

**CORONAVIRUS ADVISORY
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CITY COUNCIL

Vincent Salimi, Mayor
Devin Murphy, Mayor Pro Tem
Anthony Tave, Council Member
Maureen Toms, Council Member
Norma Martínez-Rubin, Council Member

**PINOLE CITY COUNCIL
MEETING AGENDA**

**TUESDAY
April 19, 2022
5:00 P.M**

Please note: HYBRID MEETING FORMAT & EARLY START TIME

**Attend in person : PINOLE CITY COUNCIL CHAMBERS - 2131 PEAR STREET
OR**

Attend VIA ZOOM TELECONFERENCE – Details provided below

Please note: Updated COVID-19 safety protocols will be posted outside the City Council Chambers. Please review this information before entering the Council Chambers.

How to Submit Public Comments:

In Person: Attend meeting at the Pinole City Council Chambers, fill out a yellow public comment card and submit it to the City Clerk.

Via Zoom:

Members of the public may submit a live remote public comment via Zoom video conferencing. Download the Zoom mobile app from the Apple Appstore or Google Play. If you are using a desktop computer, you can test your connection to Zoom by clicking [here](#). Zoom also allows you to join the meeting by phone.

From a PC, Mac, iPad, iPhone or Android:

<https://us02web.zoom.us/j/89335000272>

Webinar ID: 893 3500 0272

By phone: +1 (669) 900-6833 or +1 (253) 215-8782 or +1 (346) 248-7799

- Speakers will be asked to provide their name and city of residence, although providing this is not required for participation.
- Each speaker will be afforded up to 3 minutes to speak (subject to modification by the Mayor)
- Speakers will be muted until their opportunity to provide public comment.

When the Mayor opens the comment period for the item you wish to speak on, please use the “raise hand” feature (or press *9 if connecting via telephone) which will alert staff that you have a comment to provide and press *6 to unmute. **To comment with your video enabled, please let the City Clerk know you would like to turn your camera on once you are called to speak.**

Written Comments: All comments received **before 3:00 pm the day of the meeting** will be posted on the City's website on the agenda page ([Agenda Page Link](#)) and provided to the City Council prior to the meeting. **Written comments will not be read aloud during the meeting.** Email comments to comment@ci.pinole.ca.us Please indicate which item on the agenda you are commenting on in the subject line of your email.

Please note: Updated COVID-19 safety protocols will be posted outside the City Council Chambers. Please review this information before entering the Council Chambers.

OTHER WAYS TO WATCH THE MEETING

LIVE ON CHANNEL 26. They are retelecast the following Thursday at 6:00 p.m. The Community TV Channel 26 schedule is published on the city's website at www.ci.pinole.ca.us.

VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, www.ci.pinole.ca.us. and remain archived on the site for five (5) years.

If none of these options are available to you, or you need assistance with public comment, please contact the City Clerk, Heather Bell at (510) 724-8928 or hbell@ci.pinole.ca.us .

Americans With Disabilities Act: In compliance with the Americans With Disabilities Act of 1990, if you need special assistance to participate in a City Meeting or you need a copy of the agenda, or the agenda packet in an appropriate alternative format, please contact the City Clerk's Office at (510) 724-8928. Notification at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Note: Staff reports are available for inspection on the City Website at www.ci.pinole.ca.us. You may also contact the City Clerk via e-mail at hbell@ci.pinole.ca.us .

Ralph M. Brown Act. Gov. Code § 54950. *In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies, which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.*

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

2. LAND ACKNOWLEDGMENT

Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present, and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.

3. ROLL CALL, CITY CLERK'S REPORT & STATEMENT OF CONFLICT

An official who has a conflict must, prior to consideration of the decision: (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself /herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov't Code § 87105.

4. CONVENE TO A CLOSED SESSION

Citizens may address the Council regarding a Closed Session item prior to the Council adjourning into the Closed Session, by first providing a speaker card to the City Clerk.

- A. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
Pursuant to Gov. Code § 54956.9 (d)(1)
MVP Construction

5. RECONVENE IN OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION

6. CITIZENS TO BE HEARD (Public Comments)

*Citizens may speak under any item not listed on the Agenda. The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting. **PLEASE SEE THE COVERSHEET OF THE AGENDA FOR INSTRUCTIONS ON HOW TO SUBMIT PUBLIC COMMENTS***

7. REPORTS & COMMUNICATIONS

- A. Mayor Report
 - 1. Announcements
- B. Mayoral & Council Appointments
- C. City Council Committee Reports & Communications
- D. Council Requests for Future Agenda Items
- E. City Manager Report / Department Staff
- F. City Attorney Report

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY ANNOUNCEMENTS

A. Proclamations

1. Recognizing Education and Sharing Day
2. Recognition for Lorraine Hartnett in the Event of Her Retirement

B. Presentations

1. Community Science Project Presentation by Ann Moriarty, Friends of Pinole Creek Watershed and Dr. Win Cowger, Moore Institute for Plastic Pollution Research

9. CONSENT CALENDAR

All matters under the Consent Calendar are considered to be routine or noncontroversial. These items will be enacted by one motion and without discussion. If, however, any interested party or Council member(s) wishes to comment on an item, they may do so before action is taken on the Consent Calendar. Following comments, if a Council member wishes to discuss an item, it will be removed from the Consent Calendar and taken up in order after adoption of the Consent Calendar.

- A. Approve the Minutes of the March 29, 2022 Special Meeting and the April 5, 2022 Regular Meeting.
- B. Receive the April 2, 2022 -April 15, 2022 List of Warrants in the Amount of \$315,832.25 and the April 15, 2022 Payroll in the Amount of \$486,968.11.
- C. Approve An Amendment to The Employment Agreement for The City Clerk [Action: Adopt Resolution per Staff Recommendation (Shell)]
- D. Authorize the City Manager to Implement a Recruitment Incentive Program [Action: Adopt Resolution per Staff Recommendation (Shell)]
- E. Letter of Support for Assembly Bill (AB) 1944 [Action: Approve Letter of Support per Staff Recommendation (Casher)]
- F. Letter of Support for Assembly Bill (AB) 1814 Regarding Investments in EV Charging [Action: Approve Letter of Support per Staff Recommendation (Mishra)]

10. PUBLIC HEARINGS

Citizens wishing to speak regarding a Public Hearing item should fill out a speaker card prior to the completion of the presentation, by first providing a speaker card to the City Clerk. An official who engaged in an ex parte communication that is the subject of a Public Hearing must disclose the communication on the record prior to the start of the Public Hearing.

- A. Conduct First Reading of Ordinance Adopting a Military Equipment Use Policy and Adding Chapter 2.60 to the Pinole Municipal Code in Compliance with AB 481 [Action: Conduct Public Hearing and Approve First Reading of Ordinance (Casher)]

11. OLD BUSINESS

- A. Fire Department Update [Action: Receive and File Report (Wynkoop)]

12. NEW BUSINESS

- A. Receive Report on How the City Facilitates/Supports Community Events Organized by Private Organizations and Provide Direction as Appropriate
[Action: Receive Report and Provide Direction (Picazo)]
- B. Overview of the History and Activities of Pinole Community Television (PCTV)
[Action: Receive and File Report (Murray)]

13. CITIZENS TO BE HEARD (Continued from Item 6) (Public Comments)

Open only to members of the public who did not speak under the first Citizens to Be Heard, Agenda Item 6

Citizens may speak under any item not listed on the Agenda. *The time limit is 3 minutes for City Council items and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future meeting.*

14. ADJOURNMENT to the Special City Council Meeting of April 26, 2022 in Remembrance of Amber Swartz.

I hereby certify under the laws of the State of California that the foregoing Agenda was posted on the bulletin board at the main entrance of Pinole City Hall, 2131 Pear Street Pinole, CA, on the City's website, not less than 72 hours prior to the meeting date set forth on this agenda.

POSTED: April 14, 2022 at 4:00 P.M.

Heather Bell, CMC
City Clerk

**SPECIAL CITY COUNCIL MEETING
MINUTES
March 29, 2022**

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

The Special City Council Meeting was held via a hybrid meeting format live in-person and Zoom videoconference and broadcast from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Salimi called the Special Meeting of the City Council to order at 6:00 p.m. and led the Pledge of Allegiance.

2. LAND ACKNOWLEDGEMENT

Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.

3. ROLL CALL, CITY CLERK'S REPORT & STATEMENT OF CONFLICT

An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov. Code § 87105.

A. COUNCILMEMBERS PRESENT

Vincent Salimi, Mayor
Devin Murphy, Mayor Pro Tem
Norma Martinez-Rubin, Council Member
Anthony Tave, Council Member
Maureen Toms, Council Member (Zoom teleconference)

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Bell, City Clerk
Eric Casher, City Attorney
Markisha Guillory, Finance Director
Roxane Stone, Deputy City Clerk

City Clerk Heather Bell announced the agenda had been posted on Thursday, March 24, 2022 at 5:00 p.m. with all legally required written notice. No written comments had been received in advance of the meeting.

Following an inquiry, the Council reported there were no conflicts with any items on the agenda.

4. CITIZENS TO BE HEARD (Public Comments)

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Debbie Long, Pinole, commented during the March 15, 2022 City Council meeting that there had been a discussion and comments regarding the development of the former Kmart property, which proposal would consist of 223 apartments, as well as a discussion of Pinole becoming a Charter City. Some of the comments had taken place under Citizens to be Heard and some under Old Business. She explained it had always been the case that citizens choosing to speak should not be attacked for their opinions or chastised or humiliated in a way that may prevent them speaking in the future; however, she stated this previous decorum was not being adhered to by the Mayor Pro Tem. In response to the comments opposed to the large apartment complex, she stated the Mayor Pro Tem had indicated several times that residents of Pinole did not want new people in Pinole. She stated his analysis was not only factually inaccurate but offensive and divisive given that his background in Pinole was short-lived. She welcomed new development and suggested the City was fortunate enough to be able to move forward with some development, although not all projects were appropriate in design, size or site. While people may disagree with a particular size and location of a project, as was the case with the proposal for the former Kmart site, it did not lead to a conclusion that residents did not want new people in Pinole.

5. STUDY SESSION ITEM

A. Special City Council Meeting to Provide an Overview of the City's Revenue Sources **[Action: Receive Report (Guillory)]**

Finance Director Markisha Guillory explained that this item was in response to a future agenda item request for a presentation of the City's tax revenue sources and to inform the City Council and general public on how the City generated revenues and how revenues were used. No action would be taken by the City Council. The report was for information only.

Ms. Guillory provided a PowerPoint presentation which included an overview of the General Tax Revenues which included Property and Sales Taxes, Utility Users' Tax (UTT), Franchise Tax, Motor Vehicle License Fee (VLF), Gas Tax, Business License Tax and Transient Occupancy Tax (TOT) along with the purpose and use of revenues. She also highlighted the Special Tax Revenues which included a Tax Assessment District on properties within the district to maintain median lighting and lighting in the Pinole Valley Road North and South areas. All information had been detailed in the March 29, 2022 staff report.

Council member Toms commented with respect to property taxes that 34 percent of the property tax went to school districts and 19 percent to the City of Pinole, which had been locked in since 1978 and Proposition 13. For comparison purposes, some cities had received as much as 5 percent more in property taxes than Pinole. As to TOT taxes, she clarified with staff that TOTs were collected for Airbnbs. She asked for clarification of the process if the City were to issue bonds for one-time expenditures.

Ms. Guillory outlined General Obligation Bonds payable from property taxes and for that to be passed it would require legislative approval by the City Council, a ballot measure and two-thirds voter approval. From there the City would sell the bonds to generate funds. That option would need to be very specific as to what would be funded and the funds could only be used for that item.

Council member Toms understood similar to how the West Contra Costa Unified School District (WCCUSD) issued bonds, repayment would come from property taxes, not out of the 34 percent tax distribution but an additional assessment on individual tax bills.

Council member Martinez-Rubin clarified with Ms. Guillory the rate of one percent assessed value for property taxes applied to Commercial, Residential and Industrial property categories. She also clarified with staff the VLF, imposed in-lieu of local property taxes, defined excise taxes (such as a litter tax) required two-thirds voter approval given that they would be a special tax as opposed to a general tax, and defined general purposes with a reference to administration including City staff and personnel.

Council member Tave clarified with Ms. Guillory the impacts of Proposition 13. He also referred to prior Council discussions of a Real Property Transfer Tax (RPTT) and the City's Operating Budget for Fiscal Year 2021/22.

Ms. Guillory clarified that the budget was not structurally balanced primarily due to City Council directed initiatives that had been included in the budget. If just basic services had been included in the budget, it would be pretty much balanced. Given that the City had other revenues and reserves, the City's budget was balanced.

Council member Tave further clarified the property tax overview as part of the PowerPoint presentation and the Educational Revenue Augmentation Fund (ERAF) and community college bonds where Pinole paid almost 52 percent of its taxes to schools, with the RPTT being the only tax being implemented at this time. He also clarified with Ms. Guillory the average sales tax percentage in Contra Costa County was about 9.6 percent as compared to the City of Pinole at 9 percent. The City of El Cerrito had the highest sales tax at 10.25 percent.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, spoke to the City's revenues and suggested it would be beneficial for future charts to include Measure S funds in addition to the general budget, particularly since Measure S funds were unrestricted revenue and general taxes as noted. As to the ERAF, he understood the fund had been created to allow the state to take a portion of local property taxes and assign them to the state's obligation to ensure that local education was properly funded and was different from the other tax segments within property taxes. He asked whether one of the charts in the PowerPoint presentation should have included the Countywide Measure X funds and commented on the one percent Consumer Price Index (CPI) change versus property tax change, and noted most of the City's tax revenues were not property taxes with many revenues coming from other sources than from property taxes. He also asked why the TOT was anticipated to decrease in Fiscal Year 2021/22 given the expectation more people would occupy hotels as the pandemic waned as opposed to prior years, and the projection of flat or decreases to the UUT revenues for the same reasons.

Debbie Long, Pinole thanked Ms. Guillory for a very complete analysis of the City's revenues. She commented that Fiscal Year 2018/19 included a summary of revenues similar to the pie chart included in the staff report and had shown that in three fiscal years the City had increased its revenues by almost \$3 million. She asked whether any analysis had been done to identify how the \$3 million had been spent. She also spoke to gas taxes and understood unlike VLFs, gas taxes had been based on the number of miles in the City, which meant that Pinole would always receive fewer gas taxes than the City of Hercules since that community had more miles within its borders. She was uncertain that process had changed and stated it should be clarified.

Ms. Long also commented that the ERAF was at 12 percent with WCCUSD at 48 percent not including bonds and that should be evaluated with more accountability. She noted that other cities received more and the County should reevaluate the ERAF. She also asked of the fund balance in the City's reserves and the fund balance overall for the different funds where monies had been appropriated but had not necessarily been spent and carried over.

Ms. Guillory asked that she be allowed to review the comments from the public and respond via email.

Council member Tave asked that the responses to the public be distributed to the City Council as well.

City Clerk Heather Bell clarified, when asked, that the questions asked by the public would be reflected in the meeting minutes but the responses would not unless they occurred during the meeting.

Council member Tave asked that the responses be provided now if possible to be part of the record.

Ms. Guillory stated some questions from the public would require additional research. As to whether the sales tax rate included County Measure X funds, she confirmed it did. She also clarified why the TOT was less for FY 2021/22 since it had been based on historical numbers, and while some things were starting to reopen after the pandemic and while travel and tourism had increased when the budget had been developed for Fiscal Year 2021/22, they had landed on a safe figure based on what was happening around the uncertainty of the pandemic. As a result, adjustments may need to be made for Fiscal Year 2022/23.

