
25 vendor’s permit for the sales of Safe and Sane fireworks, other celebratory items
26 (that have been approved by the Fire Chief and Community Development
27 Director) and T-shirts bearing the wholesaler’s corporate logos. No other
28 merchandise shall be sold from the fireworks stand.

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

- 1 (f) Prior to the issuance of a permit pursuant to this Chapter, and in addition to those
- 2 other requirements set forth in this Chapter and required by the City Manager in
- 3 order to implement this ordinance, a qualified Nonprofit Organization shall
- 4 demonstrate compliance with all of the following in order for a permit to be
- 5 issued:
 - 6 i. Provide to the City a copy of the requisite retail sales permit issued
 - 7 by the Office of the California State Fire Marshal;
 - 8 ii. Payment to the City of the permit/license fee at the amount
 - 9 established by resolution of the City Council and as set forth in the
 - 10 Master Fee Schedule;
 - 11 iii. Payment to the City of the regulatory fees in the amount established
 - 12 by resolution of the City Council and as set forth in the Master Fee
 - 13 Schedule;
 - 14 iv. Provide to the City a copy of the permittee’s California State Board
 - 15 of Equalization Temporary Sales Tax Permit.
 - 16 v. Provide evidence of valid insurance policies in a form and amount,
 - 17 and with coverage types required by the City. Such policies shall
 - 18 name the City, its officers, officials, agents, and employees as
 - 19 additional insured. Such policies shall be paid for and maintained in
 - 20 full force and effect by the permittee throughout the term a fireworks
 - 21 sales permit.
 - 22 vi. Provide to the City a written plan that indicates hours of operation of
 - 23 the stand, number of staff on duty and a budget to show reasonable
 - 24 expenses.
- 25 (g) The continued validity of any City permit issued pursuant to this Chapter shall be
- 26 subject to the requirement that at least one or more representatives of each
- 27 nonprofit organization shall attend a "Safe and Sane Fireworks" stand operator
- 28 safety seminar supervised by the Fire Department and conducted by each licensed

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 fireworks wholesaler that is supplying "Safe and Sane Fireworks" to the Nonprofit
2 Organization. The failure of a Nonprofit Organization to comply with this
3 provision shall result in the revocation of its permit to sell "Safe and Sane
4 Fireworks."
5

6 **I. Safe And Sane Fireworks – Temporary Fireworks Stand.**

7 All retail sales of "Safe and Sane Fireworks" shall be permitted from within a
8 temporary fireworks stand, and retail sales from any other building or structure is
9 hereby prohibited. Temporary stands shall be subject to NFPA 1124 Code for the
10 Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic
11 Articles, 2006 Edition.
12

13 **J. Safe and Sane Fireworks – Operation of Fireworks Stand.**

14 a. No person shall knowingly sell fireworks to any person under the age of eighteen
15 (18) years. Proof that the fireworks stand operator/organization demanded, was
16 shown and acted in reliance upon bona fide evidence of age and identity in any
17 sale of fireworks forbidden by this Chapter shall be a defense for any proceedings
18 for suspension or revocation of its Fireworks Sales Permit or any criminal
19 proceedings for violations of this Chapter. For purposes of this section, bona fide
20 evidence of age and identity of purchaser is a document issued by a federal, state,
21 county or municipal government that contains a photograph of the purchaser,
22 including, but not limited to, a valid California Driver's License or Identification
23 Card issued to a member of the Armed Forces.

24 b. Dates and Hours of the sale of "Safe and Sane Fireworks" shall be consistent with
25 the directives of the City Council.

26 c. No person other than the individuals who are members of the permittee and/or
27 joint venture nonprofit organization(s) or the spouses, parents or adult children of
28

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 such members shall sell or otherwise participate in the sale of "safe and sane
2 fireworks" inside such fireworks stand.

3 d. No person under the age of eighteen (18) years shall sell or participate in the sale
4 of "Safe and Sane Fireworks" within such fireworks stand. This will include
5 stocking the stand, moving, removing and storing product at the end of the sales
6 period.

7 e. No person shall be paid any consideration by the permittee nonprofit
8 organization(s) or any wholesaler/distributor of "Safe and Sane Fireworks" for
9 selling or otherwise participating in the sale of "Safe and Sane Fireworks" at such
10 fireworks stand; provided, however, that compensation may be paid for licensed
11 security personnel during sale or non-sale hours and to the party authorizing the
12 location of the stand on its property.

13 f. All fireworks shall be retained at the approved location. In no event shall unsold
14 fireworks be removed from the approved location to any other place without
15 written approval of the Fire Chief.

16 g. When the fireworks stand is not being used for sale and/or display of fireworks, a
17 reinforced, heavy metal, fully enclosed, walk-in type container, or its equivalent,
18 as approved by the Fire Chief, shall be used to store fireworks.

19 h. Fireworks stands may be put in place by the permittee no earlier than 8:00 a.m. on
20 June 20 of each year.

21 i. The fireworks stand shall be removed from the temporary location by 12:00 p.m.
22 on July 10 of each year. All unsold fireworks and accompanying litter shall be
23 cleared from the location by 5:00 p.m. on July 6. If the permittee does not remove
24 the stand and/or clean the sales site as required by this chapter, the City may do so,
25 or cause the same to be done, and the reasonable cost thereof shall be charged
26 against the permittee.

27 j. Each fireworks stand must post in a prominent location inside the fireworks stand:

28 i. City Fireworks Sales Permit

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

- 1 ii. Temporary sales tax permit from the California State Board of
- 2 Equalization,
- 3 iii. State Fire Marshal Retail Sales Permit, and
- 4 iv. Proof of required insurance.
- 5 k. All weeds and combustible material shall be cleared from the location of the
- 6 fireworks stand, including a distance of at least twenty-five (25) feet surrounding
- 7 the fireworks stand.
- 8 l. “NO SMOKING within 25 feet” signs shall be prominently displayed on the
- 9 fireworks stand. Such signs shall with state statutes. Each sales counter shall
- 10 include a posted and visible sign reading “You Must be 18 years old to Purchase
- 11 Fireworks – Valid ID is Required”
- 12 m. Construction of all fireworks stands shall be inspected and approved by the City
- 13 Building Department.
- 14 n. Each fireworks stand shall have at least two (2) exits. Fireworks stands in excess
- 15 of forty (40) feet in length shall have at least three exits spaced approximately
- 16 equidistant apart, provided that in no case shall the distance between exits exceed
- 17 twenty (20) feet. Each exit must be at least twenty-four (24) inches wide and six
- 18 (6) high.
- 19 o. Any interior lighting and wiring shall be inspected and approved by the City
- 20 Building Department.
- 21 p. Each fireworks sales stand shall be required to have two (2) two-and-one-half (2.5)
- 22 gallon pressurized water type fire extinguishers, in good working order with
- 23 current inspection tags, easily accessible for use in case of fire.
- 24 q. Uses of tents, pop-up tents, shade structures, or other add on structures to the
- 25 fireworks stand must be inspected and approved by the City Building Department.
- 26 r. Each fireworks stand must have a responsible person over the age of eighteen (18)
- 27 years in attendance and in charge of the fireworks stand being used for sale or
- 28 dispensing of fireworks.
- s. No person shall sleep or remain in the fireworks stand after the close of daily
- business.

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

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- t. No fuel-powered generator or similar equipment shall be allowed within fifty (50) feet of a fireworks stand.
- u. No fireworks shall be located within twenty-five (25) feet of any other structure, and shall not be located within one hundred (100) feet of a location where gasoline or any other flammable liquids are stored or dispensed.
- v. A minimum of twenty-five (25) feet of clear space must be maintained between parked vehicles and the fireworks stand. Adequate area shall be provided for vehicle circulation and parking.
- w. No fireworks shall be ignited, or discharged within 25 feet of the fireworks stand. Signage to that effect shall be posted in a manner clearly visible to the parking area.
- x. There shall be no smoking materials or flame producing devices inside or within 25 feet of the fireworks stand.
- y. The only items that can be sold from the fireworks stand are the manufacturer’s approved “State Fire Marshal listed Safe and Sane Fireworks,” other celebratory items (that have been approved by the Fire Chief and Community Development Director), and T-shirts bearing the wholesaler’s corporate logo.
- z. Signage for the fireworks stands and designated fireworks use areas.
 - i. Signage associated with the sale of Safe and Sane fireworks and in conjunction with this Chapter is exempt from the provisions of Section 18.54, entitled “Signs,” of this Suisun City Municipal Code.
 - ii. Sign permits are not required for signs, but all signs, locations and use must be approved by the Community Development Department prior to construction and display.
 - iii. Sign construction shall be inspected and approved by the City Building Department.
 - iv. Signs for fireworks sales shall be displayed no earlier than June 20, and must be removed by July 6.
 - v. Signs cannot be any larger than 32 square feet (4’ X 8’).

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

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aa. Any other requirements determined appropriate and necessary by the City Manager for implementation of the Council Policy Directives relating to this ordinance and the Public Safety.

K. Temporary Sales Tax Permit

a. Each permittee must obtain a temporary sales tax permit from the State Board of Equalization.