Ms. Guillory stated the actuals had been reviewed with monthly financial reports and updates and with quarterly reports provided to the City Council. She stated the actuals aligned with the budget.

Irma Ruport, Pinole, thanked the Finance Director for the presentation but stated not all of the information had been included in the staff report. She asked that future reports include more detail since some of the charts and slides had missing dates and the charts had not identified the amounts of the funds and who may receive the funds. She added there was a lot of misinformation in the public regarding sales taxes and effects to residents. She asked whether the City would be able to manage given inflation and other factors. She found the PowerPoint presentation difficult to follow with the exception of the charts but suggested this meeting was important allowing a discussion of a single item separate from other agenda items.

PUBLIC COMMENTS CLOSED

Ms. Guillory acknowledged the staff report had not included some of the historical information on the add-on measures but those details would be included as the City moved forward to ensure consistency between the staff report and future presentations.

Mayor Pro Tem Murphy asked how Airbnbs were taxed and City Attorney Eric Casher explained that the TOT for Airbnbs was through an agreement with Airbnb related to their collection of TOTs to the City. The City did not have the same agreement with other short-term rental providers but that could be considered in the future. The current agreement between the City and Airbnb was not imposed by state law or included in the Pinole Municipal Code (PMC).

As to the collection of sales taxes from Apple Apps, as an example, and in response to the Mayor Pro Tem, Ms. Guillory commented that the charges would be reflected on an individual cell phone bill or credit card statement but she was uncertain if that had been included in the tax for the overall service and would have to check that information.

Mayor Pro Tem Murphy suggested it would be intriguing to bring this conversation into the participatory budgeting model to see how it could be used as a way to ask questions. He also suggested consideration of using the PowerPoint presentation as a way to keep the public informed as to when and how revenues were used each year. He suggested some kind of open data access be considered to allow the public to be informed when the funds were coming in and how funds were spent around the revenue streams and reserves.

Mayor Pro Tem Murphy was also interested in greater collaboration between the City and the WCCUSD. He wanted the City to create a stronger partnership with the WCCUSD and its representatives with the knowledge that much of the City's tax dollars went to local schools.

Council member Martinez-Rubin suggested a conversation with the WCCUSD Board of Trustees on issues that could inform communication on responsibilities whether the City of Pinole's or the WCCUSD's. She commented the City Council had met jointly with the WCCUSD in the past to discuss School Resource Officers (SROs) and the issue of shared costs. Discussions between the City and the WCCUSD may help to better inform residents how their tax dollars were being used.

Council member Martinez-Rubin also thanked the Finance Director for the presentation which had been very helpful. Involved at the state level with the League of California Cities Policy Committee on Revenue and Taxation, she was familiar with the tax code and legislation and provided an update on the discussion of online purchases. Pinole did not have a product fulfillment or distribution center, although neighboring cities did and the impacts on the transportation of goods and services were being discussed by other groups within the League of California Cities related to the proportionate share of online sales taxes that could be shared. Another statewide effort involved a group of business people who were working to place on the ballot this November an issue related to tax breaks for large corporations. If that measure were to pass it may impact the availability of taxes to cities.

Council member Tave also wanted to have a conversation with the WCCUSD and reiterated the large percentage of taxes paid to the school district. He agreed with the need to work better with the WCCUSD. He also spoke to the estimated transfer tax if they were to implement something like other cities, and commented it had not been discussed by the City Council and should be considered. Hopefully something could be placed on the ballot.

Council member Tave emphasized the importance of getting the information out to the public and welcomed future discussions on how revenues were generated and how they would be used, which would also be discussed further as part of the upcoming budget discussions.

Mayor Salimi agreed the WCCUSD played an important role in the City and on property values. Comparing the percentage of property taxes other cities paid for their school districts, Pinole's taxes were not as high and property values were lower with many families sending their children to private schools, which was one of the challenges. As to the percentage of taxes Pinole received, he commented that was a conversation the City Council had two years ago. While Pinole received less than the City of El Cerrito, it received more than the City of Hercules. Working with the County, Pinole would receive Measure X funds. It was important to foster the relationships between the City, Contra Costa County and the WCCUSD.

Mayor Salimi also recognized the challenges at the state level where it was becoming more difficult for businesses to remain in California. He reported he had reached out to Assembly member Buffy Wicks, District 15, to provide assistance on how taxes could align better between the state and federal levels.

Mayor Pro Tem Murphy understood there would be a reclassified staff position that would be responsible for working on intergovernmental affairs and asked the City Manager to provide more information.

City Manager Andrew Murray explained that the current Five-Year Strategic Plan adopted in February 2020 included as one of the strategies or special projects the creation of an Intergovernmental Affairs Advocacy Program, which would be fulfilled by assigning a new staff person. The Assistant to the City Manager was a newly reclassified position to handle Council directed strategies and special projects. He also expected the City Council would be asked to consider approving a contract with a legislative advocacy firm that could advocate for the City at the state and federal level.

6. ADJOURNMENT to the Regular City Council Meeting of April 5, 2022 in Remembrance of Amber Swartz.

At 7:30 p.m., Mayor Salimi adjourned the meeting to the Regular City Council Meeting of April 5, 2022 in Remembrance of Amber Swartz.

Submitted by:

Heather Bell, CMC
City Clerk

Approved by City Council:

**CITY COUNCIL MEETING
MINUTES
April 5, 2022**

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

The City Council Meeting was held in a hybrid format (in-person and via Zoom videoconference and broadcast) from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Salimi called the Regular Meeting of the City Council to order at 5:01 p.m. and led the Pledge of Allegiance.

2. LAND ACKNOWLEDGEMENT

Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.

3. ROLL CALL, CITY CLERK'S REPORT & STATEMENT OF CONFLICT

An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov. Code § 87105.

A. COUNCILMEMBERS PRESENT

Vincent Salimi, Mayor
Devin Murphy, Mayor Pro Tem
Norma Martinez-Rubin, Council Member
Anthony Tave, Council Member (Zoom teleconference)
Maureen Toms, Council Member

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Bill, City Clerk
Alex Mog, Assistant City Attorney
Chris Wynkoop, Fire Chief
Lilly Whalen, Community Development Director
Roxane Stone, Deputy City Clerk

Deputy City Clerk Roxane Stone announced the agenda had been posted on Thursday, March 31, 2022 at 4:00 p.m. with all legally required written notices. Revised staff reports for agenda items 9H and 9J had been published after the agenda. One written comment had been received, distributed to the City Council, and posted to the City website.

Following an inquiry, the Council reported there were no conflicts with any items on the agenda.

4. CONVENE TO A CLOSED SESSION

Citizens may address the Council regarding a Closed Session item prior to the Council adjourning into the Closed Session, by first providing a speaker card to the City Clerk.

A. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Gov. Code § 54957.6

Agency designated representatives: Human Resources Director Shell, Assistant City Attorney Mog

Unrepresented employee: City Clerk

PUBLIC COMMENTS OPENED

Deputy City Clerk Stone reported there were no comments from the public.

PUBLIC COMMENTS CLOSED

5. RECONVENE IN OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION

At 6:02 p.m., Mayor Salimi reconvened the meeting into open session and announced there was no reportable action from the Closed Session.

6. CITIZENS TO BE HEARD (Public Comments)

Citizens may speak under any item not listed on the Agenda. The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting

Ivette Ricco, Pinole, Chair, Pinole for Fair Government, commented on the impacts from the pandemic the last two years. Pinole for Fair Government emphasized the importance of engagement and communication as key and essential towards healing and a semblance of normality and made it its mission to bridge the communication gap between residents and local government. In 2019, Pinole Fair Government held its first ever Town Hall at Christ the Lord Episcopal Church and in 2021 held eight virtual Town Halls. Currently, a number of government speakers had been booked for events scheduled for April 23, May 7, May 21, June 11 and July 9, however the venue that had been booked for the events, the Community Playhouse, could not be used for community conversations since the organization was not a theater group.

Pinole for Fair Government was in the process of identifying an alternate venue and the City Manager had allowed the April 23 event to proceed as planned at the Community Playhouse. The remaining dates and venue locations would be announced at a later date.

Rafael Menis, Pinole, referenced the International Plant Protection Convention (IPPC) release of its third report installation and latest review of climate science. He read into the record quotes from The Guardian newspaper about the report and information from the report itself and encouraged the Council to read the report.

Christy Lam-Julian, Pinole, thanked the City Council for the continuation of the hybrid format for City Council meetings. She asked the City Attorney to review Assembly Bill (AB) 1947, Hate Crimes: law enforcement policies, in the hopes the City would be in the forefront on this matter and do right by its citizens. She also asked the City of Pinole to support United Teachers of Richmond (UTR) in its current negotiations with the West Contra Costa Unified School District (WCCUSD), which in her opinion had failed to do its due diligence prior to making decisions to cut funding and eliminate teachers.

7. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

None

B. Mayoral & Council Appointments

None

C. City Council Committee Reports & Communications

Council member Toms reported she had virtually attended the East Bay Fire Mitigation group, which had discussed a Joint Powers Authority (JPA) for the East Bay Hills. She detailed a recommendation to expand the membership of the existing Hills Emergency Forum (HEF) with letters to be sent formally to that organization requesting an expansion of the group with communication to all jurisdictions. She reported at this time it did not appear to be feasible for the group to be a JPA.

Mayor Pro Tem Murphy thanked those who had participated in his recent live/Zoom coffee and conversation chat. The next coffee and conversation chat would be held on April 24, 2022 at 9:00 a.m. at East Bay Coffee and information was available on his website with a link for those who would like to join virtually. Also, the next Marin Clean Energy (MCE) Board of Directors meeting was scheduled for April 21 at 7:00 p.m., with more information available on the MCE website. In addition, he invited the public to the monthly food distribution at the Senior Center on April 11 at 9:00 a.m. and he thanked the Recreation Department for this important service to the community.

Council member Martinez-Rubin reported she had attended the West Contra Costa Transportation Advisory Committee (WCCTAC) meeting on March 25 and briefed the Council on updates from Contra Costa County on its transportation plans. The Contra Costa Transportation Authority (CCTA) would hold workshops on the planned updates with information on the CCTA website. She also announced National Public Health Week April 4 – April 10, 2022, and briefed the Council on the various programs offered with information on the Contra Costa County Public Health website. She wished everyone a Happy Spring.

D. Council Requests for Future Agenda Items

Council member Martinez-Rubin requested a future agenda item for the City Council to consider and discuss a resolution in support of the League of California Cities opposition to a proposition aimed for the November 2022 ballot, identified as Initiative #AG 21-0042A1, the Taxpayer Protection and Government Accountability Act. Consensus given.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, requested a future agenda item for the City Council to discuss a potential resolution or proclamation in support of Ukraine.

Cordell Hindler, Richmond, requested a future agenda item for the City Council to invite Sabrina Landreth, General Manager, East Bay Regional Park District (EBRPD) to provide an update on how COVID-19 had impacted parks in the Bay Area, and to also invite Richmond Promise Executive Director Christopher Whitmore to provide a presentation.

Irma Ruport, Pinole, requested a future agenda item for the City to bring back Neighborhood Watch Groups and for the Fire and Police Chiefs to consider public workshops to allow the public the opportunity to speak with them informally given the many issues in the community.

PUBLIC COMMENTS CLOSED

Council member Toms suggested the request for Neighborhood Watch Groups could be folded into the quarterly report from the Police Chief. She asked of Council interest for a resolution for Ukraine and suggested the requests for presentations could be made through invitations issued to those individuals.

Mayor Salimi advised there was Council consensus for a proclamation for Ukraine.

E. City Manager Report / Department Staff

City Manager Andrew Murray reported the Easter Egg Hunt would be held on Saturday, April 9, 2022 at 10:00 a.m. at Fernandez Park. He also provided a preview of potential agenda items for the April 19, 2022 regular City Council meeting.

F. City Attorney Report

None

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY ANNOUNCEMENTS

None

9. CONSENT CALENDAR

All matters under the Consent Calendar are considered to be routine and noncontroversial. These items will be enacted by one motion and without discussion. If, however, any interested party or Council member(s) wishes to comment on an item, they may do so before action is taken on the Consent Calendar. Following comments, if a Council member wishes to discuss an item, it will be removed from the Consent Calendar and taken up in order after adoption of the Consent Calendar.

- A. Approve the Minutes of the March 15, 2022 Regular Meeting and the March 22, 2022 Special Meeting.
- B. Receive the March 12, 2022 – April 1, 2022 List of Warrants in the Amount of \$1,635,243.60, the March 18, 2022 Payroll in the Amount of \$497,824.38, and the April 1, 2022 Payroll in the Amount of \$502,369.08
- C. Resolution Continuing Authorized Remote Teleconference Meetings Pursuant to AB 361 **[Action: Adopt Resolution per Staff Recommendation (Casher)]**
- D. Activities of the Public Works Department Operations and Maintenance Division **[Action: Receive and File Report (Mishra)]**
- E. Status of Building Permit Process **[Action: Receive and File Report (Whalen)]**
- F. Consulting Services Agreement for Informational Outreach and Ballot Measure Coordination for Potential November 2022 Ballot Measure **[Action: Adopt Resolution per Staff Recommendation (Murray)]**
- G. Resolution Authorizing the City Manager to Enter into a Services Agreement with Fire Recovery USA, LLC **[Action: Adopt Resolution per Staff Recommendation (Wynkoop)]**
- H. Authorize the City Manager to Execute a Settlement Agreement Between the City of Pinole and The Pinole Police Employees Associations **[Action: Adopt Resolution per Staff Recommendation (Shell)]**
- I. Ordinance Amending Chapter 9.24 of the Municipal Code to Regulate the Use and Sale of Fireworks in the City of Pinole **[Action: Adopt Ordinance on Second Reading (Casher)]**
- J. Approve a Disposition and Development Agreement Between the City of Pinole and Grp Shores, LLC for the Development of Property Located at 850 San Pablo Avenue Known as Pinole Shores 2 **[Action: Adopt Resolution per Staff Recommendation (Mishra)]**

Council members requested the following items be removed from the Consent Calendar for discussion: Items 9E, 9F, and 9G.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, referenced Item 9D, Page 74 of the agenda packet and the discussion about wastewater versus stormwater collection systems. He recalled a significant amount of the increased inflow by the City of Pinole into the Wastewater Treatment Plant over the rainy season had been due to infiltration from the stormwater system. He asked whether or not there was an inspection process/conditions assessment planned for the stormwater collection system.

As to Item 9E, Mr. Menis applauded the City for the establishment of Solar Tuesdays, but noted the City's tracking system had not been updated since 2015. As to the adoption of Solar App

Plus, the Department of Energy's automated solar permitting, he commented the federal government had pushed for the adoption of this system in 2021, and questioned why that had not been done at that time. He also asked for clarification on the cost implications of various classification changes as shown in the staff report for the same item. As to item 9F, he asked for clarification of the consultants fixed fee per month for April through November 2022, as shown in the staff report for the item as compared to the scope of services.

Peter Murray, Pinole, referenced Item 9F and his hope no misleading information would be included in any language to be distributed to the community as part of any potential ballot measure and that the content of any questions would be focused on what the community could tolerate. He also recalled the City had used the same consultant for services for another project, although the consultant had taken a stand not to complete the contract. He asked the City Council to ask the consultant, if present, to provide an explanation.

Cordell Hindler, Richmond, referenced Item 9A and questioned the adjournment time for the March 15, 2022 meeting. He suggested the public should hear items first prior to a Council vote. As to item 9C, he hoped the hybrid meeting function would continue to be maintained in the future.

Irma Ruport, Pinole, spoke to Item 9F, stated she had submitted written comments to the City Council and also referenced the fact the consultant had been used in the past, had not satisfactorily completed the scope of work, and had been released from the contract but had still been paid for services. She urged the City Council to be cautious, review past issues, and rather than take action now consider another consultant and not repeat past mistakes.

Council member Tave commented with respect to Item 9E that the City had experienced issues with backlogs of building permits during the pandemic. He thanked staff for the information on the tracking software to improve efficiencies, the increase in staffing, and the fact that lessons learned during the pandemic were being carried forward. He also thanked staff for recognizing that and improving the process.

PUBLIC COMMENTS CLOSED

ACTION: Motion by Mayor Salimi/Council member Martinez-Rubin to Approve Consent Calendar Items 9A, 9B, 9C, 9D, 9H, 9I and 9J, as shown.

Vote:	Passed	5-0
	Ayes:	Salimi, Murphy, Martinez-Rubin, Tave, Toms
	Noes:	None
	Abstain:	None
	Absent:	None

E. Status of Building Permit Process [**Action: Receive and File Report (Whalen)**]

City Manager Murray acknowledged the City's tracking system had not been updated since 2015 but was in the process of being updated, and that much of the City's infrastructure was out of date. At the next City Council meeting, he hoped to obtain City Council approval to approve a contract to update the tracking system.

City Manager Murray also explained that in 2021 when Solar App Plus had been rolled out, the City was in the midst of an organizational/staffing transition. With new staff on board, many issues with the permitting process had been addressed and updates to the City's Information Technology (IT) systems were under way. Once the tracking system was up and running efficiencies would continue to improve.

Community Development Director Lilly Whalen added that reclassifications of some staff would be presented as part of the upcoming budget.

Mayor Pro Tem Murphy acknowledged the extent of community input about the permit backlogs during the pandemic. He commended the City Manager and Community Development Director and their teams for a phenomenal job to address the issues, and to the public for its input. He liked the new programs being considered and the improvements for increased efficiencies. He emphasized the importance of the staff report and asked how the public would be made aware of such important information.

Community Development Director Whalen suggested the public would be educated through good messaging on the City website and at the Planning Department counter, and through handouts and self-service permitting online. She also hoped to implement a dashboard system for the public to see how improvements were being made to the processing of permits in a timely manner in the future.

Council member Martinez-Rubin also appreciated the written staff report and the ability for those who were non-technical to understand the process. She suggested that flow charts would also be beneficial to those drawn to the visual narrative and the way a permit was obtained from desk staff to the desired permit type would be beneficial. The flow chart should also include the expected and anticipated time between one step and the next, and the identification of when gaps in communication may occur which would be instructive to the public.

ACTION: Motion by Council member Toms/Mayor Pro Tem Murphy to Approve the Status of Building Permit Process.

Vote:	Passed	5-0
	Ayes:	Salimi, Murphy, Martinez-Rubin, Tave, Toms
	Noes:	None
	Abstain:	None
	Absent:	None

- G. Resolution Authorizing the City Manager to Enter into a Services Agreement with Fire Recovery USA, LLC **[Action: Adopt Resolution per Staff Recommendation (Wynkoop)]**

Council member Toms reported she had received written comments from a resident unable to attend the meeting who had inquired who was paid during freeway accidents when two trucks responded and trucks remained on-site but no aid was given. She reported she had also shared these questions with the Fire Chief.

Fire Chief Chris Wynkoop clarified that Fire Recovery USA, LLC billed on behalf of the client/agency and any response from a client/agency would be billed. The City of Pinole, as a client/agency, and regardless of the number and sequence of apparatus, the company would be billed on the City's behalf. He clarified if an apparatus remained on-site and no aid was given, the company was only billed as long as aid was given. There were very few circumstances where the trucks would remain on the scene and no aid would be given. The most common billing occurrence was assessing and stabilizing the scene, which was a billable incident. The only situation where no aid would be given would be if Hercules/Rodeo arrived on-scene, as an example, and stated they needed no further aid and the trucks would then simply drive by. As long as the trucks were on- or remained on-scene they were assessing and stabilizing the scene. Also, the company as the billing entity would bill and then remit to the City 78 percent and keep the remaining 22 percent and would not be paid unless the claim was paid.

ACTION: Motion by Council member Toms/Mayor Pro Tem Murphy to adopt a Resolution Authorizing the City Manager to Enter into a Services Agreement with Fire Recovery USA, LLC.

Vote:	Passed	5-0
	Ayes:	Salimi, Murphy, Martinez-Rubin, Tave, Toms
	Noes:	None
	Abstain:	None
	Absent:	None

- F. Consulting Services Agreement for Informational Outreach and Ballot Measure Coordination for Potential November 2022 Ballot Measure **[Action: Adopt Resolution per Staff Recommendation (Murray)]**

City Manager Murray confirmed the consultant Lew Edwards Group (LEG) was not present. He clarified LEG had been hired to work with the City on Measure S in 2006 and on the Utility Tax (UT) extension in 2012. Oftentimes the work was done in two different phases, the pre-placement phase work leading up to whether a measure should be placed on a ballot, and the post-placement phase after a City Council decided to place a measure on the ballot, with communication and engagement to occur after that.

City Manager Murray stated that based on his understanding, LEG had completed its work on the UT in 2012 up to the pre-placement phase, and had been paid for that work and not for any work not completed. He found no information in the record that the City was not satisfied with LEG. Subsequently, the City Council had decided to go in-house for the work for cost savings reasons and for the post-placement community engagement and that using City staff was a natural breaking point for the consultant.

Staff was fully aware of the City's past engagement with LEG. LEG had been forthcoming with its past engagement and its monthly retainer was competitive for the type of services offered and for a city the size of Pinole. LEG was among the state's leading experts in this area and was familiar with the community given its past work with the City of Pinole. Staff had not seen anything unusual in the record and again LEG had the experience and had submitted a competitive proposal, which why staff had recommended LEG for the work as described for Item 9F and as outlined in the April 5, 2022 staff report.

City Manager Murray explained if at any point the City Council decided it did not want to use LEG and preferred to work in-house or consider using other resources that could be done.

Council member Toms clarified with the City Manager if for any reason after receiving the results of the survey the City Council made a decision not to move forward with a ballot measure that would be a milestone point in which to terminate the contract with LEG, and the City Council may terminate the contract at any point in time even if not reaching the pre-placement phase.

In response to Council member Tave, City Manager Murray clarified the oversight involved with the consultant's work and the fact that Pinole had Professional Services Agreements with multiple firms for different deliverables, with the City Manager's Office working in close coordination with the City Attorney's Office. One of the consultant's responsibilities would be to advise on the ballot measure language and legal requirements. LEG had legal background and there were standard procedures to evaluate the deliverables. As with all Professional Services Agreements, if at some point the City was not receiving a deliverable that was satisfactory, steps could be taken as allowed in the Agreement that required re-work or possible termination. He reiterated he had seen nothing in the record to indicate any concern about the quality of LEG's work.

Council member Martinez-Rubin also clarified with the City Manager the milestones and the proposed scope of work as included in the staff report, with the scope to depend on what the City decided to move forward with in terms of the education/engagement process.

Council member Martinez-Rubin sought an outline of the tangibles that may result from the process, such as outcomes of coordination with City staff, who would receive the message training, what would be left to the City to use and build upon for future comparable work, questions on how well the City was doing with the training, a resource list of past practices regarding messaging or media coverage, training or presentations to the City Council and the result of that coordination and discussions with staff, among others.

City Manager Murray expressed the willingness to ask LEG to provide a scope with more details on the deliverables, but it had not been a consistent practice and the scope of services was not that different from what a different consultant had delivered for the Communication and Engagement Plan and Economic Development Strategy. The intent was to capture the value as much as possible of the work the consultant was doing so that staff may document what was learned and use it in the future.

As to whether an audit of all recent city issues as part of the scope of services could be included, City Manager Murray clarified that could be another area where LEG could be asked to provide more details. He understood that was part of the operation of submitting the Request for Proposal (RFP) and given LEG's past work and familiarity with Pinole it was aware of recent issues and had dialogue about various civic matters. He also clarified the City's designated Public Opinion Research Professional was FM3, the other consulting firm that LEG would be working with as part of its RFP and which would be conducting the polling.

ACTION: Motion by Council member Tave/Mayor Pro Tem Murphy to approve a Consulting Services Agreement for Informational Outreach and Ballot Measure Coordination for Potential November 2022 Ballot Measure.

Vote: Passed 5-0

Ayes:	Salimi, Murphy, Martinez-Rubin, Tave, Toms
Noes:	None
Abstain:	None
Absent:	None

10. PUBLIC HEARINGS

Citizens wishing to speak regarding a Public Hearing item should fill out a speaker card prior to the completion of the presentation, by first providing a speaker card to the City Clerk. An official who engaged in an ex parte communication that is the subject of a Public Hearing must disclose the communication on the record prior to the start of the Public Hearing.

None

11. OLD BUSINESS

None

12. NEW BUSINESS

- A. Letter of Support for Assembly Bill 1944 [**Action: Receive Report and Consider Approval of Letter per Staff Recommendation (Casher)**]

Assistant City Attorney Alex Mog presented the staff report and recommended the City Council consider issuing a Letter of Support for Assembly Bill (AB) 1944.

Responding to the Council, Mr. Mog again clarified the requirements of AB 1944, which was only a requirement if a Councilmember was participating remotely through electronic means and those same electronic means would have to be made available to the public. Even if the legislation did not pass the City Council may consider the option of allowing members of the public to participate remotely. If the City Council approved the item, a basic letter for the Mayor's signature would be prepared to be sent to the City's representative in the Assembly and Senate.

Mayor Pro Tem Murphy suggested all letters of support be signed by the entire City Council. Given no letter of support had been included in the staff report, he suggested the item be tabled to a future date.

City Manager Murray agreed the item should be tabled given the status of the bill was currently pending and with the item to return to the City Council with a draft letter of support.

City Clerk Heather Bell suggested rather than continue the item it could be brought back as a Consent Calendar item reflecting the Council's direction.

Assistant City Attorney Mog stated, when asked by the Mayor Pro Tem whether AB 1944 was the only legislation surrounding Brown Act reform, that he was aware of another piece of legislation but was uncertain what stood the best chance of succeeding.

City Clerk Bell reported she would be attending the Annual City Clerk's Association Conference and there would be a lot of information sharing. She could bring back any updates on pending legislation.

Assistant City Attorney Mog again clarified the impetus for AB 1944 as outlined in the staff report. If the City Council desired, it could continue hybrid meetings even if all Council members were present, which was available under the current law. AB 1944 was about Council member participation in public meetings. The City was currently conducting hybrid meetings through AB 361, and through the adoption of a resolution with certain findings. AB 361 would sunset in 2024 or January 1, 2025. If passed by state legislators, AB 1944 would be a permanent change to the Brown Act.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, suggested that AB 1944 was a good idea, a simple law, and beneficial. He read the legislation into the record and explained that AB 1944 would codify the hybrid meeting option and a streamed method for viewing the meeting. He urged the City Council in due course to issue a letter in support of AB 1944.

PUBLIC COMMENTS CLOSED

ACTION: Motion by Mayor Pro Tem Murphy/Council member Toms to continue a request for a Letter of Support for Assembly Bill 1944 to the City Council meeting of April 19, 2022.

Vote:	Passed	5-0
	Ayes:	Salimi, Murphy, Martinez-Rubin, Tave, Toms
	Noes:	None
	Abstain:	None
	Absent:	None

- B. Consideration of a Letter of Support for United Steelworkers Contract at Chevron Richmond Refinery [**Action: Receive Report and Consider Approval of Letter per Staff Recommendation (Whalen)**]

Community Development Director Whalen presented the staff report and asked the City Council to consider sending a letter of support for the United Steelworkers (USW) Local 5 members employed at the Chevron Refinery in Richmond regarding a labor contract.

Responding to the Council, Community Development Director Whalen and City Manager Murray were unaware of the number of Pinole residents who were members of USW Local 5 and staff had not engaged with the City of Richmond regarding Pinole's potential endorsement of a letter of support for USW Local 5.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, supported the City Council's endorsement of a letter of support for USW Local 5. He suggested Chevron could afford to provide a cost of living increase to USW Local 5 members, and suggested bringing in scabs while breaking off labor negotiations was unfortunate and should have been avoided.

PUBLIC COMMENTS CLOSED

Council member Toms stated she would have cautioned the City Council becoming involved in labor negotiations, although she suggested there was a nexus to having the USW Local 5 contract settled in terms of public safety. She recommended the following statement be added to the letter shown in Attachment A to the April 5 staff report:

Industrial facilities near Pinole, including Chevron Richmond Refinery, pose a significant health and safety risk to the population and also the environment due to the nature of the business. The risk is reduced with a highly trained work force. When employees trained to operate the facility in a safe manner are replaced with untrained and temporary workers the risk of a significant incident is multiplied. For the health and safety of the community and the environment we strongly urge Chevron to settle the labor dispute with the refinery workers.

Council member Toms reported she had family members on the picket line, had run the statement by them for their thoughts, and there had been support. She had also run the additional statement by the City Manager.

Council member Martinez-Rubin explained that unions offered an opportunity for the work force to be trained adequately and uphold occupational standards for health and safety. She strongly supported the additional statement as read into the record.

Mayor Pro Tem Murphy also supported the additional statement to the letter and was thankful that Council member Toms had worked with people on the ground. He emphasized that environmental health was a priority and fair labor practices and fair wages were needed, particularly during the pandemic.

Council member Tave agreed with the additional statement, although he suggested that both parties, Chevron Refinery and USW Local 5 should get back to the table to negotiate and possibly the letter could be amended further to reflect that sentiment.

Council member Toms agreed that additional editing be considered to encourage both parties to come together.

The last sentence of the letter contained in Attachment A was amended as follows:

The Pinole City Council strongly urges both parties to agree to a fair labor contract with USW Local 5.

Mayor Pro Tem Murphy also requested an additional amendment to the CC as shown on the bottom of the letter to read:

CC: Pinole City Councilmembers Martinez-Rubin, Tave, Toms, Mayor Pro Tem Murphy, Mayor Salimi
Andrew Murray, Pinole City Manager
Mike Smith, Chair, United Steelworkers National Oil Bargaining Program
United Steelworkers Local 5 Union

There was City Council consensus to accept all revisions to the letter of support.

ACTION: Motion by Council member Toms/Mayor Pro Tem Murphy to approve a Letter of Support for United Steelworkers Contract at Chevron Richmond Refinery, as modified.

Vote: **Passed** **5-0**
 Ayes: **Salimi, Murphy, Martinez-Rubin, Tave, Toms**
 Noes: **None**
 Abstain: **None**
 Absent: **None**

- C. Receive Draft Information Technology Plan (“IT Plan”) and Recommend Changes, If Any, to be Incorporated into Final IT Plan [**Action: Receive Report and Provide Direction (Murray)**]

City Manager Murray introduced the item as part of the Five-Year Strategic Plan which had outlined 22 individual projects the City Council wanted staff to complete to achieve the goals of the Plan, which included an Information Technology Plan (“IT Plan”).