L. Nonprofit Organization – Financial Obligations

a. The permittee shall be responsible for the collection and remittance of sales tax and any other fees consistent with this Chapter and the policy directives of the City Council and all other amounts that the permittee is contractually bound to pay the City.

M. Nonprofit Organization Financial Statement.

On or before November 1st of any year authorized pursuant to a permit, the permittee shall submit to the City Clerk a financial statement by the treasurer or financial officer of the permittee setting forth the total gross receipts from the fireworks stand operated by the permittee; all expenses incurred and paid in connection with the purchase of fireworks and the sale thereof; and to whom and for what purpose the net proceeds were or will be disbursed, along with the most recent report filed by the permittee to the State Board of Equalization. The filing of such statement shall be a condition precedent to the granting of any subsequent permit.

N. Safe and Sane Fireworks – Revocation of Permit; Appeal.

a. The Fire Chief may revoke, immediately, the permit of any permittee who violates any provision of this chapter in a manner that causes an immediate danger to public health and safety, or required for the orderly administration of this chapter. If the revocation occurs between June 22 and July 5, the Fire Chief shall inform the permittee that the permittee may seek review of the Fire Chief's decision by the City Manager, or the City Manager's designee, on the next business day. At the earliest opportunity on the next business day after the revocation, the Fire Chief

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 shall provide the City Manager with written notice that a fireworks permit has
2 been revoked, including the name of the permittee and a brief statement of the
3 grounds for revocation. The City Manager, or the City Manager’s designee, shall
4 meet with the permittee and the Fire Chief on that day, upon the permittee’s
5 request, to review the Fire Chief’s decision. The decision of the City Manager shall
6 be final. If the revocation occurs before or after the specified period, the appeal
7 procedures of Subdivision (b) shall apply.

8 b. If the revocation occurs before June 22, such revocation shall not take effect for
9 five (5) days, during which time the permittee may seek review of the Fire Chief’s
10 decision by submitting a written request for review to the City Manager. The Fire
11 Chief shall provide the City Manager with written notice that a fireworks permit
12 has been revoked, including the name of the permittee and a brief statement of the
13 grounds for revocation. The City Manager, or the City Manager’s designee, shall
14 meet with the permittee and the Fire Chief to review the Fire Chief’s decision. The
15 decision of the City Manager shall be final.

16 c. Any permittee, whose permit has been revoked pursuant to Subdivision (a) or (b)
17 hereof, shall be barred from receiving a permit under this Chapter for up to two (2)
18 years from the date of revocation.

19

20 **O. Safe and Sane Fireworks – Wholesale Storage.**

21 Wholesale storage of "Safe and Sane Fireworks" by fireworks wholesalers licensed by the
22 Office of the California State Fire Marshal shall be subject to NFPA 1124 Code for the
23 Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic
24 Articles, 2006 Edition and can be stored year-round in the City by a fireworks wholesaler
25 licensed by the Office of the California State Fire Marshal so long as said fireworks
26 wholesaler has not been found to be in violation of the terms of this Chapter.

27

28 **P. Seizure of Fireworks.**

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 The Fire Chief may seize, take, remove or cause to be removed, at the expense of the
2 permittee or licensed fireworks wholesaler, whichever is applicable, all stock of fireworks
3 offered or exposed for sale, stored or held in violation of this Chapter when such violation
4 creates an imminent threat to public health or safety.

5
6 **Q. Fireworks Wholesaler – Distribution Agreement.**

7 a. All fireworks wholesalers who seek to do business in Suisun City and supply and
8 contract with applicants for fireworks booth permits in the City, shall enter into
9 and execute a Fireworks Wholesaler Distribution Agreement with the City by no
10 later than March 1 of each calendar year (for 2012, the date will be May 1, subject
11 to adoption of this ordinance). Said distribution agreement shall require the
12 fireworks wholesaler to contractually commit to the following:

- 13 1. Conduct a “Safe and Sane Fireworks” Stand Operator Safety
14 Seminar supervised by the Fire Department;
- 15 2. Develop and submit an approved Fireworks Wholesaler Public
16 Education Plan;
- 17 3. Comply with the correct and timely placement and removal of all
18 fireworks stands and storage containers within the city limits; and
- 19 4. Other such requirements deemed appropriate and necessary by the
20 City Manager and Fire Chief.

21 b. No permits shall be issued pursuant to this Chapter to any permit applicant unless
22 and until their fireworks wholesaler has entered into a valid, annual Fireworks
23 Wholesaler Distribution Agreement with the City.

24 c. If a fireworks wholesaler believes the terms and conditions of the proposed
25 Fireworks Wholesaler Distribution Agreement are unfair and/or unreasonable, it
26 may request an appeal before the City Council at its first meeting following the
27 deadline set forth in Subsection (a.) above.

28 **R. Fireworks Wholesaler Public Education Plan.**

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 a. Each fireworks distributor/wholesaler supplying one or more Nonprofit
2 Organizations who are permittees under this Chapter, shall annually submit a
3 Public Education Plan to the City by no later than 5:00 pm on June 1. Said Public
4 Education Plan shall outline the public safety and education efforts for that year
5 that have been initiated, supported, and/or delivered by each fireworks
6 distributor/wholesaler within the City. Said public education plan shall include, but
7 is not limited to, samples of all the materials and the extent of distribution of all of
8 the safety and education materials discussed in that wholesaler’s/distributor’s plan.
9

10 **S. Regulatory Fee Imposed Upon Permittees**

11 a. The City will require each applicant receiving a permit to pay a reasonable regulatory fee,
12 as described in Section 1(e)(3) of Article XIII C of the California Constitution. The fee shall
13 represent the reasonable regulatory costs to the City for issuing licenses and permits,
14 performing investigations, inspections and audits, and the administrative enforcement and
15 adjudication thereof. The fees established pursuant to this section are used to enforce the
16 provision of this Chapter and not intended to generate excess revenue for the City.

17 b. Nothing herein shall limit or prohibit permittees from making voluntary contributions.
18

19 **T. Administrative Fines and Penalties.**

20 (a) This Chapter authorizes the imposition of administrative fines on any person who
21 violates any provision of this ordinance in order to encourage and obtain
22 compliance with the provisions of this ordinance for the benefit and protection of
23 the entire community.

24 (b) The issuance of citations, imposing administrative fines, right to appeal, and the
25 right for an administrative hearing shall be performed in accordance with Title 1,
26 Chapter 1.20 – Administrative Citations of the Suisun City Code.

27 (c) This Chapter governs the imposition, enforcement, collection and administrative
28 review of all administrative fines, related to the possession, use, storage, sale
and/or display of quantities less than 25 pounds of those fireworks classified as

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 “Dangerous Fireworks” in California Health and Safety Code Section 12500, et
2 seq., with the exception of a pyrotechnic licensee when operating pursuant to that
3 license; and the use of “Safe and Sane Fireworks” as defined in California Health
4 and Safety Code Section 12500 et seq. on or at dates, times and/or locations other
5 than those permitted by this ordinance. Said administrative fines are imposed
6 under authority of Government Code Section 53069.4, Health and Safety Code
7 Section 12557, and the police power of the City.

7 (d) Administrative Fines. - Each person who violates any provision of this code as
8 it relates to the possession, use, storage, sale and/or display of “Dangerous
9 Fireworks” shall be subject to the imposition and payment of an
10 administrative fine or fines as provided below:

11

Number of offense in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
12 First	\$500	\$ 150	\$ 650
13 Second	\$750	\$ 250	\$ 1,000
14 Third	\$1,000	\$ 500	\$ 1,500

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20 i. Each person who uses “Safe and Sane Fireworks” on or at dates,
21 times and/or locations other than those permitted by this ordinance
22 shall be subject to the imposition and payment of an administrative
23 fine or fines as provided below:

24

Number of offense in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
25 First	\$ 250	\$ 50	\$ 300

26
27
28

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

Second	\$ 500	\$ 100	\$ 600
Third	\$ 750	\$ 200	\$ 950

(e) Payment of the administrative fine shall not excuse or discharge a citee from the duty to immediately abate and correct a violation of this Chapter, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of this Chapter.

(f) Because of the serious threat of fire or injury posed by the use of “Dangerous Fireworks” that can result from persistent or repeated failures to comply with the provisions of this code and the effect of such conditions or activities on the safety and the use and enjoyment of surrounding properties and to the public health, safety and welfare, this Chapter imposes strict civil liability upon the owners of residential real property for all violations of this code existing on their residential real property.

(g) Issuance of Administrative Citation-Contents.

- i. Whenever an Enforcement Officer (EO) determines that a violation of the code has occurred, the EO shall issue an administrative citation in compliance with the requirements of Title 1, Chapter 1.20 – Administrative Citations Suisun City Code.