Kosta Paskos, CEO Precision IT Consulting, provided a PowerPoint presentation of the Draft Information Technology Plan for Fiscal Year (FY) 2021-2026, which included an overview of the Five-Year IT Plan as part of the City Council’s adopted Five-Year Strategic Plan for 2020-2025 which identified the vision, mission and goals of the City. He highlighted the IT Plan components including IT management, IT planning and budgeting, IT infrastructure, software applications, electronic devices managed by City Departments, recent IT accomplishments and future IT projects.

Mr. Paskos explained that staff would incorporate input provided by the Council into a Final IT Plan that would be published later this fiscal year and would also conduct one more review and refresh the future projects list to ensure that the list was complete.

Responding to the Mayor Pro Tem, Mr. Paskos clarified the fiber optic upgrades and explained there was little documentation/information when the equipment had been installed 25-years ago. The current system involved old technology and the connected speeds between sites was very slow. The intent was to gather as much information as possible to evaluate and test the system in order to prepare a plan for replacement with current and better technology.

City Manager Murray described the reactive approach to IT maintenance in the past due to fiscal constraints and the Great Recession. This effort was the first long-term planning assessment of existing infrastructure. Many of the improvements could be accomplished separate from the Capital Improvement Plan (CIP). As an example, partial fiber optic upgrades from the Pinole-Hercules Wastewater Treatment Plant and underneath the railroad crossing at Tennant Avenue had been done but not upgrades along Tennant Avenue itself. The City would need to repave Tennant Avenue as part of the close out of the Hercules Wastewater Treatment Plant Upgrade Project and it would be a good time to also conduct dry utilities such as the Internet. Also, the Municipal Development Consultant was looking at broadband as an economic development strategy and there were multiple efforts ongoing at the same time. The completion of the Final IT Plan would allow for cross integration with other plans underway.

City Manager Murray confirmed that cost savings as part of the IT Plan would be reflected in the budget in the future and he expected with the implementation of the City’s new phone system, as

an example, it would reduce the number of phone lines affording the City significant cost savings. There were other efficiencies as part of IT improvements that would also result in costs savings for the City. He added that existing and new staff were technology forward and there was a desire amongst staff to make better use of IT tools. Required training would be provided and the City's service model for IT was being evaluated.

One of the recommendations from the IT Plan was to have more than one Precision Consulting person on-site with funding to come from cost recovery from all City Departments and funds. Staff was again researching potential realignment to determine the right IT service model and there may be proposed changes over the next few years.

City Manager Murray commented that if the Town Council moved forward with the Draft IT Plan, ideally all of the plans and individual components would be integrated into the City's budget, and every year they should be able to identify what was planned for each City Department for each fiscal year and at the end of the fiscal year include a recap. The IT Division budget should identify the projects to be considered each year.

In terms of improvements to the City's website and in response to Council member Martinez-Rubin, City Manager Murray advised the City website was not the responsibility of Precision IT Consulting. A total refresh of the City website had occurred in 2019, and by some standards it was modern but he expected the forthcoming Communication and Engagement Plan would include recommendations for updating the City website and any IT recommendations as part of that Plan would be part of the Final IT Plan.

City Manager Murray also explained that Electronic Traffic Control Devices would not be managed by the IT Division but managed and maintained by the County on the City's behalf, and be outside the scope of this project in that it would actually be a CIP project. Electronic Traffic Control Devices, while not IT equipment, must be integrated by a fiber background requiring some coordination. A footnote or toehold could be included in the Draft IT Plan to reference and highlight that issue.

Council member Toms commented it would be important for authentication of VPN programs for the security of the system. Voice-over Internet phones/soft phones would be useful especially if staff continued to work off-site. She asked whether some of the items could be separated and funded through the American Rescue Plan Act (ARPA) since not all ARPA funds had been allocated, which would be a good discussion to have prior to the budget discussion. She understood some of the IT projects had a nexus to the types of projects that could be funded through ARPA.

City Manager Murray commented that some of the projects had already been funded, such as the voice-over IP phone system upgrade. The two-factor authentication was not inexpensive, with the hurdle being user adoption which was critical for security. The Finance Director would be tasked with determining what buckets could be used to fund what projects, to be sorted through the budget process.

Mr. Paskos clarified in response to Council member Tave that whomever was tasked with installing fiber optics in the City could be asked to repair or evaluate the City's fiber network as well and there could be some cost savings to add something into the ultimate program. He was uncertain whether ARPA funds could be used for that effort and commented that ultimately the

City would want to keep those networks (broadband and fiber optics) isolated and separated physically.

City Manager Murray also clarified in response to the Mayor that the new Public Works Director used his personal license to do AutoCAD work since City staff had done limited in-house design and he would leave it to the Public Works Director if other software was needed. Staff was aware of a prior City Council request for the use of Gantt Charts for Public Works Department quarterly reports, but he was uncertain whether Microsoft Suite was used by the Public Works Department. If the software was needed, he was confident it would be requested by staff. In addition, the City Clerk's Department used DocuSign software and requests for additional staffing would be part of the upcoming budget proposal for the next fiscal year.

Mayor Salimi suggested consideration of a better system than the use of a generator at City Hall for backup power and suggested Pinole TV should be updated since it was using old software.

City Manager Murray reiterated that staff was working on the budget for all departments with budget requests to be presented to the City Council at a future meeting.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, identified the projects anticipated for this fiscal year as outlined on page 306 of the agenda packet. He asked whether the PowerPoint presentation could be uploaded on the City website since some of the information provided had not been included in the staff report. He asked that there be consideration of solar and battery backups for City Hall rather than a generator for backup power. He also cited the replacement of the Senior Center Alarm System as one of the IT projects, agreed it should be a high priority and was pleased it had been flagged. The staff report also had information on updates to the City's website and at such time as when the City commenced with updates to the website he asked that there be consideration of making it more multilingual given that a large percentage of Pinole was non-English speaking.

Mr. Menis also understood the cloud server was on a six-year cycle as compared to other servers and he asked why there was a difference and questioned whether the cloud server was redundant.

Cordell Hindler, Richmond, thanked staff for the informative presentation. He agreed the Senior Center needed a lot of work, was outdated since the 1990s, and was pleased it had been prioritized for IT upgrades. He agreed the City website should be multilingual to benefit all Pinole residents.

Tony Gutierrez, Pinole, found the City's current fiber optic speeds were too slow. He asked whether or not there were future rollout plans for fiber by AT&T and commented when a fiber optic network was installed it included a lot of dark fiber that could be an option for the City. In the interim, he asked of the maximum speeds for the co-axial system that currently existed.

PUBLIC COMMENTS CLOSED

City Manager Murray clarified in response to the public comments that battery backups should be added as a future project such as updates that were needed for the Emergency Operations Plan (EOP). He reported that similar efforts were being made to update all facilities for energy

conservation/generation/storage with an IT component and which could be added to future projects. He also informed the public there was a Google translate function on the current City website that had been reactivated as part of the Community and Engagement Plan and accessibility for people who required special accommodation to use the website still needed to be implemented. The City website required an accessibility audit related to the Americans with Disabilities Act (ADA).

Mr. Paskos added that servers typically included a five-year warranty and may be extended to six years but he would have to review the exact equipment.

City Manager Murray also clarified that AT&T's fiber optics plans were not part of the IT services nor part of the scope of services for the IT Plan but was an economic development, capital project. The economic development consultants had been tasked at looking at broadband as an economic municipal development tool and staff would be looking at any recommendations worth further exploration.

Sam Calicura, Virtual Chief Innovation Officer, Precision IT Consulting, clarified that any upgrades would involve multimode fiber but he did not have more detail on the fiber infrastructure at this time.

Mayor Pro Tem Murphy loved the IT Plan and thanked staff for its prioritization. He wanted to see quarterly reports on the status of the IT Plan recognizing it was a long-term plan, but it would be helpful to understand what was happening given the recognition that technology was ever-changing. He suggested the IT Plan was missing a value statement in terms of understanding the approach to improve the City's IT systems, such as simplicity, meeting people where they were, investing in solutions and building public trust in tech and data, staff trust, immersive in the sense of multifactor authentication, upgrading new email systems and why IT was important should be factored into a value statement in the IT Plan. He also suggested the idea of open source data to increase the understanding of the community's sentiment would be important as the IT system was build out in the next five years.

Mayor Pro Tem Murphy pointed out that with the reopening of Fire Station No, 74 as a public building, it had no emerging systems of tech and he suggested that should also be discussed around the Youth and Swim Centers and engage youth and seniors in this conversation. He wanted to increase the understanding of the community sentiment with the IT Plan and build public trust in tech and in the City's data and information. He suggested there was also a secondary part around staff and wanted to bridge the divides. Also, he wanted more information on how education and training would be incorporated into the IT Plan and suggested it would be valuable to set objectives and outcomes around that internal and external to the City. He suggested a glossary (dictionary) of information on the terms around this topic would be critical to build a simple, inclusive, equitable and open source for a data smart city. He looked forward to future discussions to see the IT Plan actualized.

Council member Martinez-Rubin commented that when the City Council reached the budget process she would be questioning why they were suggesting certain things given all of the investment they wanted to make. She was unsure what would yield involvement from the community and recognized that a lack of interest from the community may mean there was a lack of means to participate for whatever reason. She was uncertain how open source data would work, and how open source data would work with the public and future City operations.

Council member Toms suggested the IT Plan would implement improvements to make staff be more efficient, employ the best use of time, be able to answer phones while working remotely and improve security of the City's systems. She suggested the IT Plan would accomplish that and while some of the items should be implemented in a more compressed time period, if the use of ARPA funds would help to achieve that it would be something to consider through the budget process. If the use of ARPA funds was possible in the next few fiscal years, the City may be able to accelerate the implementation of those items. She was prepared to approve the Draft IT Plan.

Council member Tave agreed it was time to move forward with the Draft IT Plan. He recognized that any deferred maintenance impacted the public. He concurred with Council member Toms that the efforts to proceed with IT improvements should be accelerated as much as possible.

Mayor Salimi thanked everyone for the report and presentation. He supported moving forward to accept the IT Plan and he clarified with the Assistant City Attorney that no action was requested other than for the City Council to receive the report.

13. CITIZENS TO BE HEARD (Continued from Item 6) (Public Comments)

Only open to members of the public who did not speak under the first Citizens to be Heard, Agenda Item 6.

Citizens may speak under any item not listed on the Agenda. *The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting.*

Cordell Hindler, Richmond, expressed concern with the length of City Council meetings and referenced the Richmond City Council Procedures which included time constraints for each agenda item which he suggested the Pinole City Council consider. He also commented that a prior meeting agenda included a Consent Calendar item related to management pay, and he urged consideration of a Class and Compensation Study to be part of the budget discussions. In addition, he had been unable to thank former Assistant City Manager Hector De La Rosa for all of his hard work in a position that was very important. He otherwise suggested if the public was limited to three minutes for public comment, the City Council should follow the same rules when speaking on agenda items.

Tony Vossbrink, Pinole, expressed disappointment the City Council had not discussed a recent shooting incident at Pinole Valley Lanes parking lot. He also referenced other criminal incidents in the community which the City Council should address as a public health and safety issue. He suggested the bowling alley had been targeted for criminal activities and expressed concern that crime was increasing in Pinole. He recommended more security cameras on the freeway exits/on-ramps and in local shopping centers to improve security in the community.

Mayor Salimi stated that Pinole was a safe community and the incident on March 27, 2022 was not a reflection of the City of Pinole but the society in which we all lived. The City Council had been made aware of the March 27 incident, he had subsequently met with the City Manager, Police Chief and the victim of the incident, and the investigation was ongoing. He was confident that those responsible would be apprehended.

Mayor Salimi added that the City Council was aware of the time limitations and did its best during City Council meetings; a pay study for management and non-management personnel had been prepared in 2021; and there would be an Assistant to the City Manager soon.

Tony Gutierrez, Pinole, explained that he and his family had been rooted in Pinole since 1982. He recognized changes had occurred in the community as they had in other communities in the Bay Area.

14. ADJOURNMENT to the Regular City Council Meeting of April 19, 2022 in Remembrance of Amber Swartz.

At 9:18 p.m., Mayor Salimi adjourned the meeting to the Special City Council Meeting of April 19, 2022 in Remembrance of Amber Swartz.

Submitted by:

Heather Bell, CMC
City Clerk

Approved by City Council:



City of Pinole, CA

9B WARRANT LISTING

By Vendor Name

Payment Dates 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 4LE00 - 4LEAF, INC.					
J1909-03B	98821	04/15/2022	212-462-42101	PERMIT TECH CDD	14,795.00
J1909A45	98821	04/15/2022	212-462-42101	INTERIM BLDG OFFICIAL CDD	19,737.00
Vendor 4LE00 - 4LEAF, INC. Total:					34,532.00
Vendor: ADA03 - ADAMSON POLICE PRODUCTS					
INV373707	98769	04/08/2022	100-221-47105	HANDCUFF DC CHARGERS	246.90
				SAFETY GEAR FOR PD	
INV373711	98769	04/08/2022	100-221-44410	SAFETY EQUIP PD	1,006.05
Vendor ADA03 - ADAMSON POLICE PRODUCTS Total:					1,252.95
Vendor: ALL14 - ALLSTAR FIRE EQUIPMENT, INC.					
238631	98822	04/15/2022	100-231-42107	FIRE EQUIP	1,320.05
Vendor ALL14 - ALLSTAR FIRE EQUIPMENT, INC. Total:					1,320.05
Vendor: 2013 - ALTA LANGUAGE SERVICES INC.					
ISS83548	98770	04/08/2022	100-222-40308	WRITING TEST AND LISTENING & SPEAKING TEST PD	121.00
ISS83548	98770	04/08/2022	209-551-40308	WRITING TEST AND LISTENING & SPEAKING TEST PD	121.00
Vendor 2013 - ALTA LANGUAGE SERVICES INC. Total:					242.00
Vendor: 2357 - AMERICAN LEAK DETECTION					
111917	98823	04/15/2022	500-641-42108	LEAK REPAIR WPCP	1,500.00
Vendor 2357 - AMERICAN LEAK DETECTION Total:					1,500.00
Vendor: AME52 - AMERICAN MESSAGING SERVICE, LLC					
W4102378WD	98824	04/15/2022	525-118-43101	MESSAGING SERVICE FIRE	43.47
Vendor AME52 - AMERICAN MESSAGING SERVICE, LLC Total:					43.47
Vendor: 2005 - ANIMAL DAMAGE MANAGEMENT, INC					
5228C	98771	04/08/2022	100-345-42108	PEST CONTROL FERNANDEZ AND PINOLE VALLEY PARK CY	250.00
Vendor 2005 - ANIMAL DAMAGE MANAGEMENT, INC Total:					250.00
Vendor: ATT01 - AT&T					
000017938907	98772	04/08/2022	525-118-43101	INTERNET PD	2,551.48
287277095767X03282022	98825	04/15/2022	215-341-43101	CORRIDOR MOBILITY PROJECT PW	77.22
Vendor ATT01 - AT&T Total:					2,628.70
Vendor: BAX00 - BADGE FRAME, INC.					
281352	98826	04/15/2022	100-222-42201	SLIDE IN DOOR SIGN PD	58.99
Vendor BAX00 - BADGE FRAME, INC. Total:					58.99
Vendor: BAY34 - BAY AREA NEWS GROUP- EAST BAY					
0001332457	98827	04/15/2022	100-112-42514	CLASSIFIED LEGAL NEWSPAPER CITY CLERK	72.00
0001332457	98827	04/15/2022	100-112-42514	CLASSIFIED LEGAL NEWSPAPER CITY CLERK	138.60
0001332457	98827	04/15/2022	212-461-42514	CLASSIFIED LEGAL NEWSPAPER CITY CLERK	296.10
Vendor BAY34 - BAY AREA NEWS GROUP- EAST BAY Total:					506.70
Vendor: BOU01 - BOUND TREE MEDICAL, LLC					
000000030461	98828	04/15/2022	100-231-42104	CREDIT	-120.00
84452858	98828	04/15/2022	100-231-42104	CYLINDER OXYGEN FIRE	1,030.43
84456739	98828	04/15/2022	100-231-42104	MEDICAL SUPPLIES FIRE	1,972.91
84477845	98828	04/15/2022	100-231-42104	MEDICAL GLOVES FIRE	1,860.28
Vendor BOU01 - BOUND TREE MEDICAL, LLC Total:					4,743.62