8.04.060 – Concurrent Authorities; Provisions supplementary

This Chapter is not the exclusive regulation for fireworks within the City of Suisun City. It shall supplement and be in addition to the other regulatory codes, statutes, regulations and ordinances heretofore and hereinafter enacted by the City of Suisun City, the State of California or any other legal entity or agency having jurisdiction. The provisions of this chapter are supplementary to the provisions of the Uniform Fire Code and Uniform Building Code. In case of a direct conflict between the provisions of the Uniform Fire Code or Uniform Building Code and the provisions of this chapter, this chapter shall prevail. Except with

AMENDING TITLE 8, CHAPTER 8.04 – “FIREWORKS”

1 respect to direct conflict, the provisions of the Uniform Fire Code and Uniform Building Code
2 shall remain in full force and effect.

3 **SECTION 2. EFFECTIVE DATE.**

4 In accordance with Section 36937 of the Government Code of the State of California, this
5 Ordinance shall take effect and be in force thirty (30) days from and after the date of its
6 passage.

7
8 **SECTION 3.**

9 If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held
10 to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such
11 decision shall not affect the validity of the remaining portions of this ordinance. The City
12 Council hereby declares that it would have passed this ordinance, and each and every section,
13 subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional
14 without regard to whether any portion of the ordinance would be subsequently declared
15 invalid or unconstitutional.

16 **SECTION 4.**

17 This ordinance shall be posted in at least three (3) public places within the City or published
18 in a county newspaper that is circulated in the City within fifteen (15) days after its passage,
19 there being no newspaper of general circulation printed and published within the City.

20 **PASSED, APPROVED, AND ADOPTED** as an Ordinance at a regular meeting of
21 the City Council of the City of Suisun City, California, on this 3rd day of April 2012.

22
23 _____
Pete Sanchez

24 Mayor

25 **CERTIFICATION**

26 I, Linda Hobson, City Clerk of the City of Suisun City, California, do hereby certify that the
27 foregoing Ordinance was introduced at a regular meeting of the City Council on April 3, 2012
28 and passed, approved, and adopted by the City Council of the City of Suisun City at a regular

AGENDA TRANSMITTAL

MEETING DATE: April 3, 2012

CITY AGENDA ITEM: Consideration of Proposed Fireworks Ordinance and Implementing Resolutions.

1. Council Consideration of, Waive Reading, and Introduction of Ordinance No. __: Amending City Code Title 8, Chapter 8.04 – “Fireworks” to Permit the Sales of Safe and Sane Fireworks, and to Regulate Other Fireworks Related Activities; and
2. Adoption of Resolution No. 2012-__: Adopting Certain Findings and the Policy Directives to Implement the Sales and Use of Safe and Sane Fireworks as Allowed by Title 8, Chapter 8.04 of the City Code; and
3. Adoption of Resolution No. 2012-__: Amending the Master Fee Schedule Resolution No. 21011-65 for Fees Associated with New Requirements of Title 8, Chapter 8.04 of the City Code.

FISCAL IMPACT: None at this time, although the anticipation is that small amount of application and administrative fine revenue may be collected. Local nonprofit organizations, including those supporting community events, are projected to raise in excess of \$80,000. The Public Display section of the ordinance will be cost neutral because all City costs will be recovered through the permit fee.

BACKGROUND: On February 7, 2012, the City Council directed staff to begin preparing an ordinance to legalize the sales of safe and sane fireworks, as defined in the California Health and Safety Code, after receiving a report from the Ad Hoc Committee on Special Events. The purpose was to help create a sustainable funding source for future community events, including specifically the annual July 4th celebration.

On March 6, 2012, the Council provided additional policy direction on to allow fireworks sales and use within the City limits, and to update other related sections of the ordinance, which was last updated in 1983.

STAFF REPORT:

To implement changes to the Fireworks Ordinance as directed by Council, staff

- Added ordinance language to implement the orderly sales and discharge of Safe and Sane Fireworks.
- Updated ordinance language regarding public display, and theatrical or special effect pyrotechnic use of fireworks.
- Updated ordinance language regarding industrial, commercial, agricultural or religious uses of fireworks.

PREPARED BY:

Mike O'Brien, Fire Chief
Scott T. Corey, Marketing Manager
Suzanne Bragdon, City Manager

REVIEWED/APPROVED BY:

MOB
SC
SB

- Drafted a policy resolution articulating direction of the Council in specific areas that may change from time to time, such as the hours of sales or discharge, or the selection methods for issuing fireworks sales permits.
- Draft a resolution updating the Master Fee Schedule

Safe and Sane Fireworks Sales

Working in tandem, the amended ordinance and the Policy Directive Resolution provide a framework in which nonprofit organizations may sell safe and sane fireworks as a fundraiser. The ordinance describes “Qualified Applicants” as those who:

- Are an organized non-profit as defined by the State or IRS, be a group integral to such an organized non-profit (such as an auxiliary or booster group), or be an officially recognized organization of a school located in Suisun City.
- Have a primary charitable purpose of serving veterans, patriotic, welfare, civic betterment, religious, athletic, educational, youth development.
- Provide direct and regular community services within Suisun City.
- Not have been found in violation of civil or criminal laws within the past 24 months.
- Not had its fireworks sales permit revoked within the past 24 months.

The Policy Directive Resolution describes a selection process by which Qualified Applicants may receive preference points through:

- Voluntarily contributing a share of sales profits to a charitable organization supporting community events.
- Primarily serving Suisun City residents.

The Policy Directive Resolution also describes, in accordance with previous Council direction, the following:

- Number of permits to be awarded annually.
- Locations of fireworks sales stands.
- Hours of sales and discharge of safe and sane fireworks.
- The permittee selection process.
- Regulatory fees.
- Direction to the City Manager to administer the program.

Fireworks wholesalers operating in the City would be required to enter into a Whole Distribution Agreement, which would require certain educational and operational requirements in negotiation with the City Manager. Wholesalers would be expected to work with permittees to fulfill their financial obligations to the wholesaler, the City and other groups with which they may have a contractual agreement.

Permittees would be required to provide a simple financial statement in November of each year to coincide with their annual reporting to the state Franchise Tax Board.

Administrative Fines and Penalties

Administrative citations and the appeals process and hearings associated with the Fireworks Ordinance will follow the process of Title 1, Chapter 1.20 – Administrative Citations.

An ongoing concern in the community is the possession and use of illegal and dangerous fireworks during the July 4th holiday period. One benefit of allowing the sale and discharge of safe and sane fireworks in the City would be to decrease demand for illegal fireworks.

Each person who violates any provision of this code as it relates to the possession, use, storage, sale and/or display of “Dangerous Fireworks” or “Safe and Sane” shall be subject a misdemeanor citation if fireworks are confiscated or the imposition and payment of an administrative fine or fines as provided below: (These fines are limited by State law.)

Number of offenses in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
First	\$ 500	\$ 150	\$ 650
Second	\$ 750	\$ 250	\$ 1,000
Third	\$1000	\$ 500	\$ 1,500

Each person who uses “Safe and Sane Fireworks” on or at dates, times and/or locations other than those permitted by this ordinance shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of offense in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
First	\$ 250	\$ 50	\$ 300
Second	\$ 500	\$ 100	\$ 600
Third	\$ 750	\$ 200	\$ 950

Timeline

Based on the feedback generated, staff proposes to return on April 3, 2012, for the first reading of an ordinance. If all goes smoothly, the second reading would be scheduled for April 17, 2012, and the Ordinance would be effective May 22, 2012. After the first reading, staff would initiate outreach efforts to area non-profits.

RECOMMENDATION: It is recommended that the City Council:

1. Conduct a Public Hearing; and
2. Introduce and Waive First Reading of Ordinance No. __: Amending City Code Title 8, Chapter 8.04 – “Fireworks” to Permit the Sales of Safe and Sane Fireworks, and to Regulate Other Fireworks Related Activities; and
3. Adopt Resolution No. 2012-__: Adopting Certain Findings and the Policy Directives to Implement the Sales and Use of Safe and Sane Fireworks as Allowed by Title 8, Chapter 8.04 of the City Code; and

4. Adopt Resolution No. 2012-__: Amending the Master Fee Schedule Resolution No. ____-__ for Fees Associated with New Requirements of Title 8, Chapter 8.04 of the City Code.

ATTACHMENTS:

1. Ordinance 2012-__ Amending City Code Title 8, Chapter 8.04 – “Fireworks” to Permit the Sales of Safe and Sane Fireworks, and to Regulate Other Fireworks Related Activities.
2. Resolution No. 2012-__: Adopting Certain Findings and the Policy Directives to Implement the Sales and Use of Safe and Sane Fireworks as Allowed by Title 8, Chapter 8.04 of the City Code.
3. Resolution No. 2012-__: Amending the Master Fee Schedule Resolution No. ____-__ for Fees Associated with New Requirements of Title 8, Chapter 8.04 of the City Code.

AGENDA TRANSMITTAL

MEETING DATE: April 17, 2012

CITY AGENDA ITEM: Council Adoption of Resolution No. 2012-__: Adopting the Sixth Amendment to the Annual Appropriation Resolution No. 2011-62 to Appropriate \$21,000 for the FY 2011 Edward Byrne Memorial Justice Assistance Grant.

FISCAL IMPACT: There would be no negative fiscal impact associated with the approval of this resolution. The grant is for \$11,857 supervise parolees and probationers released into the local community, as well as for \$9,119 for the City of Suisun City to administer the County-wide grant.