Approved: *[Signature]*
Date: 4/14/22
Processed by: *[Signature]*

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 1654 - BRINK'S INCORPORATED					
4374878	98773	04/08/2022	100-115-42101	TRANSPORTATION SERVICE FINANCE	18.62
Vendor 1654 - BRINK'S INCORPORATED Total:					18.62
Vendor: CAL20 - CALIFORNIA ASSOCIATION OF PROFESSIONAL FIREFIGHTERS					
APRIL 2022	98774	04/08/2022	100-231-41008	LONG TERM DISABILITY FIRE	265.50
APRIL 2022	98774	04/08/2022	105-231-41008	LONG TERM DISABILITY FIRE	88.50
Vendor CAL20 - CALIFORNIA ASSOCIATION OF PROFESSIONAL FIREFIGHTERS Total:					354.00
Vendor: 1578 - CALIFORNIA POLICE CHIEF ASSOCIATION					
21626	98829	04/15/2022	100-221-42301	SUMMIT REGISTRATION FEE PD	495.00
Vendor 1578 - CALIFORNIA POLICE CHIEF ASSOCIATION Total:					495.00
Vendor: PER03 - CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTM					
100000016757125	98830	04/15/2022	100-111-41004	REPLACEMENT BENEFIT CONTRIBUTION	1,346.04
Vendor PER03 - CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTM Total:					1,346.04
Vendor: CCP03 - CCP INDUSTRIES					
IN02979819	98775	04/08/2022	500-641-44410	NITRILE POWDER GLOVES WPCP	156.59
Vendor CCP03 - CCP INDUSTRIES Total:					156.59
Vendor: 2060 - CENTRAL CONCRETE SUPPLY CO., INC.					
391682	98776	04/08/2022	100-345-42108	TURF / SOIL FERNANDEZ PARK	332.89
Vendor 2060 - CENTRAL CONCRETE SUPPLY CO., INC. Total:					332.89
Vendor: 2229 - CHAPLIN AND HILL INVESTIGATIVE SERVICES LLC					
C&HIS 21-09_4	98831	04/15/2022	100-222-42201	REPORT WRITING REVIEW PD	1,200.00
Vendor 2229 - CHAPLIN AND HILL INVESTIGATIVE SERVICES LLC Total:					1,200.00
Vendor: 1108 - CHRIS FODOR					
03302022	98777	04/08/2022	100-221-44410	BATON AND ATTACHMENTS PD FODOR	44.83
Vendor 1108 - CHRIS FODOR Total:					44.83
Vendor: CIT08 - CITY MECHANICAL, INC					
81167	98778	04/08/2022	100-343-42108	HVAC PYC	5,625.00
81178	98778	04/08/2022	209-558-42108	HVAC MEMORIAL HALL	503.63
81180	98778	04/08/2022	100-343-42108	HVAC POST OFFICE	456.99
Vendor CIT08 - CITY MECHANICAL, INC Total:					6,585.62
Vendor: COL02 - COLE-PARMER INSTRUMENT CO					
3048872	98779	04/08/2022	500-641-44306	CP PIPET 10ML WPCP	204.73
Vendor COL02 - COLE-PARMER INSTRUMENT CO Total:					204.73
Vendor: COM20 - COMCAST					
03162022PD	98780	04/08/2022	100-222-43105	CABLE SERVICE 032122-042022 PD	170.84
03182022TINYTOTS	98780	04/08/2022	525-118-43101	INTERNET TINY TOTS	141.80
Vendor COM20 - COMCAST Total:					312.64
Vendor: CON56 - CONCENTRA MEDICAL CENTERS					
74774708	98781	04/08/2022	100-116-42101	PRE EMPLOYMENT PHYSICAL HR	691.50
Vendor CON56 - CONCENTRA MEDICAL CENTERS Total:					691.50
Vendor: CON93 - CONCORD UNIFORMS LLC					
18931	98782	04/08/2022	100-222-44410	JACKET AND NAME TAG PD	92.08
18945	98782	04/08/2022	100-222-44410	VELCRO BELT UNIFORM PD	40.55
19027	98782	04/08/2022	100-222-44410	NYLON BELT UNIFORM PD	35.07
19332	98782	04/08/2022	100-222-44410	POSSE UNIFORM PD	208.20
Vendor CON93 - CONCORD UNIFORMS LLC Total:					375.90
Vendor: CON42 - CONTRA COSTA COUNTY CLERK					
04042022	98832	04/15/2022	106-345-47203	FILLING FEES NQF PINOLE VALLEY PARK PLAYGROUND PW	50.00

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
04042022-2	98833	04/15/2022	106-345-47203	FILING FEES NOE FERNANDEZ PARK PLAYGROUND PW	50.00
Vendor CON42 - CONTRA COSTA COUNTY CLERK Total:					100.00
Vendor: CCC13 - CONTRA COSTA COUNTY PUBLIC WORKS DEPARTMENT					
704514	98783	04/08/2022	200-342-42101	TRAFFIC SIGNAL MAINTENANCE NOVEMBER 2021 PW	11,855.35
704514	98783	04/08/2022	310-347-42101	TRAFFIC SIGNAL MAINTENANCE NOVEMBER 2021 PW	147.37
704514	98783	04/08/2022	310-348-42101	TRAFFIC SIGNAL MAINTENANCE NOVEMBER 2021 PW	294.74
704601	98783	04/08/2022	200-342-42101	TRAFFIC SIGNAL MAINTNENACE DECEMBER 2021 PW	9,963.09
704601	98783	04/08/2022	310-347-42101	TRAFFIC SIGNAL MAINTNENACE DECEMBER 2021 PW	294.74
704601	98783	04/08/2022	310-348-42101	TRAFFIC SIGNAL MAINTNENACE DECEMBER 2021 PW	153.36
704745	98783	04/08/2022	200-342-42101	TRAFFIC SIGNAL MAINTENANCE JANUARY 2022 PW	6,080.60
704745	98783	04/08/2022	310-347-42101	TRAFFIC SIGNAL MAINTENANCE JANUARY 2022 PW	884.22
704824	98783	04/08/2022	200-342-42101	TRAFFIC SIGNAL MAINTENANCE FEBRUARY 2022 PW	5,489.81
704824	98783	04/08/2022	310-347-42101	TRAFFIC SIGNAL MAINTENANCE FEBRUARY 2022 PW	1,298.38
704824	98783	04/08/2022	310-348-42101	TRAFFIC SIGNAL MAINTENANCE FEBRUARY 2022 PW	1,326.33
Vendor CCC13 - CONTRA COSTA COUNTY PUBLIC WORKS DEPARTMENT Total:					37,787.99
Vendor: 1445 - CORTEZ TIRES AND AUTO REPAIR					
20387	98834	04/15/2022	100-221-42107	OIL CHANGE FORD ESCAPE PD	50.00
20423	98834	04/15/2022	100-221-42107	NEW TRANSMISSION EXPLORER POLICE INTERCEPT PD	6,181.38
20424	98834	04/15/2022	100-221-42107	TIRE REPLACEMENT PD	272.18
Vendor 1445 - CORTEZ TIRES AND AUTO REPAIR Total:					6,503.56
Vendor: 2080 - CSW-STUBER-STROEH ENGINEERING GROUP INC					
2130002.30	98784	04/08/2022	325-342-47205	PRELIMINARY ENGINEERING AND DESIGN SERVICES	1,120.00
Vendor 2080 - CSW-STUBER-STROEH ENGINEERING GROUP INC Total:					1,120.00
Vendor: 2152 - DEROTIC EMERGENCY EQUIPMENT					
NO-2037-11	98835	04/15/2022	100-231-42107	PARTS EXTENDED LIFE ANTIFREEZE FIRE	116.93
Vendor 2152 - DEROTIC EMERGENCY EQUIPMENT Total:					116.93
Vendor: 1443 - DIESEL DIRECT WEST, INC.					
84467080	98785	04/08/2022	100-10601	GASOLINE UNL	2,511.44
84476981	98785	04/08/2022	100-10601	GAS UNL CY	2,557.46
Vendor 1443 - DIESEL DIRECT WEST, INC. Total:					5,068.90
Vendor: 2255 - DURAN'S AUTO GLASS					
6533	98836	04/15/2022	100-221-42107	WINDSHIELD REPLACE PD	620.00
Vendor 2255 - DURAN'S AUTO GLASS Total:					620.00

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: EBM01 - EBMUD					
232841-03282022	98786	04/08/2022	100-345-43102	3790 PINOLE VALLEY RD- IRRIGATION USE ONLY	810.12
Vendor EBM01 - EBMUD Total:					810.12
Vendor: 1574 - ERA- ENVIRONMENTAL RESOURCES ASSOCIATES					
001050	98787	04/08/2022	500-641-44305	LAB SUPPLIES WPCP	2,436.23
Vendor 1574 - ERA- ENVIRONMENTAL RESOURCES ASSOCIATES Total:					2,436.23
Vendor: FIS01 - FISHER SCIENTIFIC					
0774636	98788	04/08/2022	500-641-44305	ACETATE BUFF LAB SUPPLIES WPCP	67.88
0829655	98788	04/08/2022	500-641-44305	LAB SUPPLIES WPCP	2,071.73
0879947	98788	04/08/2022	500-641-44303	DECOLORIZER LAB SUPPLIES WPCP	71.36
0879948	98788	04/08/2022	500-641-44305	LAB SUPPLIES WPCP	906.76
0984434	98837	04/15/2022	500-641-44305	DURAC PLUS THEMOMETERDURAC LAB SUPPLIES WPCP	66.62
1036219	98837	04/15/2022	500-641-44305	LAB SUPPLIES WPCP	94.54
Vendor FIS01 - FISHER SCIENTIFIC Total:					3,278.89
Vendor: GLO08 - GLOBALSTAR					
000000029348101	98789	04/08/2022	525-118-43101	SOFTWARE PD	110.55
Vendor GLO08 - GLOBALSTAR Total:					110.55
Vendor: 1112 - GRAY-BOWEN-SCOTT					
21309	98790	04/08/2022	325-342-47205	PM SERVICES: DESIGN PHASE OF SPA BRIDGE REPLACMNT	6,023.50
21355	98790	04/08/2022	325-342-47205	PM SERVICES: DESIGN PHASE OF SPA BRIDGE REPLACMNT	5,213.75
21386	98790	04/08/2022	325-342-47205	PM SERVICES: DESIGN PHASE OF SPA BRIDGE REPLACMNT	1,649.15
21386	98790	04/08/2022	325-342-47205	PM SERVICES: DESIGN PHASE OF SPA BRIDGE REPLACMNT	3,368.35
Vendor 1112 - GRAY-BOWEN-SCOTT Total:					16,254.75
Vendor: 2011 - H & H REFRIGERATION					
6087	98838	04/15/2022	100-231-42107	MAINTENANCE ICE MACHINE FIRE	220.00
Vendor 2011 - H & H REFRIGERATION Total:					220.00
Vendor: HAC01 - HACH COMPANY					
12907428	98791	04/08/2022	500-641-44305	FILTER GLASS SULFIDE LAB SUPPLIES WPCP	300.81
12938817	98791	04/08/2022	500-641-44303	CHLORINE REAGENT SET LAB SUPPLIES WPCP	251.67
12938868	98791	04/08/2022	500-641-44306	CHEMICALS LAB SUPPLIES WPCP	165.73
12950123	98839	04/15/2022	500-641-42109	AS950 CONTROLLER ONLY AWRS WPCP	5,273.92
Vendor HAC01 - HACH COMPANY Total:					5,992.13
Vendor: HIL03 - HILLTOP FORD					
FOCS363762	98792	04/08/2022	100-221-42107	CAR MAINTENANCE PD	102.50
Vendor HIL03 - HILLTOP FORD Total:					102.50
Vendor: HOR05 - HORIZON					
1R297923	98793	04/08/2022	100-345-42108	RAIN BIRD DIAPRAGM BONNET ASSY CORP YARD	172.77
1R298686	98840	04/15/2022	100-345-44306	4' RAIN BIRD HEAD ROTOR SUPPLIES CY	359.43
Vendor HOR05 - HORIZON Total:					532.20
Vendor: IDE04 - IDEXX DISTRIBUTION, INC.					
3103378620	98841	04/15/2022	500-641-44305	WENT 200 ENTEROLERT LAB SUPPLIES WPCP	2,154.40
Vendor IDE04 - IDEXX DISTRIBUTION, INC. Total:					2,154.40