BACKGROUND: In June of 2011, the City Council authorized the Police Chief to apply for, receive and administer the grant. The City has recently been advised that the grant has been approved.

STAFF REPORT: In order to set up the budget to account for this grant, it is necessary for the City Council to amend the budget for FY 2011-12 to include this grant. This would ensure that the City can justify the receipt of reimbursements for eligible expenditures related to the grant.

RECOMMENDATION: It is recommended that the City Council adopt Resolution No. 2012-__: Amending the Annual Appropriation Resolution No. 2011-62 to Appropriate \$21,000 in Grant Funds for the FY 2011 Local Edward Byrne Memorial Justice Assistance Grant.

ATTACHMENTS:

1. Resolution No. 2012-__: Amending the Annual Appropriation Resolution No. 2011-62 to Appropriate \$21,000 in Grant Funds for the FY 2011 Local Edward Byrne Memorial Justice Assistance Grant.

PREPARED BY:
REVIEWED/APPROVED BY:

Ed Dadisho, Police Chief
Suzanne Bragdon, City Manager

RESOLUTION NO. 2012-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY
ADOPTING THE SIXTH AMENDMENT TO THE ANNUAL APPROPRIATION
RESOLUTION NO. 2011-62 TO APPROPRIATE \$21,000 FOR THE FY 2011 EDWARD
BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUISUN CITY:

THAT Section 177 of Part III of the Annual Appropriation Resolution No. 2011-62 be and is hereby amended as follows:

		<u>Increase/ (Decrease)</u>
TO:	POLICE DEPARTMENT	\$ 21,000
	TOTAL Section 177	<u>\$ 21,000</u>

THAT account titles and numbers requiring adjustment by this Resolution are as follows:

		<u>Sources</u>	<u>Uses</u>
<u>FY 2011 JAG Grant Fund</u>			
Revenues:			
A/C No. 177-76235-2418	JAG Grant/Police	\$ 11,900	\$ -
A/C No. 177-76235-2419	JAG Grant/Police	\$ 9,100	\$ -
Appropriations:			
A/C No. 177-90120-2418	Temporary Wages	\$ -	\$ 11,900
A/C No. 177-90120-2419	Temporary Wages	<u>\$ -</u>	<u>\$ 9,100</u>
	Total FY 2011 JAG Grant Fund	<u>\$ 21,000</u>	<u>\$ 21,000</u>

THAT the purpose is to appropriate funds for the FY 2011 JAG Grant to supervise parolees and probationers.

ADOPTED AND PASSED at a regular meeting of the City Council of the City of Suisun City duly held on the 17th day of April 2012, by the following vote:

AYES:	COUNCILMEMBERS
NOES:	COUNCILMEMBERS
ABSENT:	COUNCILMEMBERS
ABSTAIN:	COUNCILMEMBERS

WITNESS my hand and seal of the said City this 17th day of April 2012.

Linda Hobson, CMC
City Clerk

AGENDA TRANSMITTAL

MEETING DATE: April 17, 2012

CITY AGENDA ITEM: Adoption of Resolution No. 2012-___: Authorizing the City Manager to Approve a Right-of-Way Cooperative Agreement between the City of Suisun City and the City of Fairfield and Authorizing the City Manager to Approve Addendum No. 1 to the Agreement including Storm-Drain Improvements along the North Side of Old Railroad Avenue.

FISCAL IMPACT:

Right of Way Cooperative Agreement

Approving the Agreement has no fiscal impact. In general, each city is responsible for bearing its own project costs and any costs incurred by the other city.

Addendum No. 1

Addendum No. 1 has certain fiscal impacts to Suisun City. The City of Fairfield staff has agreed to construct storm drainage improvements for Suisun City, if Suisun City bears the costs of obtaining permits from Union Pacific Railroad (UPRR) and the Central Valley Flood Protection Board (CVFPB) for the storm drainage improvements. The estimated cost to Suisun City for obtaining these permits is \$8,000. This amount is within the current budget and the project would result in ongoing maintenance cost savings. The City of Fairfield would be responsible for all other costs as outlined in Addendum No.1.

STAFF REPORT:

Right-of-Way Cooperative Agreement

The proposed Right-of-Way Cooperative Agreement defines responsibilities between the Cities of Fairfield and Suisun City relating to public utilities owned by one city that are located within the other city's right of way. Staff members at both cities agree that a cooperative agreement would be the most efficient way to deal with projects that involve constructing facilities in the other city. The proposed Agreement would deal with the general issues common to all projects such as liability, insurance, environmental compliance, and indemnity, as well as reimbursement of costs incurred by the host city. The Agreement is structured with the intent of including individual projects by addendum, thereby streamlining the inclusion of future projects. The Agreement has been reviewed and modified to the satisfaction of the City Attorneys of both cities. The City of Fairfield will also be seeking approval of this Agreement by its City Council on April 17, 2012.

Addendum No. 1

The first addendum to the Agreement is needed to allow the City of Fairfield's East-West Water Transmission Pipeline Project. As part of its water system planning in the 1980's, the City of Fairfield identified the existing single pipeline crossing of Suisun Valley to the Cordelia area as a fundamental weakness of its water system. Failure of this single line, or interruption of the lone treatment plant (Waterman) feeding that line, could result in an inability to supply water to

PREPARED BY:

Dane Schilling, City Engineer

REVIEWED/APPROVED BY:

Daniel Kasperson, Building & Public Works Director
Suzanne Bragdon, City Manager

Cordelia from the system. Another concern was the existing system's inability to serve water to large parts of the City of Fairfield from the North Bay Regional Water Treatment Plant (NBR Plant), which is Fairfield's only source of Sacramento River delta water.

The East-West Water Transmission Pipeline Project (Project) was developed to address service and supply issues. Because the Project is so large and complex, the City of Fairfield broke the project up into 16 separate segments to 1) keep the individual construction projects more manageable, and 2) allow certain portions of the project that had fewer permitting constraints to move forward earlier than other portions that required longer periods of time to get designed and approved. A condition of approval for the segment along old Railroad Avenue is the construction by the City of Fairfield of a section of storm drain to solve a perennial flooding problem in that area. The cost of construction would be paid by Fairfield and the cost of permitting will be paid by Suisun City.

The pipeline route that was selected crosses into Suisun City in several locations and a Right-of-Way Cooperative Agreement was determined to be the best way to memorialize Fairfield's responsibilities when working within the Suisun City right of way. The general provisions of this Agreement are reciprocal for both cities, so this Agreement has the added benefit of providing an overall framework within which the two cities would work together for all future projects of a similar nature, regardless of which city is the project proponent. Use of this type of agreement would preclude the need to develop a new agreement for each discrete project, and utilizes the Public Utility Code as the primary basis for determining responsibilities.

The City of Suisun City has already approved of one segment of this pipeline on Sunset Avenue in January of 2008, which was constructed in conjunction with Suisun City's project at Sunset Avenue and Railroad Avenue.

RECOMMENDATION: It is recommended that the City Council adopt Resolution No. 2012-___: Authorizing the City Manager to Approve a Right-of-Way Cooperative Agreement Between the City of Suisun City and the City of Fairfield and Authorizing the City Manager to Approve Addendum No. 1 to the Agreement including Storm-Drain Improvements along the North Side of Old Railroad Avenue.

ATTACHMENT:

1. Resolution No. 2012-___: Authorizing the City Manager to Approve a Right-of-Way Cooperative Agreement Between the City of Suisun City and the City of Fairfield and Authorizing the City Manager to Approve Addendum No. 1 to the Agreement including Storm-Drain Improvements along the North Side of Old Railroad Avenue.
2. Right-of-Way Cooperative Agreement.
3. Addendum No. 1 to the Right-of-Way Cooperative Agreement.

RESOLUTION NO. 2012-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY
AUTHORIZING THE CITY MANAGER TO APPROVE A RIGHT-OF-WAY
AGREEMENT BETWEEN THE CITY OF SUISUN CITY AND
THE CITY OF FAIRFIELD AND AUTHORIZING THE CITY MANAGER
TO APPROVE ADDENDUM NO. 1 TO THE AGREEMENT INCLUDING STORM-
DRAIN IMPROVEMENTS ALONG THE NORTH SIDE OF OLD RAILROAD AVENUE**

WHEREAS, staff has determined that it is necessary and in the public interest to develop a Right-of-Way Cooperative Agreement between the City of Suisun City and City of Fairfield that defines responsibilities between the two cities relating to public utilities owned by one city that are located within the other city’s right of way; and

WHEREAS, the City of Fairfield is in the process of designing and constructing segments of its East-West Water Transmission Pipeline Project (“Project”) portions of which are to be constructed in Suisun City’s public right of way and would be covered by Addendum No.1 to the proposed Agreement; and

WHEREAS, the City of Fairfield will also be seeking approval of this Agreement and Addendum No. 1 by its City Council on April 17, 2012; and

WHEREAS, both cities desire to outline the responsibilities of each city for the Project where the Project is within City of Suisun City right-of-way, as well as for similar future projects that may be contemplated by either city.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Suisun City authorizes the City Manager to approve a right-of-way cooperative agreement between the City of Suisun City and the City of Fairfield, to approve Addendum No. 1 to the Agreement, and to take all actions necessary to ensure that the Agreement and Addendum No. 1 is completed and to take such further actions as are necessary or appropriate to implement this Resolution.