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: IED02 - IEDA, INC.					
23713	98842	04/15/2022	100-116-42101	LABOR RELATIONS APRIL 2022	2,354.00
Vendor IED02 - IEDA, INC. Total:					2,354.00
Vendor: CUL03 - ISING'S CULLIGAN-LIVERMORE					
379X07311603	98794	04/08/2022	500-641-44305	DEIONIZATION SERVICE WPCP	464.68
Vendor CUL03 - ISING'S CULLIGAN-LIVERMORE Total:					464.68
Vendor: MOO14 - ISSAC MOORE					
MARCH 2022	98843	04/15/2022	209-552-43802	EXERCISE CLASSES MARCH 2022 PSC	315.00
Vendor MOO14 - ISSAC MOORE Total:					315.00
Vendor: COR15 - JACQUELINE L CORL-SEIDEL					
MARCH 2022	98844	04/15/2022	209-552-43802	YOGA CLASSES PSC	313.25
Vendor COR15 - JACQUELINE L CORL-SEIDEL Total:					313.25
Vendor: 1611 - JANICE M. BYER					
MARCH 2022	98845	04/15/2022	209-552-43802	EXERCISE CLASSES PSC	855.00
Vendor 1611 - JANICE M. BYER Total:					855.00
Vendor: JAN92 - JAN-PRO OF THE GREATER BAY AREA					
11259	98846	04/15/2022	209-554-42108	JANITORIAL SERVICES PYC	456.00
11260	98846	04/15/2022	209-552-42108	JANITORIAL SERVICE PSC	422.00
11261	98846	04/15/2022	209-552-43810	JANITORIAL SERVICE KITCHEN PYC	405.00
11262	98846	04/15/2022	209-553-42108	JANITORIAL SERVICE TINY TOTS	377.00
Vendor JAN92 - JAN-PRO OF THE GREATER BAY AREA Total:					1,660.00
Vendor: MIS01 - JULIAN MISRA					
032321	98847	04/15/2022	100-117-41101	APRIL 2021 RETIREE MEDICARE REIMBURSEMENT	437.30
Vendor MIS01 - JULIAN MISRA Total:					437.30
Vendor: 1790 - JUSTINE SIDIE					
04112022	98848	04/15/2022	100-465-44410	WORK SHOES UNIFORM ALLOWANCE CDD CODE ENFOR	52.26
Vendor 1790 - JUSTINE SIDIE Total:					52.26
Vendor: KEL09 - KELLER CANYON LANDFILL					
4212-000030994	98795	04/08/2022	500-641-44302	SLUDGE REMOVAL WPCP	5,985.95
Vendor KEL09 - KELLER CANYON LANDFILL Total:					5,985.95
Vendor: KEN09 - KENNEDY AND ASSOCIATES, INC.					
21-151	98796	04/08/2022	100-341-42101	PLAN CHECK FOR NPDES	174.75
21-153	98796	04/08/2022	100-20343	NPDES PLAN CHECK PW	3,436.75
21-153	98796	04/08/2022	100-341-42101	NPDES PLAN CHECK PW	2,213.50
21-165	98796	04/08/2022	100-20343	SWPP NPDES PLAN CHECK	815.50
21-165	98796	04/08/2022	100-341-42101	SWPP NPDES PLAN CHECK	291.25
21-165	98796	04/08/2022	100-341-42101	SWPP NPDES PLAN CHECK	932.00
Vendor KEN09 - KENNEDY AND ASSOCIATES, INC. Total:					7,863.75
Vendor: ODO03 - KIMBERLY ODOM					
03312022	98797	04/08/2022	500-641-42401	CWEA MEMBERSHIP REIMBURSEMENT WPCP	216.00
Vendor ODO03 - KIMBERLY ODOM Total:					216.00
Vendor: 1424 - KRISTINA SANTOYO					
03252022	98849	04/15/2022	209-552-43804	PETTY CASH REPLENISH FOR PSC	3.98
03252022	98849	04/15/2022	209-552-43809	PETTY CASH REPLENISH FOR PSC	105.30
Vendor 1424 - KRISTINA SANTOYO Total:					109.28
Vendor: BRE09 - KYLE BRECKENRIDGE					
04042022	98850	04/15/2022	100-221-42514	BEAT 3 COMMUNITY MEETING EVENT DINNER	105.33
Vendor BRE09 - KYLE BRECKENRIDGE Total:					105.33

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 2078 - LAMPO INVESTIGATIONS - POLYGRAPH					
1577	98798	04/08/2022	100-221-42101	PRE EMPLOYMENT POLYGRAPH FROISLAND	400.00
Vendor 2078 - LAMPO INVESTIGATIONS - POLYGRAPH Total:					400.00
Vendor: LAN15 - LANGUAGE LINE SERVICES					
10491404	98851	04/15/2022	100-223-42101	TRANSLATION SERVICES PD	422.06
Vendor LAN15 - LANGUAGE LINE SERVICES Total:					422.06
Vendor: 2253 - LOOKOUT HEALTH CORP					
1338	98852	04/15/2022	217-117-42101	COVID TEST FOR EMERGENCY RESPONDERS	20,375.00
Vendor 2253 - LOOKOUT HEALTH CORP Total:					20,375.00
Vendor: 1311 - M-GROUP					
2003088	98853	04/15/2022	212-461-42101	ON CALL PLANNING SERVICE PLANNING DPT.	14,918.75
Vendor 1311 - M-GROUP Total:					14,918.75
Vendor: MUN01 - MUNICIPAL MAINTENANCE EQUIPMENT					
0168788-IN	98854	04/15/2022	500-642-42107	REPAIR LIGHT BAR CORP YARD	3,346.50
Vendor MUN01 - MUNICIPAL MAINTENANCE EQUIPMENT Total:					3,346.50
Vendor: MYE01 - MYERS STEVENS & TOOHEY CO					
1378941	98799	04/08/2022	100-221-41008	LONG TERM DISABILITY HR	445.50
1378941	98799	04/08/2022	100-223-41008	LONG TERM DISABILITY HR	258.00
1378941	98799	04/08/2022	105-221-41008	LONG TERM DISABILITY HR	118.80
Vendor MYE01 - MYERS STEVENS & TOOHEY CO Total:					822.30
Vendor: OFF09 - OFFICE OF THE SHERIFF CCC					
22-3104	98800	04/08/2022	100-222-42101	ACRYLIC AWARDS ENGRAVING PD	56.44
Vendor OFF09 - OFFICE OF THE SHERIFF CCC Total:					56.44
Vendor: 1555 - OWEN EQUIPMENT					
00055746	98801	04/08/2022	207-344-42107	WHIRLWIND RENTAL EQUIP CY	1,757.53
00055885	98855	04/15/2022	500-642-42107	FINNED PIPE WEL CORP YARD	141.75
Vendor 1555 - OWEN EQUIPMENT Total:					1,899.28
Vendor: 2183 - PAC MACHINE COMPANY, INC.					
86306	98856	04/15/2022	500-641-44306	SUCTION HOSE WPCP	1,057.99
Vendor 2183 - PAC MACHINE COMPANY, INC. Total:					1,057.99
Vendor: PET08 - PET FOOD EXPRESS CORP					
55C1E800010086	98802	04/08/2022	100-221-42514	DOG FOOD PD	49.37
Vendor PET08 - PET FOOD EXPRESS CORP Total:					49.37
Vendor: PGE01 - PG&E					
180103102022	98803	04/08/2022	209-553-43103	2454 SIMAS AVE REC CTR & POOL	186.86
Vendor PGE01 - PG&E Total:					186.86
Vendor: PIN16 - PINOLE SEALS SWIM CLUB					
INV0007391	98804	04/08/2022	209-557-42101	2021 SWIM SEASON EXPENSE REIMB PER CONTRACT	49,669.71
Vendor PIN16 - PINOLE SEALS SWIM CLUB Total:					49,669.71
Vendor: QUI11 - QUINCY ENGINEERING, INC.					
20-2830.00-22	98805	04/08/2022	325-342-47205	RO1710 PRELIMINARY DESIGN SERVICES FOR SPA BRIDGE	18,334.10
Vendor QUI11 - QUINCY ENGINEERING, INC. Total:					18,334.10
Vendor: 2353 - RAFAEL MENIS					
03222022	98806	04/08/2022	212-461-42301	PLANNING COMMISSIONERS ACADEMY EXPENSES PLANNING DP	625.00
Vendor 2353 - RAFAEL MENIS Total:					625.00

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 2025 - RAY MORGAN COMPANY, LLC.					
3649592	98807	04/08/2022	525-118-42107	COPIER CITYWIDE	775.38
Vendor 2025 - RAY MORGAN COMPANY, LLC. Total:					775.38
Vendor: WAL29 - RICHARD WALLER					
MARCH 2022	98857	04/15/2022	209-552-43808	POOL TABLE REPLACEMENT FELT PSC	406.08
Vendor WAL29 - RICHARD WALLER Total:					406.08
Vendor: ROC11 - ROCKWELL SOLUTIONS					
2855	98808	04/08/2022	500-641-44306	PART SUPPLIES WPCP	6,597.35
Vendor ROC11 - ROCKWELL SOLUTIONS Total:					6,597.35
Vendor: 2354 - ROXANE STONE					
033022	98809	04/08/2022	100-112-42302	TECHNICLA TRAINING MILEAGE HOTEL MEALS CITY CLERK	700.22
033022	98809	04/08/2022	100-112-42303	TECHNICLA TRAINING MILEAGE HOTEL MEALS CITY CLERK	68.95
Vendor 2354 - ROXANE STONE Total:					769.17
Vendor: 1450 - RUBENSTEIN SUPPLY COMPANY					
S2341679.001	98810	04/08/2022	100-345-42108	HAWS 6252EHLF BRASS SLEF CLOSE CY	724.71
Vendor 1450 - RUBENSTEIN SUPPLY COMPANY Total:					724.71
Vendor: 2356 - SECURE PRODUCTS CORPORATION					
0322-1081	98858	04/15/2022	100-115-42514	BRINKS SECURITY BAGS FINANCE	53.30
Vendor 2356 - SECURE PRODUCTS CORPORATION Total:					53.30
Vendor: 2321 - SHARON BURNIM					
03162022	98811	04/08/2022	217-117-42514	GRANT AWARD FOR SMALL BUSINESS COVID RELIEF	3,000.00
Vendor 2321 - SHARON BURNIM Total:					3,000.00
Vendor: 1714 - SHERRI D. LEWIS					
CC20PINOLE-FY2021/22	98812	04/08/2022	100-110-42101	032222 SPECIAL CITY COUNCIL MINUTES	450.00
Vendor 1714 - SHERRI D. LEWIS Total:					450.00
Vendor: 2355 - SIERRA TRAFFIC MARKINGS, INC.					
8907	98859	04/15/2022	200-342-47205	TRAFFIC STRIPPING APPIAN WAY & FITZGERALD DRIVE PW	3,367.00
Vendor 2355 - SIERRA TRAFFIC MARKINGS, INC. Total:					3,367.00
Vendor: 2260 - SKL SOLUTIONS, INC.					
210016	98813	04/08/2022	500-642-42101	SANITARY SEWER MANAGEMENT PLAN PW	1,260.00
Vendor 2260 - SKL SOLUTIONS, INC. Total:					1,260.00
Vendor: SQU00 - SQUARE DEAL GARAGE					
38752	98814	04/08/2022	100-343-42107	TRUCK SERVICE CY	2,425.22
38808	98814	04/08/2022	100-221-42107	UTILITY VEHICLE BATTERY PD	1,080.67
38830	98814	04/08/2022	100-221-42107	CROWN VICTORIA PD CAR MAINT	308.47
Vendor SQU00 - SQUARE DEAL GARAGE Total:					3,814.36
Vendor: 1246 - STARCHASE, LLC					
20132258	98860	04/15/2022	100-221-42106	VEHICLE LAUNCHER INSTALLATION KIT PD	225.04
Vendor 1246 - STARCHASE, LLC Total:					225.04
Vendor: STA25 - STATE WATER RESOURCES CONTROL BOARD					
04062022	98861	04/15/2022	500-641-42401	XIAO HONG ZHU'S GRADE III RENEWAL WPCP	110.00
Vendor STA25 - STATE WATER RESOURCES CONTROL BOARD Total:					110.00
Vendor: STE20 - STERICYCLE, INC.					
3005954659	98862	04/15/2022	100-222-42101	MEDICAL WASTE PD	60.50
Vendor STE20 - STERICYCLE, INC. Total:					60.50

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 1709 - T J K M					
0052345	98815	04/08/2022	325-342-47205	LOCAL ROAD SAFETY PLAN	405.81
				Vendor 1709 - T J K M Total:	405.81
Vendor: 1253 - TARAH ORNELAS					
740	98863	04/15/2022	209-552-43809	NEWSLETTER FOR PSC	348.51
				Vendor 1253 - TARAH ORNELAS Total:	348.51
Vendor: 2351 - THE NATELSON DALE GROUP, INC.					
03711	98864	04/15/2022	100-111-42101	ECONOMIC DEVELOP STRATEGIC PLAN	6,250.00
				Vendor 2351 - THE NATELSON DALE GROUP, INC. Total:	6,250.00
Vendor: OFF11 - THE OFFICE CITY					
IN-1738993	98865	04/15/2022	500-641-42201	OFFICE SUPPLIES WPCP	564.24
IN-1739140	98865	04/15/2022	500-641-42201	OFFICE SUPPLIES WPCP	74.84
				Vendor OFF11 - THE OFFICE CITY Total:	639.08
Vendor: THO05 - THOMSON REUTERS - WEST					
845709289	98866	04/15/2022	100-222-42201	PENAL CODE 2022 PD	151.46
				Vendor THO05 - THOMSON REUTERS - WEST Total:	151.46
Vendor: TRA20 - TRANSUNION RISK AND ALTERNATIVE DATA					
263397-202202-1	98816	04/08/2022	525-118-42510	PERSON SEARCHES PD	106.00
263397-202201-1	98816	04/08/2022	525-118-42510	PERSON SEARCHES PD	130.60
				Vendor TRA20 - TRANSUNION RISK AND ALTERNATIVE DATA Total:	236.60
Vendor: 2347 - UNION PACIFIC RAILROAD COMPANY					
90114618	98817	04/08/2022	325-342-47205	PRELIMINARY ENGINEERING & DESIGN PW	2,039.50
				Vendor 2347 - UNION PACIFIC RAILROAD COMPANY Total:	2,039.50
Vendor: UNI07 - UNIVERSAL BUILDING SVCS.					
1248	98818	04/08/2022	100-343-42108	JANITORIAL SUPPLIES CY	513.05
1536	98818	04/08/2022	100-343-42108	JANITORIAL SUPPLIES CY	439.58
1553	98818	04/08/2022	209-554-42108	JANITORIAL SUPPLIES PYC	198.68
1555	98818	04/08/2022	209-554-42108	JANITORIAL SUPPLIES PYC	60.99
266439	98818	04/08/2022	100-343-42108	JANITORIAL SUPPLIES CH	151.41
				Vendor UNI07 - UNIVERSAL BUILDING SVCS. Total:	1,363.71
Vendor: VAL04 - VALLEJO FIRE EXTINGUISHER					
93309	98867	04/15/2022	100-231-42107	INSPECTION FIRE	85.19
				Vendor VAL04 - VALLEJO FIRE EXTINGUISHER Total:	85.19
Vendor: VER02 - VERIZON WIRELESS					
9901909874	98819	04/08/2022	525-118-43101	CELL PHONE CITYWIDE	5,326.18
				Vendor VER02 - VERIZON WIRELESS Total:	5,326.18
Vendor: LUK00 - VIVIANNE F. KEARSLEY-LUKE					
MARCH 2022	98868	04/15/2022	209-552-43802	GENTLE YOGA CLASSES MARCH 2022 PSC	55.30
				Vendor LUK00 - VIVIANNE F. KEARSLEY-LUKE Total:	55.30
Vendor: WES01 - WESTERN EXTERMINATOR CO.					
14667012	98820	04/08/2022	209-552-42108	PEST CONTROL MAINTENANCE PSC	77.40
				Vendor WES01 - WESTERN EXTERMINATOR CO. Total:	77.40
Vendor: 1520 - WEX BANK					
80077880	98869	04/15/2022	100-221-42301	FUEL PURCHASE PD	50.00
				Vendor 1520 - WEX BANK Total:	50.00
Vendor: XER01 - XEROX CORPORATION					
015800003	98870	04/15/2022	525-118-42107	XEROX MAINTENANCE COPIER	1,635.47
015804476	98870	04/15/2022	525-118-42107	XEROX AGREEMENT	254.00
				Vendor XER01 - XEROX CORPORATION Total:	1,889.47
Grand Total:					315,832.25

Report Summary

Fund Summary

Fund	Payment Amount
100 - General Fund	59,136.31
105 - Measure S -2006	207.30
106 - MEASURE S-2014	100.00
200 - Gas Tax Fund	36,755.85
207 - NPDES Storm Water Fund	1,757.53
209 - Recreation Fund	54,880.69
212 - Building & Planning	50,371.85
215 - Measure C and J Fund	77.22
217 - American Rescue Plan Act Fund	23,375.00
310 - Lighting & Landscape Districts	4,399.14
325 - City Street Improvements	38,154.16
500 - Sewer Enterprise Fund	35,542.27
525 - Information Systems	11,074.93
Grand Total:	315,832.25

Account Summary

Account Number	Account Name	Payment Amount
100-10601	Gas Tanks/Corp Yard	5,068.90
100-110-42101	Prof Svcs/Professional Ser...	450.00
100-111-41004	Emp Benefits/PERS Retir...	1,346.04
100-111-42101	Prof Svcs/Professional Ser...	6,250.00
100-112-42302	Travel & Training/Mileage,...	700.22
100-112-42303	Travel & Training/Meal Al...	68.95
100-112-42514	Admin Exp/Special Depart	210.60
100-115-42101	Prof Svcs/Professional Ser...	18.62
100-115-42514	Admin Exp/Special Depart	53.30
100-116-42101	Prof Svcs/Professional Ser...	3,045.50
100-117-41101	Retiree Benefits/Medical...	437.30
100-20343	Developer Deposit/Vista ...	4,252.25
100-221-41008	Emp Benefits/Long Term ...	445.50
100-221-42101	Prof Svcs/Professional Ser...	400.00
100-221-42106	Prof Svcs/Software Maint...	225.04
100-221-42107	Prof Svcs/Equipment Mai...	8,615.20
100-221-42301	Travel & Training/Conf-Re...	545.00
100-221-42514	Admin Exp/Special Depart	154.70
100-221-44410	Safety Clothing	1,050.88
100-221-47105	FF&E/Equipment (not-cap...	246.90
100-222-40308	Other Pay/Bilingual Pay	121.00
100-222-42101	Prof Svcs/Professional Ser...	116.94
100-222-42201	Office Expense	1,410.45
100-222-43105	Utilities/Cable	170.84
100-222-44410	Safety Clothing	375.90
100-223-41008	Emp Benefits/Long Term ...	258.00
100-223-42101	Prof Svcs/Professional Ser...	422.06
100-231-41008	Emp Benefits/Long Term ...	265.50
100-231-42104	Prof Svcs/Paramedic Servi...	4,743.62
100-231-42107	Prof Svcs/Equipment Mai...	1,742.17
100-341-42101	Prof Svcs/Professional Ser...	3,611.50
100-343-42107	Prof Svcs/Equipment Mai...	2,425.22
100-343-42108	Prof Svcs/Building-Structu...	7,186.03
100-345-42108	Prof Svcs/Building-Structu...	1,480.37
100-345-43102	Utilities/Water	810.12
100-345-44306	Other Materials Supp/Ma...	359.43
100-465-44410	Safety Clothing	52.26
105-221-41008	Emp Benefits/Long Term ...	118.80
105-231-41008	Emp Benefits/Long Term ...	88.50
106-345-47203	Improvements/Parks	100.00

WARRANT LISTING

Payment Dates: 4/2/2022 - 4/15/2022

Account Summary

Account Number	Account Name	Payment Amount
200-342-42101	Prof Svcs/Professional Ser...	33,388.85
200-342-47205	Improvements/Streets	3,367.00
207-344-42107	Prof Svcs/Equipment Mai...	1,757.53
209-551-40308	Other Pay/Bilingual Pay	121.00
209-552-42108	Prof Svcs/Building-Structu...	499.40
209-552-43802	Program Cost/Class Fees	1,538.55
209-552-43804	Program Cost/Food Progr...	3.98
209-552-43808	Program Cost/Gift Shop Sa...	406.08
209-552-43809	Program Cost/Newsletter	453.81
209-552-43810	Program Cost/Center Mai...	405.00
209-553-42108	Prof Svcs/Building-Structu...	377.00
209-553-43103	Utilities/Electricity & Pow...	186.86
209-554-42108	Prof Svcs/Building-Structu...	715.67
209-557-42101	Prof Svcs/Professional Ser...	49,669.71
209-558-42108	Prof Svcs/Building-Structu...	503.63
212-461-42101	Prof Svcs/Professional Ser...	14,918.75
212-461-42301	Travel & Training/Conf-Re...	625.00
212-461-42514	Admin Exp/Special Depart	296.10
212-462-42101	Prof Svcs/Professional Ser...	34,532.00
215-341-43101	Utilities/Telephone	77.22
217-117-42101	Prof Svcs/Professional Ser...	20,375.00
217-117-42514	Admin Exp/Special Depart	3,000.00
310-347-42101	Prof Svcs/Professional Ser...	2,624.71
310-348-42101	Prof Svcs/Professional Ser...	1,774.43
325-342-47205	Improvements/Streets	38,154.16
500-641-42108	Prof Svcs/Building-Structu...	1,500.00
500-641-42109	Prof Svcs/Compliance Ins...	5,273.92
500-641-42201	Office Expense	639.08
500-641-42401	Dues & Pub/Memberships	326.00
500-641-44302	Other Materials Supp/Slu...	5,985.95
500-641-44303	Other Materials Supp/Ch...	323.03
500-641-44305	Other Materials Supp/Lab...	8,563.65
500-641-44306	Other Materials Supp/Ma...	8,025.80
500-641-44410	Safety Clothing	156.59
500-642-42101	Prof Svcs/Professional Ser...	1,260.00
500-642-42107	Prof Svcs/Equipment Mai...	3,488.25
525-118-42107	Prof Svcs/Equipment Mai...	2,664.85
525-118-42510	Admin Exp/Software Purch	236.60
525-118-43101	Utilities/Telephone	8,173.48
Grand Total:		315,832.25

Project Account Summary

Project Account Key	Payment Amount
None	292,457.25
21711742101ER2101	20,375.00
21711742514ER2101	3,000.00
Grand Total:	315,832.25

APPROVED BY: 

DATE: 4/14/2022



CITY COUNCIL REPORT

9C

DATE: APRIL 19, 2022

TO: MAYOR AND COUNCIL MEMBERS

FROM: STACY SHELL, HUMAN RESOURCES DIRECTOR

SUBJECT: APPROVE AN AMENDMENT TO THE EMPLOYMENT AGREEMENT
FOR THE CITY CLERK

RECOMMENDATION

It is recommended that the Pinole City Council approve an amendment to provide a three (3) year term extension, five percent (5%) merit increase, five percent (5%) market equity adjustment, and other benefit enhancements to the employment agreement for Heather Bell as City Clerk.

BACKGROUND

In March 2019, the City Council appointed Ms. Bell to the position of City Clerk. On March 6, 2019, Ms. Bell and Mayor Murray signed a four-year term employment agreement through March 5, 2023. Ms. Bell commenced her duties as City Clerk on March 6, 2019.

On March 15, 2022, the City Council met with Ms. Bell in closed session to conduct an annual evaluation of her work performance.

On April 5, 2022, the City Council met in closed session to negotiate the terms of Ms. Bell's employment agreement and provided direction to the Human Resource Director to prepare an amendment to Ms. Bell's employment agreement to provide an extension to the term of the agreement through March 2026, five percent (5%) merit increase, five percent (5%) market equity adjustment, and other benefit enhancements.

REVIEW & ANALYSIS

The City of Pinole Municipal Code (PMC), Title II, Administration and Personnel, Chapter 2.05, Office of the City Clerk, Section 2.05.010, Office Created, provides the

City Council with the authority to establish the office of the City Clerk and appoint a City Clerk on the basis of their administrative and executive abilities and qualifications and hold office for and during the pleasure of the City Council (City of Pinole Ordinance No. Ord. 2004-13, Section 1, 2004).

In accordance with PMC, Title II, Chapter 2.05, Section 2.04.030, Compensation and Review, no less frequently than once each year, the City Council shall meet to conduct a review and evaluation of the City Clerk and the City Clerk shall receive such compensation as the City Council shall from time to time determine, as reflected in an employment agreement between the City Clerk and the City.

The City Clerk's employment agreement was made and entered into by and between the City Council and Ms. Bell on March 6, 2019. The City Council and Ms. Bell had previously entered into subsequent employment agreement amendments to provide cost of living adjustments and merit increases.

In October 2021, the City contracted with a human resource consulting firm to conduct a Citywide total compensation study. The outcome of the study identified the City Clerk's compensation to be approximately 30% below the market's median rate of pay.

At this time, the City Council desires to extend the term of Ms. Bell's employment agreement for three (3) years through March 2026, provide a five percent (5%) merit increase, five percent (5%) market equity adjustment, and other benefit enhancements as codified in Exhibit A of the Resolution attached to this City Council Report.

FISCAL IMPACT

If approved, the employment agreement amendment will result in increased payroll and benefit cost of \$26,286 during Fiscal Year 2021/2022, which will be absorbed into the department's current allocated budget.

ATTACHMENT(S):

ATTACHMENT A: Resolution to Authorize an Amendment of the Employment Agreement for the City Clerk
EXHIBIT A: Amendment #1-2022 to the Agreement for Employment of Heather Bell

RESOLUTION NO. 2022-____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING AN AMENDMENT TO EXTEND THE TERM OF THE EMPLOYMENT AGREEMENT FOR THE CITY CLERK

WHEREAS, the City Council and Heather Bell entered into an Employment Agreement (“Agreement”) for the position of City Clerk on March 6, 2019; and

WHEREAS, Ms. Bell commenced her duties as City Clerk on March 6, 2019; and

WHEREAS, the term of the Agreement was for four (4) years; and

WHEREAS, on March 15, 2022, the City Council met with Ms. Bell in closed session to conduct an evaluation of her performance; and

WHEREAS, on April 5, 2022, the City Council met in closed session and provided direction to the Human Resources Director to prepare an amendment to the Agreement to extend the term of Ms. Bell’s Agreement for an addition three (3) years, provide a five percent (5%) merit increase, five percent (5%) market equity adjustment, and other benefit enhancements as codified in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pinole does hereby approve an amendment to extend the term of the Agreement hereunto attached as Exhibit A and authorize the Mayor to execute the said amendment.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 19th day of April 2022 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

I, hereby certify that the foregoing resolution was regularly introduced, passed, and adopted on this 19th day of April 2022.

Heather Bell, CMC
City Clerk

EXHIBIT A**AMENDMENT #1-2022 TO THE AGREEMENT FOR EMPLOYMENT OF
HEATHER BELL**

This Amendment #1-2022 to the Agreement for the Employment of Heather Bell (the "Amendment") is made and entered into as of _____, 2022 by and between the City of Pinole (the "City"), a California general law city, and Heather Bell, an individual ("BELL" or "Employee").

RECITALS

WHEREAS, the City and Employee previously entered into that certain Agreement for the Employment of Heather Bell effective as of March 6, 2019 (the "Agreement"); and

WHEREAS, the City and Employee have previously entered into multiple amendments to the Agreement; and

WHEREAS, the City Council performed an evaluation of Employee on March 15, 2022 and thereafter began negotiating changes to the Agreement.

WHEREAS, the City Council desires to extend the term of the Agreement for an additional three (3) years, and to provide employee with five percent (5%) merit increase, five (5%) market equity adjustment, and other benefit enhancements; and

WHEREAS, the City and Employee now wish to amend the Agreement as specified herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the City and BELL agree as follows:

1. Term of Agreement. Section 2, Term of Agreement, of the Agreement is hereby amended in its entirety to read as follows:

"2. Term of Agreement

This Agreement will become effective on the March 6, 2019, and will continue until March 5, 2026. The parties to this Agreement may terminate this Agreement pursuant to the provisions of paragraph 5."

2. Compensation. Section 6(a), Compensation, of the Agreement is hereby amended in its entirety to read as follows:

"a. BELL shall be paid an annual base salary of \$152,398.1888 or \$12,699.8491 per month, less all applicable federal, state and local withholding. BELL shall be considered for a merit increase annually in conjunction with the completion of her performance evaluation, as outlined in paragraph 11. Merit increases shall subject to the City's ability to pay for a salary adjustment."

3. **Benefits.** Exhibit A of the Agreement, regarding benefits, is amended to include the terms set forth below. In the event there is a conflict between the terms set forth below and the terms set forth in Exhibit A of the Agreement, the terms below shall control.

- **Health, Vision, Dental, Retirement Benefits**

BELL shall receive the same health, vision, dental, retirement, life insurance (\$40,000), long-term disability, Section 125 flexible health spending account, including CalPERS that are provided to Management and Confidential City employees.

- **Auto and Cell Phone Allowances**

BELL shall receive the amount of \$300 monthly as a car allowance and \$65 monthly as a cell phone allowance, less all applicable federal, state, and local withholdings.

- **Incentive Benefits**

BELL shall receive the same educational degree and bilingual incentive pay benefits that are provided to Management and Confidential City employees.

- **Holidays**

BELL shall receive the following legal paid holidays:

January 1	New Year's Day
Third Monday in January	Martin Luther King Jr.'s Birthday
Third Monday in February	Washington's Birthday
Last Friday in March	Cesar Chavez Day
Last Monday in May	Memorial Day
June 19	Juneteenth
July 4	Independence Day
First Monday in September	Labor Day
November 11	Veterans' Day
Fourth Thursday in November	Thanksgiving
Fourth Friday in November	Day after Thanksgiving
December 25	Christmas

4. **Last Name.** All references in the Agreement to "Iopu" are hereby changed to "Bell".

5. **Effective Date.** This Amendment shall be effective the pay period commencing March 14, 2022.

6. **Effect.** Except as expressly provided for herein, all other terms and conditions of the Agreement, as previously amended, shall remain in full force and effect.

EMPLOYEE

Heather Bell

DATED:

April ____, 2022

CITY

Vincent Salimi, Mayor

DATED:

ATTEST:

APPROVED AS TO FORM:

Stacy R. Shell
Human Resources Director

Eric S. Casher
City Attorney

5091009.1



CITY COUNCIL REPORT

9D

DATE: APRIL 19, 2022

TO: MAYOR AND COUNCIL MEMBERS

FROM: STACY SHELL, HUMAN RESOURCES DIRECTOR

**SUBJECT: AUTHORIZE THE CITY MANAGER TO IMPLEMENT A
RECRUITMENT INCENTIVE PROGRAM**

RECOMMENDATION

City staff recommends that the City Council adopt a resolution to authorize the City Manager to implement a Recruitment Incentive Program.

BACKGROUND

The City's Human Resources Department aspires to attract, hire, and retain the best-qualified and skilled employees, who contribute to the sustainability of the City as a quality organization. Human Resources wishes for the City to gain a competitive advantage by establishing a Recruitment Incentive Program that will authorize the City Manager to utilize specified recruitment tools to attract and retain qualified job candidates for key positions.

As part of the hiring process, the City's Human Resources Department and designated managers extend employment offers in which candidates can be paid at any step within the salary range in accordance with Personnel Rule No. 12, Compensation. Under the City's current procedures, few other aspects of a new employee's compensation and benefits can be negotiated between the City and employee. In order to expand the City's scope of negotiating job offers, the Recruitment Incentive Program has been proposed to assist hiring departments with filling critical positions. The City's Recruitment Incentive Program would allow the City Manager to approve incentives such as one-time signing bonuses, employee referral bonuses, relocation assistance, and higher/additional initial vacation and sick leave accruals.

The draft Recruitment Incentive Program Administrative Policy (the "Policy") identifies operational procedures to maintain consistency in the execution and checks and balances of the Program, such as City Manager designation of authority to review and approve/deny any incentive, categories of employees eligible for referral incentives, documentation requirements for determining that a vacancy is difficult to fill, payment methods that may be utilized, and service agreement stipulations.

The Policy also includes financial limitations and payout restrictions on the recruitment incentives of relocation assistance benefits and signing and referral bonuses. Such limitations and restrictions include the amount of the payout, completion of partial or full probationary period, no payout of vacation/sick leave pre-accruals upon termination, and current Federal and State tax regulations and applicable taxes.