PASSED AND ADOPTED by a Regular Meeting of said City Council of the City of Suisun City duly held on Tuesday, the 17th of April 2012, by the following vote:

AYES:	COUNCILMEMBERS	_____
NOES:	COUNCILMEMBERS	_____
ABSTAIN:	COUNCILMEMBERS	_____
ABSENT:	COUNCILMEMBERS	_____

WITNESS my hand and the seal of the City of Suisun City this 17th of April 2012.

Linda Hobson, CMC
City Clerk

RIGHT-OF-WAY COOPERATIVE AGREEMENT

This Right-of-Way Cooperative Agreement (the "Agreement") is made as of _____, 2012 by and between the CITY OF FAIRFIELD, a municipal corporation, whose address is 1000 Webster Street, Fairfield, California 94533 ("FAIRFIELD"), and the CITY OF SUISUN CITY, a municipal corporation, whose address is 701 Civic Center Boulevard, Suisun City, California 94585 ("SUISUN CITY"). This Agreement refers to FAIRFIELD and SUISUN CITY individually as "Party" and collectively as "Parties."

RECITALS

A. Sections 10101 through 10107 of Division 5, Chapter 1, Article 3 of the California Public Utilities Code provide a general right for municipal corporations to use public rights of way outside of their jurisdiction for utility and infrastructure purposes;

B. Such right is subject to the municipal corporation and the public entity that owns the right of way agreeing on the location of the use and the terms and conditions to which the use shall be subject; and

C. The Parties have historically used rights of way in each other's jurisdiction for water, sewer and other public utility purposes; and

D. The Parties wish to agree on a process for coordinating the use of each other's respective rights of way and the conditions for doing so, all on the terms and conditions described more particularly below, for projects that have met all applicable California Environmental Quality Act ("CEQA") requirements and all other applicable legal requirements.

NOW THEREFORE, in consideration of the mutual promises contained herein, the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

I. PURPOSE

The purpose of this Agreement is to define general conditions and requirements for facilities constructed, operated, or maintained by either Party within the other Party's right-of-way, which general conditions and requirements shall be supplemented from time to time through the execution of Addenda to address the construction, operation, and maintenance of specific projects. Where the context requires it below, the term "Owning Party" shall refer to the Party that owns the relevant right or way or property, and the term "Performing Party" shall refer to the Party that is install, constructing, operating or maintain facilities in the Owning Party's right-of-way or property.

II. TERM

A. Commencement and Survival of Certain Rights. The term of this Agreement shall begin on the last date that the City Councils of SUISUN CITY and FAIRFIELD approve and execute this Agreement and shall continue until terminated pursuant to Section II.C or II.D below; provided, however, that a Performing Party that

installs or constructs facilities within the right-of-way or property of an Owning Party shall have the right to operate, maintain and repair such facilities for so long as they are used for their intended public purposes, unless removal of such facilities is demanded in accordance with Section II.C below, and subject to any right conferred by any Addendum to this Agreement to relocate or demand relocation of such facilities.

B. Event of Default. A Party commits an “Event of Default” whenever that Party (i) violates or fails to comply with any material term of this Agreement or any Addendum hereto, (ii) fails or refuses to perform any duty or obligation imposed upon it by this Agreement, or (iii) fails to use or maintain any facilities covered by this Agreement for a period of at least one year (365 days).

C. Remedies for Default. At any time after an Event of Default, the non-defaulting Party may elect to provide written notice specifying the particulars of the Event of Default and requesting that it be cured. If the defaulting Party does not cure the Event of Default within thirty (30) days of the date such notice was sent (or such longer period agreed to by the Parties in writing), the non-defaulting Party may do either of the following: (i) seek specific performance of this Agreement and/or any Addendum hereto, in addition to all other rights available under this Agreement or available at law or in equity, or (ii) provide the defaulting Party at least ninety (90) days’ written notice of its intent to terminate the Agreement. If, by the end of such ninety (90) day period, the non-defaulting Party has neither cured the Event of Default nor provided documentation of its intent to do so within a reasonable time, this Agreement (including all Addenda hereto) will be terminated and of no further effect, except the rights, responsibilities, duties, obligations, and powers set forth in Sections II.B, IV.A, and IV.B shall survive the Agreement’s termination.

Upon such termination, any and all interest in the right-of-way shall automatically revert to the Owning Party, its assigns and successors, without the necessity of any further action to effect said reversion. After such reversion, the Owning Party may issue a written demand to the Performing Party to remove any and all improvements installed in, on, under or above the right-of-way area and repair and restore the surface and subsurface right-of-way area to its condition prior to removal, and Performing Party shall comply with said demand within one year (365 days) of the date of the demand. In the alternative, at the sole option of the Owning Party, all improvements installed in, on, under or above the right-of-way area shall become the property of the Owning Party at no cost to the Owning Party and with no compensation to the Performing Party.

D. Voluntary Termination. The Parties may terminate this Agreement at any time, with or without cause, by mutual written consent signed by each Party’s respective City Manager.

III. RIGHTS AND CONDITIONS OF RIGHT OF WAY USE

A. No Vested Property Right. The Parties agree that Performing Party acquires no vested property right nor any prescriptive right in Owning Party’s property through its use of the Owning Party’s right-of-way under this Agreement and that Performing Party’s rights in such right-of-way are limited to that of a franchisee.

B. Non-Exclusive Use. The Performing Party’s right-of-way use shall be non-exclusive. Once a Performing Party has constructed or installed infrastructure approved by the Owning Party pursuant to this Agreement, the Owning Party retains the right to make any use of the right-of-way that does not unreasonably interfere with the Performing Party’s rights hereunder, including without limitation, the right to grant concurrent easements in the right-of-way to third parties.

C. Duty to Avoid Unreasonable Interference. The Performing Party shall not unreasonably interfere with the use by, and operation and activities of, the Owing Party and shall use such routes and follow such procedures on the Owing Party's property that will result in the least damage and inconvenience to the Owing Party, as directed by the Owing Party in its reasonable discretion.

D. Incident Rights of Egress and Ingress. The Owing Party shall grant incidental rights of ingress and egress to the Performing Party only to the extent necessary for inspection, operation, maintenance and repair of subject facilities.

E. Encroachment Permits. Encroachment permits shall be required for any infrastructure installed or constructed unless a written waiver is provided by the Owing Party's Public Works Director or his or her designee. The Performing Party shall be required to pay fees for such encroachment permits only as provided in Section V.K. below.

F. Traffic Control Plan. A traffic control plan approved by both Parties shall be required for all work within the right-of-way.

G. Hazardous Materials; Emergencies. Neither Party shall use, deposit or permit the use or deposit of any hazardous material or toxic waste or other harmful substances on the other Party's right-of-way, or on any other real or personal property of the other Party. Each Performing Party shall develop, maintain and provide the Owing Party with a copy of an emergency response plan for any facilities within the Owing Party's jurisdiction that meets the requirements of federal and state law.

H. Emergency Repairs. If, in the judgment of an Owing Party, the condition of its property is rendered hazardous or constitutes a public nuisance, public emergency, or other imminent threat to the public health, safety, or welfare that requires immediate action due to or arising from an act or omission by the Performing Party or any of the Performing Party's contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees,, the Owing Party shall order the condition remedied by written, oral, telephonic, or facsimile communication to the Performing Party or any agent thereof and shall designate the Performing Party as the responsible Party.

If the Performing Party fails to respond within a reasonable period of time, or fails, neglects, or refuses to take immediate action to remedy the condition as specified in said communication, the Owing Party may remedy the condition or cause the condition to be remedied in such a manner as it deems expedient and appropriate. In such an event, the Performing Party shall compensate the Owing Party for all reasonable costs associated with its remediation, including without limitation, costs of administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration, and any other actual costs incurred by the Owing Party in connection with the same.

I. Duty to Repair, Restore, Replace. After completion of the initial installation or construction of any facilities, a Performing Party or its employees, officers, members, contractors, subcontractors, agents, consultants, invitees, or licensees shall remove all of the Performing Party's property from the Owing Party's property, including, but not limited to, goods, debris, barriers, construction supplies and materials, equipment, and other items related to the project and shall leave the property in good order, condition, and repair, as determined in the Owing Party's reasonable discretion. Each Party agrees to replace or repair any of the other Party's property that is damaged as a result of its installation or construction of any facilities on the other Party's property, including, but not limited to, damage to fencing, irrigation, landscaping, underground

utility lines and services, cement, concrete, sidewalks, walkways, curbs and gutters, asphalt concrete, and other roadway surfaces, and all other damaged items located within or near the facilities (hereinafter referred to as the "Warranty Work"). All repairs or replaced items shall be installed in a workmanlike manner and be of workmanlike quality according to industry standards or to the condition of the damaged item prior to the damage, whichever quality is greater, and shall fully comply with all applicable laws and construction standards. The workmanship and materials to be used in the Warranty Work shall be without fault or defect for a period of two (2) years after acceptance, in writing, of the Warranty Work by the Owning Party. The Performing Party shall, upon notice from the Owning Party or its successors or assigns, immediately and without delay, at its sole cost and expense, repair or replace any defects due to faulty work or materials arising during said Warranty Work period.

J. As Built Drawings. The Performing Party shall provide to the Owning Party at least three (3) full and complete sets of "as-built" drawings, one (1) copy of electronic images of "as built" drawings, for import into the respective Party's Geographic Information Systems (GIS) upon final installation and approval by all governmental agencies or all facilities installed or constructed hereunder.

K. Contractor Requirements.

1) Each Party shall include within its construction contract documents provisions obligating the contractor of the Performing Party to do all the following: (i) protect all facilities within the right-of-way, (ii) completely repair or otherwise fully mitigate, at that contractor's own expense, any and all damage resulting from that contractor's operations, whether such damage is on public or private property, and whether or not such damage is located within the right-of-way.

2) All contractors and subcontractors are required by law to be licensed and regulated by the Contractors State License Board. Each Party warrants and represents to the other Party that all contractors, subcontractors, and other persons performing any construction work relating to the installation, maintenance, repair, relocation, and/or realignment of the any facilities in the other Party's right-of-way or property, or performing any Warranty Work, shall be properly licensed at all times by the California Contractors State License Board, bonded in accordance with Section III.K.3 below, and insured according to the terms and limits identified in this Agreement.

3) All construction or installation work performed by either Party's contractors or agents, shall be performed under a one hundred percent (100%) payment bond and under a one hundred percent (100%) performance bond as indicated herein, in form reasonably acceptable to the Owning Party.

a) Performance Bond. The amount of the bond to be given to secure faithful performance of the work under any and all contracts shall be equal to one hundred percent (100%) of the contract price thereof, and shall provide, in effect that the principal shall sell and truly perform the "contract" rather than the "work to be done".

b) Payment Bond. The amount of the bond to be given to secure the payment of all claims, demands, liens, stop notices, and changes of material men, mechanics, and laborers shall be equal to one hundred percent (100%) of the contract price.

IV. INDEMNITY/INSURANCE/SAFETY RULES

A. Waiver of Claims. As a material part of the consideration given under this Agreement, Performing Party hereby waives, releases, and forever discharges Owing Party and its contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees from any and all claims, demands, or causes of action whatsoever which Performing Party may have or may hereafter have arising in any way out of (i) the exercise of rights afforded by this Agreement or any Addendum hereto to the Performing Party or its contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees, or (ii) the use of the Owing Party's property or of the improvements or personal property of the Performing Party located thereto or thereon. The aforementioned waived, released, and discharged claims, demands, and causes of action include but are not limited to claims for bodily injury (including death), liability, damages, lawsuits, and expenses (including but not limited to medical expenses and attorneys' fees). This waiver, release, and discharge extends to claims presently unknown to or unsuspected by Performing Party, and accordingly Performing Party expressly agrees to relinquish any rights or benefits it may have under California Civil Code section 1542.

B. Indemnity.

1) As used in this Agreement, "Claims and Liabilities" means any and all of the following:

a) Actions, suits, claims, damages to persons or property, accidents, losses, costs, penalties, obligations, errors, omissions, breach of obligations or warranties, and/or liabilities;

b) Governmental or administrative enforcement actions, proceedings, rulings, orders, or decrees, including without limitation those arising from investigations or enforcement proceedings related to Environmental Laws as defined in Section V.L. below.

2) Performing Party agrees to indemnify Owing Party and its contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees against, and shall hold and save them and each of them harmless from any and all Claims and Liabilities arising out of any of the following:

a) The exercise of rights granted hereunder to the Performing Party, its contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees pursuant to this Agreement;

b) The use of the Owing Party's property or of the improvements or personal property of the Performing Party located thereto or thereon; and/or;

c) Performing Party's negligent performance of or failure to perform any term of this Agreement, whether or not there is concurrent negligence on the part of the Owing Party and/or Owing Party's contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees.

3) Performing Party's contract documents with any contractor performing work covered by this Agreement or any Addendum hereto shall require the said contractor to (i) indemnify Owing Party, with such indemnity provision being of substantially similar scope to that set forth in Sections IV.B.1. and IV.B.2 of this Agreement, and (ii) require subcontractors' contract documents to contain a substantially similar provision for indemnity of Owing Party. This Section IV.B.3. is not intended to relieve Performing Party of any duty to indemnify Owing Party that may arise under this Agreement.

4) If any portion of this Section IV.B. is held invalid, it is agreed that the balance shall, notwithstanding, continue in full force and effect. All rights, responsibilities, duties, obligations, and powers set forth in this Section IV.B. shall survive the Agreement's termination, whatever the reason for said termination.

C. Duty to Defend.

1) Performing Party agrees to defend all court actions or administrative proceedings filed in connection with any of said Claims or Liabilities. Performing Party shall pay all costs and expenses incurred in connection therewith, including legal costs and attorneys' fees. Furthermore, Performing Party shall promptly pay any judgment rendered against the Owning Party for any such Claims or Liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations, or activities of Performing Party hereunder, and Performing Party agrees to save and hold Owning Party therefrom.

2) In the event that Owning Party, or its contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees, is made a party to any action or proceeding filed or prosecuted against Performing Party for such damages or other claims arising out of or in connection with or Performing Party's performance of this Agreement, Performing Party agrees to pay to Owning Party, or its contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees, any and all costs and expenses incurred by them in such action or proceeding, including, but not limited to, legal costs and attorney's fees.

3) The Parties agree that Performing Party's duty to defend Owning Party is entirely separate from, independent of, and imposed in addition to Performing Party's duties to indemnify and hold harmless Owning Party. This duty to defend includes without limitation, the defense of Owning Party against claims for which Owning Party may be strictly liable. The duty to defend applies whether or not the issue of Performing Party's negligence, breach of contract or other fault or obligation has been determined. It is the intention of both Parties that Owning Party shall be entitled to seek summary adjudication of Performing Party's duty to defend Owning Party at any stage of any claim or suit that may arise from this Agreement, or from the use of property authorized by, or the exercise of rights granted by, this Agreement any addendum hereto.

4) If any portion of this Section IV.C. is held invalid, it is agreed that the balance shall, notwithstanding, continue in full force and effect. All rights, responsibilities, duties, obligations, and powers set forth in this Section IV.C. shall survive the Agreement's termination, whatever the reason for said termination.

D. Insurance.

1) Performing Party and/or Performing Party's contractors, subcontractors, consultants, agents, and independent contractors shall, at Performing Party sole cost and expense, procure, carry and maintain insurance in full force and effect on all of its operations as follows: Workers' Compensation, Business Automobile Liability, Professional Liability, and Comprehensive General Liability insurance policies, all naming Owning Party and its directors, officers, agents and employees as additional insureds in an amount not less than \$1,000,000.00 per occurrence and \$3,000,000.00 aggregate. The insurance for Comprehensive General Liability shall cover all operations of Performing Party and Performing Party's employees, contractors, subcontractors, consultants, agents, and independent contractors. All insurance shall be evidenced by Performing Party's and Performing Party's contractors, subcontractors, consultants, agents, and independent contractors by delivering to Owning Party an endorsement form CG 2010 11/85 or its equivalent, or CG2026 11/85 or its equivalent, naming Owning

Party and Owing Party's directors, officers, agents and employees as additional insureds. The insurance shall cover all operations of Performing Party and Performing Party's employees, general contractors, subcontractors, consultants, and independent contractors. The additional insured certificates shall provide that there will be no cancellation, reduction, or modification without providing at least thirty (30) days prior written notice to Owing Party by certified mail. All policies and additional insured endorsements shall stipulate that the insurance afforded for the Owing Party, and their directors, officers, agents, and employees, shall cover the workmanship of the Performing Party and Performing Party's employees, contractors, subcontractors, and independent contractors and shall be primary insurance and that any insurance carried by the Owing Party shall be deemed excess and not contributory insurance. Performing Party and Performing Party's contractors, subcontractors, agents, employees, and independent contractors shall not enter Owing Party's property under this Agreement until the requirements of this Section V.D.1 have been complied with and until Performing Party and all of Performing Party's contractors, subcontractors and material suppliers have supplied a written additional insured certificate and endorsement to Owing Party covering the Performing Party and all Performing Party's contractors, subcontractors, agents, and independent contractors. As a condition of Owing Party allowing use of its right-of-way or property, Performing Party shall maintain insurance for Owing Party's benefit as identified herein and provide Owing Party with renewed additional insured certificates of endorsements at least thirty (30) days prior to any expiration of insurance in accordance with this Agreement. Owing Party acknowledges that Performing Party is a member of a self-insurance joint powers authority, and Owing Party agrees to accept such self-insurance that complies with the requirements of this Section IV.D.1.

2) Owing Party reserves the right to adjust the monetary limits of insurance coverage during the term of this Agreement or any extension thereof, if Owing Party determines, in its reasonable discretion, that the amount or type of insurance typically carried by Performing Party is inadequate, and Owing Party shall have the right, in its sole reasonable discretion, to require Performing Party to increase the amount and/or change the types of insurance required in this Section IV.D. from time to time. When changes are made, both parties shall memorialize such changes by contract amendment or other mutually agreed upon manner in writing.

E. Assumption of Risk. Performing Party and Performing Party's employees, consultants, agents, contractors, subcontractors, independent contractors, and material suppliers shall assume any and all risks, whether known or unknown and whether patent or latent, relating to the use of Owing Party's right-of-way or other rights hereunder at their own risk and subject to whatever hazards or conditions that may exist on Owing Party's right-of-way. Performing Party represents and warrants to Owing Party that it shall include clauses similar to this paragraph in all agreements with its contractors, subcontractors, consultants, agents, employees, and independent contractors.

F. Safety Rules. Performing Party and Performing Party's employees, contractors, subcontractors, consultants, agents, and independent contractors shall perform all Construction Work and Warranty Work and shall use the right-of-way or property in accordance with all federal, state, and local safety requirements, including but not limited to, OSHA and CAL-OSHA requirements, and the California Manual of Uniform Traffic Control Devices as may be amended from time to time (collectively referred to herein as the "Safety Rules"), taking all necessary and reasonable precautions to protect Owing Party's property, adjacent properties, all work performed relating to the use of the right-of-way or property, workers, Performing Party's employees, Performing Party's contractors, subcontractors, consultants, agents and their employees, Owing Party and its consultants, agents and employees, and the public. Performing

Party represents and warrants to Owning Party that Performing Party, Performing Party's employees, consultants and agents and Performing Party's contractors, subcontractors and material suppliers will strictly observe all Safety Rules while entering onto or working on Owning Party's property and while performing the work permitted by this Agreement, regardless of the source of such Safety Rules. Performing Party shall take all reasonable precautions to protect, at its sole cost and expense, its own employees, the employees of Owning Party, and all others, including members of the public, from risk of death, injury, and bodily harm arising out of or in any way connected with Performing Party's work permitted hereunder or Performing Party's use of the Owning Party's right of way or property.

V. MISCELLANEOUS TERMS

A. Attorneys' Fees. If any legal action or proceeding arising out of or relating to this Agreement, or arising from any other action relating to this Agreement, is brought by either Party, whether brought in tort, equity or contract, the prevailing Party shall be entitled to receive from the other Party any and all attorneys' fees, costs, and expenses incurred in the action or proceeding by the prevailing Party, in addition to any other relief that may be granted.

B. Entire Agreement.

1) This Agreement supersedes any and all prior agreements between the Parties, whether oral or in writing, with respect to the subject of this Agreement. This Agreement contains all of the covenants and agreements between the Parties with respect to the subject of this Agreement, and each Party acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except the covenants, representations, warranties and agreements embodied in this Agreement. This Agreement constitutes the entire agreement between SUISUN CITY and FAIRFIELD relating to the mutual use of right-of-way and other property.

2) Notwithstanding Section V.B.1 above, the Parties hereby agree that the terms of this Agreement may be supplemented or modified by an Addendum to this Agreement or by other subsequent written agreement executed by the Parties. In the event that any provision of any such Addendum conflicts with any provision of this Agreement, the Addendum's provisions shall control, and the remaining provisions of this Agreement shall continue to be given full force and effect. The Parties further agree that any agreement existing between the Parties as of the effective date of this Agreement, or any specific provisions of any such prior agreement, will remain fully binding and enforceable on the Parties to the extent such prior agreement is expressly incorporated by reference into any Addendum to this Agreement.

C. Binding Effect. This Agreement shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors, and assigns of SUISUN CITY and FAIRFIELD, except as otherwise provided in this Agreement.

D. Governing Law. The validity of this Agreement and each of its terms and provisions, as well as the rights and duties of the Parties under this Agreement, shall be construed pursuant to and in accordance with the laws of the State of California. This Agreement and the language of all parts of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against FAIRFIELD or SUISUN CITY. Both Parties have participated fully in the negotiation, preparation and drafting of this Agreement, and the language used herein is the result of such participation. It is mutually agreed that any rule of law that any ambiguous language shall be construed against the author shall not be used and have no effect as to this

sabotage or destruction by a third party (other than such Party's contractors, subcontractors, consultants, agents, officers, members, employees, invitees, or licensees), and (iv) strikes, walkouts, lockouts or similar industrial or labor actions or disputes.

K. Permits and Costs. Each Performing Party shall bear all costs and expenses of the installing or constructing facilities or related work permitted hereunder, including but not limited to paying all costs of permits required by regulatory agencies. Notwithstanding the foregoing, for operation and maintenance encroachments, the Parties hereby agree to waive any fees for excavation, encroachment or similar permits that they issue as Owning Party to the Performing Party for work contemplated by this Agreement. Performing Party will be required to pay normal permit and inspection fees for construction of new facilities.

L. Duty to Comply with Laws. Performing Party shall, at its sole cost and expense, comply with all of the requirements of all municipal, state and federal statutes, regulations, codes and other legal authorities now in force, or which may hereafter be in force during the term of this Agreement, including but not limited to Environmental Laws. For purposes of this Agreement, "Environmental Laws" shall mean any federal, state, or local law, statute, ordinance, code, rule, regulation, policy, common law, license, authorization, decision, order, or injunction which pertains to health, safety, any hazardous material, or the environment (including but not limited to ground, air, water, or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Safe Drinking Water Act, the Emergency Planning and Community Right-to-Know Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Oil Pollution Act, the Occupational Safety and Health Act, the California Environmental Quality Act, the Porter-Cologne Water Quality Control Act, all as have been amended from time to time, and any other federal, state, or local environmental requirements, together with all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, including without limitation the decisions, orders, rules, and regulations of the State Water Resources Control Board, and of any Regional Water Quality Control Boards with jurisdiction over the geographic location of any right-of-way covered by this Agreement, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

M. Hazardous Materials; Emergencies. Each Party shall not use, deposit or permit the use or deposit of any hazardous substance (as defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)), toxic waste, or other harmful substances within the right-of-way of the other Party.

N. City Managers' Authority. The City Managers of Suisun City and Fairfield are hereby directed and authorized to execute on behalf of SUISUN CITY and FAIRFIELD, respectively, such other documents as may be necessary or convenient to implement the terms of this Agreement, including without limitation, certificates of acceptance and other certifications.

O. Assignment. Neither Party may assign its rights under this Agreement without written consent of the other Party.

P. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall constitute the same Agreement, and the signature of any Party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the day and year first above written.

“SUISUN CITY”

CITY OF SUISUN CITY, a municipal corporation

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

City Attorney

“FAIRFIELD”

CITY OF FAIRFIELD,
a municipal corporation

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____
City Attorney

ADDENDUM NO. 1 TO RIGHT-OF-WAY COOPERATIVE AGREEMENT

This Addendum No.1 to Right-of Way Cooperative Agreement is entered into as of _____, 2012 between FAIRFIELD and SUISUN CITY to authorize FAIRFIELD to use SUISUN CITY's right-of-way in connection with, and provide more specific requirements for, FAIRFIELD's East-West Transmission Main Project (referred to hereinafter as the "Waterline").

RECITALS

A. On _____, 2012, the Right-of-Way Cooperative Agreement entered into by FAIRFIELD and SUISUN CITY became effective, and such Agreement expressly authorized the Parties to supplement or modify its terms by approving Addenda from time to time; and

B. On February 14, 2006, FAIRFIELD approved the Waterline and adopted a Mitigated Negative Declaration in conjunction with the Waterline, conditioning approval of the Waterline on specified mitigation measures and finding no significant impact to the environment. FAIRFIELD filed a Notice of Determination on March 14, 2006; and

C. As described in the Notice of Determination, a portion of the Waterline is to use SUISUN CITY's right-of-way. FAIRFIELD and SUISUN CITY desire to enter an agreement pursuant to California Public Utilities Code section 10103 specifying the location of the use and the terms and conditions to which the use shall be subject, and desire to memorialize such agreement as an Addendum to the Right-of-Way Cooperative Agreement;

NOW THEREFORE, in consideration of the mutual premises promises contained herein, the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FAIRFIELD AND SUISUN CITY hereby agree as follows:

AGREEMENT

I. THE PROJECT

A. Incorporation of Right-of-Way Cooperative Agreement: The Right-of-Way Cooperative Agreement is expressly incorporated into this Addendum by reference in its entirety, including all definitions, duties, obligations, and conditions set forth therein. In the event any actual, irreconcilable conflict arises between any provision of the Right-of-Way Cooperative Agreement and any provision of this Addendum, the provisions of this Addendum shall control, and the remaining provisions of the Right-of-Way Cooperative Agreement shall continue to be given full force and effect.

B. FAIRFIELD East-West Transmission Pipeline Project: The Waterline is fully described in the Notice of Determination filed March 14, 2006. Generally, the Waterline consists of a 36-inch water transmission main that crosses the length of the City of Fairfield, generally near the border with SUISUN CITY and, in several locations, within the SUISUN CITY limits. The project has been broken down into several sub-sections or segments, which are being constructed at different times. The pipeline segments that will be fully or partially located within SUISUN CITY boundaries include segment nos. 2, 4, 5A, 5B, and 5C, all as depicted on Exhibit A to this

Addendum. In its entirety, the Waterline shall extend approximately 39,500 linear feet, including approximately 13,600 linear feet within SUISUN CITY's right-of-way.

C. Storm Drainage Facilities Constructed as Part of Segment 5C of the FAIRFIELD East-West Transmission Pipeline Project: The parties acknowledge and agree that a new, separate 30-inch diameter storm drain pipeline that totals approximately 2,300 linear feet and connects an existing 30-inch diameter storm drain that serves the Grande Circle area in the City Fairfield to Laurel Creek in Suisun City is being built by FAIRFIELD at the request of SUISUN CITY as part of Segment 5C of the Waterline project. This new 30-inch storm drain pipeline will be constructed lies entirely within the City of Suisun City but serves both SUISUN CITY and FAIRFIELD. Upon acceptance of the construction of the new storm drain pipeline by SUISUN CITY as part of Segment 5C of the Waterline project, title to the new storm drain improvements (including the new storm drain junction structure located southeast of the existing railroad tracks and the pipeline downstream of the junction structure) shall pass to SUISUN CITY, at which time SUISUN CITY shall assume liability for all maintenance and repairs of said improvements. FAIRFIELD shall remain liable for the pipeline upstream (northwest) of the new junction structure.

FAIRFIELD agrees to construct and maintain a storm water trash capture structure in-line on the existing 30-inch storm drain pipeline as far downstream as is reasonably possible within the City of Fairfield's existing right of way for the purpose of removing trash from storm water originating in the City of Fairfield before the storm water enters the City of Suisun City. If, in the opinion of FAIRFIELD and SUISUN, the estimated cost of constructing said improvements exceeds \$20,000, FAIRFIELD may opt to inspect/clean all inlets tributary to the existing storm drain system at a frequency or level mutually agreed upon by FAIRFIELD and SUISUN in-lieu of constructing a trash capture structure.

D. Incorporation of Prior Sunset Avenue Agreement: Pursuant to Section V.B.2 of the Right-of-Way Cooperative Agreement, the Parties expressly incorporate by reference into this Addendum in its entirety the "Cost Sharing Agreement Between the City of Fairfield and the City of Suisun City Regarding Construction of a Water Transmission Line Under Portions of Railroad Avenue and Sunset Avenue" dated January 14, 2008 ("Sunset Avenue Agreement"). By incorporating the Sunset Avenue Agreement into this Addendum, the Parties intend to supplement, but not vary or contradict, the terms of the Right-of-Way Cooperative Agreement and this Addendum. In the event any conflict arises between any provision(s) of the Sunset Avenue Agreement and any provision(s) of either (i) the Right-of-Way Cooperative Agreement, or (ii) this Addendum, the provisions of the Right-of-Way Cooperative Agreement and this Addendum shall control, and the remaining provisions of the Sunset Avenue Agreement shall continue to be given full force and effect.

II. CONSTRUCTION AND MAINTENANCE

A. Construction Work: Subject to the terms and conditions of the Right-of-Way Cooperative Agreement and this Addendum, SUISUN CITY hereby authorizes FAIRFIELD to perform the following Construction Work: (a) installation of the Waterline, and (b) restoration of the surface of SUISUN CITY's property and repairing of any damage to SUISUN CITY's property caused by FAIRFIELD's work.

FAIRFIELD and FAIRFIELD's employees, consultants, agents, contractors, and subcontractors shall install and maintain the Waterline and complete the Construction Work in accordance with all approved plans and specifications, and in accordance with all applicable codes, standards, regulations, and laws.

B. Maintenance of Waterline: FAIRFIELD shall, at all times maintain the Waterline in good condition, maintenance, and repair in accordance with the standards and regulations specified in this Agreement, including, but not limited to, repair or replacement of the Waterline, fixtures and appurtenances thereto. In addition, FAIRFIELD shall be responsible for any and all damage to SUISUN CITY's property and/or the property of third parties resulting from any exercise of the rights granted herein, including, but not limited to, soil erosion, subsidence or damage resulting therefrom. FAIRFIELD shall promptly repair and restore SUISUN CITY's property to its original condition, including, but not limited to, roads, utilities, buildings and fences that are altered, damaged or destroyed in connection with the exercise of FAIRFIELD's rights hereunder.

C. Schedule: The Parties acknowledge and agree that time is of the essence for the completion of the Construction Work and for the performance of any Warranty Work.

D. Relocation of Waterline: SUISUN CITY may require the relocation of the Waterline in accordance with this section if SUISUN CITY determines, in its sole reasonable discretion, that the Waterline interferes with the present or future use by SUISUN CITY of SUISUN CITY's property. SUISUN CITY will consider reasonable alternatives to the relocation of the Waterline and will consult with FAIRFIELD before making a final determination to relocate. Any and all costs of relocation and/or realignment required by SUISUN CITY, including but not limited to, all planning costs, construction costs, permits, fees, realignment costs, relocation costs, costs related to additional pipeline or fixtures to re-route the pipeline, and any and all other costs and expenses to relocate and/or realign the Waterline and/or fixtures and appurtenances thereto shall be paid by FAIRFIELD.

Should FAIRFIELD desire to relocate and/or realign the Waterline, SUISUN CITY agrees to work in good faith with FAIRFIELD in attempting to find a substitute right-of-way area reasonably suited to FAIRFIELD's needs. Notwithstanding the foregoing, all costs and expenses of the realignment and/or relocation shall be borne solely by FAIRFIELD whether or not a substitute right-of-way area reasonably suited to FAIRFIELD's needs is identified, including but not limited to, all planning costs, construction costs, permits, fees, realignment costs, relocation costs, costs related to additional pipeline or fixtures to re-route the pipeline, and any and all other costs and expenses to relocate and/or realign the Waterline and/or fixtures and appurtenances thereto. Notwithstanding the foregoing, nothing in this section shall require or otherwise obligate SUISUN CITY to allow FAIRFIELD to relocate and/or realign the Waterline.

III. FAIRFIELD's REPRESENTATIONS:

FAIRFIELD represents and warrants to SUISUN CITY as follows:

1) FAIRFIELD acknowledges that FAIRFIELD is utilizing the right-of-way in sole reliance on FAIRFIELD's own investigation and that no representations or warranties of any kind whatsoever, express or implied, have been made by SUISUN CITY.

2) FAIRFIELD acknowledges that SUISUN CITY shall have no obligation to improve SUISUN CITY's property, and FAIRFIELD further agrees that it is utilizing the right-of-way in an "AS IS" condition.

3) FAIRFIELD warrants and represents that it has complied with, or will comply with, all laws, ordinances, and regulations relating to the installation

of the Waterline and any other Construction Work, including but not limited to any and all environmental statutes, regulations, ordinances, regulations, and/or common law requirements. In addition to the foregoing, FAIRFIELD specifically warrants and represents that it has fully completed performance of all procedural and substantive requirements imposed by the California Environmental Quality Act (“CEQA”) and its accompanying regulations with respect to the Construction Work authorized by this Addendum, except that for any mitigation measures identified in the Waterline project’s Mitigated Negative Declaration dated December 2005 not yet fully implemented, FAIRFIELD warrants and represents that it will cause the timely implementation of such mitigation measures. FAIRFIELD agrees to indemnify, defend, and hold SUISUN CITY harmless against any and all CEQA and/or environmental claims brought by any third party against SUISUN CITY in the manner provided by the Right-of-Way Cooperative Agreement and to the fullest extent permitted under law.

IV. COMPENSATION

A. No Payments. The parties hereby acknowledge and agree that each Party currently has, or will have, pipelines within the other Party’s right-of-way and that no monetary compensation or additional consideration is being required hereunder. Notwithstanding the foregoing, FAIRFIELD agrees to bear all expenses imposed on FAIRFIELD or the Performing Party by the Right-of-Way Cooperative Agreement and this Addendum.

B. Fairfield Covenant on Certain Facilities. FAIRFIELD acknowledges that certain facilities owned by the Suisun-Solano Water Authority, a joint powers authority of which SUISUN CITY is a member, exist within FAIRFIELD’s right of way. FAIRFIELD agrees that it will permit those facilities to remain as if they were SUISUN CITY’s facilities as governed by the Right of Way Cooperative Agreement.

IN WITNESS WHEREOF, the parties have caused this Addendum No. 1 to be executed as of the day and year first above written.

“SUISUN CITY”
 CITY OF SUISUN CITY, a municipal corporation
 By: _____
 Name: _____
 Its: _____

“FAIRFIELD”
 CITY OF FAIRFIELD, a municipal corporation
 By: _____
 Name: _____
 Its: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

 City Attorney

By: _____
 City Attorney

EXHIBIT A

**Description of FAIRFIELD's Waterline
within SUISUN CITY's Right-of-Way**