The planning and approval process for incentives is a collective collaboration between the hiring department, Human Resources Department, Finance Department, and City Manager. When a hiring department determines high difficulty in securing qualified candidates for a vacancy, they will create a recruitment incentive plan with the Human Resources Department that will require approval from the City Manager to authorize one or more recruitment incentives to be offered. The hiring departments are responsible to ensure that funds are available to expend for the incentive(s). The Human Resources Department and hiring department will determine what type of incentive(s) to use, what is the percentage figure to use for certain incentives, and coordinate their recruitment efforts. The Finance Department will verify that the hiring department has funding for the proposed incentive, identify funds as non-reportable or reportable income, coordinate reimbursement of payment(s), and research and apply current Federal and State tax laws for proper accounting method. The Human Resources Department will ensure compliance of all parties involved in the Recruitment Incentive Plan.

REVIEW & ANALYSIS

The current labor market for public sector jobs is becoming more competitive, especially when approximately thirty percent (30%) of the public sector workforce is currently eligible to retire and unemployment rates hover around five percent (5%) in the State of California. The gap between available jobs and the number of qualified applicants is growing. A recruitment incentive program will allow the City to pay an incentive to a newly appointed employee if the City has determined that the position is difficult to fill with normal starting salary and benefits alone.

There are four (4) major components that can lead to difficulty in recruiting qualified job candidates. Those components are the labor market conditions, job competencies, critical need, and lack of success of the recruitment.

1) Labor market conditions: The location, comparative salaries, and the local economy in the area can play a role in attracting candidates to our job openings.

2) Job competencies: Skills, knowledge, abilities, and other special characteristics can make it difficult to recruit for certain positions based on number of qualified candidates in the field.

3) Critical need: Positions that are related to public safety or health affiliated and if not filled in ample time can create major interruptions in service for the public.

4) Recruitment success (or lack of): The quality of the recruitment can be dictated by acceptance rates and the length of time it takes to fill a position.

One or more components can be used to provide a valid business reason for the need of an incentive to increase the success of the recruitment and selection process.

The City wishes to make available more flexibility with future recruitments and job offer negotiations especially in a tight labor market. The City Council is asked to adopt a resolution to authorize the implementation of the proposed Recruitment Incentive Program to mitigate interruption in services for designated job classifications.

FISCAL IMPACT

The fiscal impact will vary by the individual hired based upon the job market conditions for that position. The anticipated costs range from one thousand dollars (\$1,000) to as high as twenty percent (20%) of the candidate's offered annual salary. These costs are absorbed within the hiring departments' authorized budget; no appropriation is requested since incentives will be used on a case-by-case basis.

ATTACHMENT(S):

- A. Resolution
Exhibit A – Draft Recruitment Incentive Program Administrative Policy

RESOLUTION NO. 2022-____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AUTHORIZING THE CITY MANAGER TO IMPLEMENT A RECRUITMENT INCENTIVE PROGRAM

WHEREAS, the City has experienced some difficulty in filling key job positions and proposes a recruitment incentive program to attract and retain quality employees in critical and specialized positions; and

WHEREAS, an analysis recommends expanding the City Manager's authority for new hire negotiations to approve various recruitment incentives.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pinole does hereby resolve the establishment of the Recruitment Incentive Program hereunto as attached as Exhibit A and authorize the City Manager to implement the said program.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 19th day of April 2022 by the following vote:

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

I, hereby certify that the foregoing resolution was regularly introduced, passed, and adopted on this 19th day of April 2022.

Heather Bell, CMC
City Clerk

DRAFT**Recruitment Incentive Program**

I. Purpose

The City's Recruitment Incentive Program provides the City Manager with additional tools to attract highly qualified candidates for critical vacancies. This policy authorizes the City Manager to approve the use of certain recruitment incentives when the organizational need exists. The recruitment incentive options include a signing bonus, employee referral bonus, relocation benefits, and vacation and sick leave accruals.

II. Background

Human Resources has determined that there are four major challenges that can lead to difficulty in recruiting qualified job candidates for critical vacancies. Those challenges are the labor market conditions, job competencies, critical need, and lack of success of the recruitment.

A. Labor market conditions: the location, comparative salaries, and the local economy in the area can play a role in attracting candidates to our job openings.

B. Job competencies: skills, knowledge, abilities, and other special characteristics can make it difficult to recruit for certain positions based on number of qualified candidates in the field.

C. Critical need: positions that are related to public safety or health affiliated, and if not filled in ample time, can cause major interruption in services for the public.

D. Recruitment success (or lack of): the quality of the recruitment can be dictated by acceptance rates and the length of time it takes to fill a position.

One or more of these challenges can be used to provide a valid business reason for the need of an incentive to increase the quality of the recruitment and selection process. A recruitment incentive program allows the City an opportunity to secure highly qualified employees for positions that the City has determined to be difficult to fill with starting salary and benefits alone.

III. Policy

The City intends to provide responsive, cost effective, and innovative local government services. A highly qualified, performance oriented, and motivated work force which generally reflects the community in terms of economic and cultural diversity is critical. The

DRAFT**Recruitment Incentive Program**

achievement of this objective may, on occasion, require special action to attract and retain highly desirable candidates for permanent positions.

IV. Incentives

From time to time, the labor market for certain critical positions within the City is extremely tight and the demand for individuals with the requisite skills is very high. Upon recommendation of the appointing authority and concurrence of the Human Resources Department that such conditions exist with respect to a particular recruitment (which in special situations might include hard to fill vacancies), the City Manager may approve one or more of the following recruitment incentives subject to the limitations specified in Section IV, G.

A. Signing Bonus. A one-time signing bonus equal to a percentage of the offered starting annual salary shall be paid upon satisfactory completion of service as follows: fifty-percent (50%) of the bonus shall be paid upon satisfactory completion of six (6) months of continuous service or satisfactory completion of the field training program for sworn police personnel and the balance paid upon successful completion of at least 12 months of continuous service or 18 months of continuous service for sworn police personnel. In no event, will the second installment of the signing bonus be paid unless or until the required probation period has been satisfactorily completed. This signing bonus shall be in addition and unrelated to any merit pay adjustments.

B. Relocation Assistance. Reimbursement for relocation expenses shall be limited to one or any combination of the following: home-finding trips, home search assistance, up to thirty days of temporary living accommodations, en-route expenses, and household goods shipping expenses. Reimbursement for non-qualifying expenses as defined in the Internal Revenue Code will be reported as taxable income. Candidates who have been reimbursed for relocation expenses and who voluntarily terminate their service with the City within the first year of employment shall repay the City for a pro-rata portion of the total reimbursement based on the number of months employed.

C. Vacation and Sick Leave Pre-Accruals. A vacation and/or sick leave bank equal to the first year's accrual shall be credited against the first year's accrual, but not in addition to that accrual. No additional leave shall be added to the vacation and/or sick leave accruals until following the first year of employment. In the event of a termination during the first year of employment, the employee will be eligible to receive only that portion of the unused vacation that would otherwise have been accrued as of the date of termination. No portion of the sick leave accrual is payable upon termination.

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Recruitment Incentive Program

D. Vacation Leave Accrual Rate. Upon hire, prior years of continuous public sector service shall be considered for vacation leave rate accrual.

E. Referral Bonus. A referral bonus in the amount of one thousand dollars (\$1,000) shall be paid to a current City employee who refers an applicant for employment. The person referred must identify the City employee responsible for the referral on the official City employment application at the time of filing. A name cannot be added to an employment application at a later date. Only one employee per applicants may receive this incentive. If the applicant is selected for employment by the City, the bonus shall be paid to the employee upon successful completion of the referred employee's probation period. The bonus will only be paid to those employees who are in active status on the date the employee successfully completes probation and only upon certification by the Department Head and Human Resources Department as to the authenticity of the personal referral. Employees who are involved in the recruitment and/or selection process as part of their assigned duties are not eligible for the referral bonus to safeguard against conflicts of interest.

F. Income Tax Considerations. The taxability of any recruitment incentive shall be based on current state and federal tax regulations and applicable taxes shall be borne by the incentive recipient.

G. Limitations

1. Relocation assistance benefits shall be offered within the first year of employment only to those candidates whose move would meet or exceed the Moving Expenses distance test specified in the Internal Revenue Code.
2. The total cost of the signing bonus and relocation assistance benefits shall not exceed 20% of the offered starting salary.
3. Neither the signing bonus, referral bonus, nor the taxable portion of any relocation assistance benefit will be treated as reportable income for the purposes of any City provided benefit program including retirement.

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Recruitment Incentive Program

4. The new employee must sign a written service agreement to complete the specified period of employment with the City in order to receive a recruitment incentive. The service agreement must specify the length, commencement, and termination dates of the service period; the amount of the incentive; the method and timing of incentive payments if applicable; the conditions under which an agreement will be terminated by the agency; any obligations on behalf of the City or the employee if a service agreement is terminated; and any other terms and conditions.

V. Roles and Responsibilities

A. City Manager. Is delegated by the City Council to approve and authorize the use of employment incentives in an effort to attract and retain performance oriented, motivated, quality employees for key positions. The City Manager establishes, administers, and provides policy direction by:

1. Assigning the Human Resources Department the primary staff responsibility for administering the details of this Recruitment Incentive Program.
2. Ensuring that all appointing authorities are aware of their responsibilities to use discretion when recommending the use of recruitment incentives and to ensure department funds are available and expendable.

B. Department Heads. Department Heads shall be responsible for:

1. Ensuring department resources are available to fund recruitment incentives cost.
2. Coordinating with the Human Resources Department in identifying the need for a recruitment incentive, determining which components would be most appropriate in the individual case, and determining how the recruitment incentives will be applied.
3. Proposing to the City Manager through the Human Resources Department a percentage figure of the position's first year's salary to be used for recruitment incentives and the recommended incentive components.

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Recruitment Incentive Program

C. Human Resources Department. The Human Resources Department is responsible for assuring compliance with the Recruitment Incentive Program. In this role, the Human Resources Department will recommend and/or confirm those positions considered to be key positions and coordinate with the appointing authority in determining the proper amount of recruitment incentives to be offered. Specifically, the Human Resources Department shall be responsible for:

1. Coordinating with the hiring department to evaluate a request to use recruitment incentives and provide a recommendation to the City Manager.
2. Identifying key positions in which the labor market demand has created a need to use recruitment incentives as a means of attracting and hiring qualified candidates.
3. Determining how to apply the recruitment incentives to the recruitment of the vacant position.
4. Coordinating with the hiring department for reimbursement authorization.
5. Upon City Manager approval, providing the Finance Department with authorization documentation, including receipts and procedures to ensure employees are compensated according to this program.

D. Finance Department. The Finance Department will be responsible for identifying funds used for reimbursement as taxable income and for the accounting and distribution of these funds. Specifically, the Finance Department shall be responsible for:

1. Retaining payment voucher and receipts from employee for reimbursement and coordinating payment.



CITY COUNCIL REPORT

DATE: APRIL 19, 2022

TO: MAYOR AND COUNCIL MEMBERS

FROM: ERIC CASH, CITY ATTORNEY

SUBJECT: LETTER OF SUPPORT FOR ASSEMBLY BILL 1944

RECOMMENDATION

Staff recommends that City Council approve a letter of support for Assembly Bill 1944 which would update sections of the Ralph M. Brown Act ("Brown Act") related to noticing requirements.

INTRODUCTION

The City Council directed staff to prepare a future agenda item for discussion and consideration of a letter of support for Assembly Bill ("AB") 1944.

The Ralph M. Brown Act (the "Act") requires that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. The Act also provides that meetings may occur via teleconferencing, subject to requirements, including: (i) that the legislative body notice each teleconference location of each member that will be participating in the public meeting; (ii) that each teleconference location be accessible to the public; (iii) that members of the public be allowed to address the legislative body at each teleconferencing location; (iv) that the legislative body post an agenda at each teleconference location; and (v) that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction.

As a result of the COVID-19 pandemic, Governor Newsom issued several Executive Orders relaxing the teleconferencing requirements under the Brown Act. In September, 2021 Governor Newsom signed Assembly Bill 361 into law which amended section 54953 of the Government Code and relaxed Brown Act teleconferencing restrictions allowing for public agencies to meet via videoconference and without the noticing requirements related to the physical location of attendees. AB 1944 would formally amend the Brown Act to relax the physical location noticing requirements.

ANALYSIS

AB 1944 was drafted to protect the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of public business.

Like AB 361, AB 1944 further amends Government Code 54953 to provide that if a member of a local legislative body elects to teleconference from a location that is not public, the address of that location need not be identified in the notice and agenda, or be accessible to the public. AB 1944 would also require the local body that elects to use teleconferencing to provide: (i) a video stream, as defined, accessible to members of the public; and (ii) an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option. A copy of the AB 1944 is included as Attachment A.

At present, the League of California Cities has yet to take a formal position on AB 1944.

On April 5, 2022, the City Council directed staff to prepare a draft letter of support for the Council's consideration and approval. If approved, the letter will be sent to Assemblymember Buffy Wicks and Senator Nancy Skinner.

Recommendations

Staff recommends that Council approve a letter in support of AB 1944.

FISCAL IMPACT

None.

ATTACHMENTS

A - Assembly Bill 1944
B – Letter of Support

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL**No. 1944****Introduced by Assembly Members Lee and Cristina Garcia**

February 10, 2022

An act to amend Section 54953 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1944, as introduced, Lee. Local government: open and public meetings.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a

declared state of emergency is in effect, or in other situations related to public health.

This bill would specify that if a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda or be accessible to the public when the legislative body has elected to allow members to participate via teleconferencing.

This bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 54953 of the Government Code, as
- 2 amended by Section 3 of Chapter 165 of the Statutes of 2021, is
- 3 amended to read:
- 4 54953. (a) All meetings of the legislative body of a local
- 5 agency shall be open and public, and all persons shall be permitted
- 6 to attend any meeting of the legislative body of a local agency,
- 7 except as otherwise provided in this chapter.
- 8 (b) (1) Notwithstanding any other provision of law, the
- 9 legislative body of a local agency may use teleconferencing for
- 10 the benefit of the public and the legislative body of a local agency

1 in connection with any meeting or proceeding authorized by law.
2 The teleconferenced meeting or proceeding shall comply with all
3 otherwise applicable requirements of this chapter and all otherwise
4 applicable provisions of law relating to a specific type of meeting
5 or proceeding.

6 (2) Teleconferencing, as authorized by this section, may be used
7 for all purposes in connection with any meeting within the subject
8 matter jurisdiction of the legislative body. All votes taken during
9 a teleconferenced meeting shall be by rollcall.

10 (3) If the legislative body of a local agency elects to use
11 teleconferencing, it shall post agendas at all teleconference
12 locations and conduct teleconference meetings in a manner that
13 protects the statutory and constitutional rights of the parties or the
14 public appearing before the legislative body of a local agency.
15 Each teleconference location shall be identified in the notice and
16 agenda of the meeting or proceeding, and each teleconference
17 location shall be accessible to the ~~public~~ *public, except as provided*
18 *in subparagraph (A)*. During the teleconference, at least a quorum
19 of the members of the legislative body shall participate from
20 locations within the boundaries of the territory over which the
21 local agency exercises jurisdiction, except as provided in
22 subdivisions (d) and (e). The agenda shall provide an opportunity
23 for members of the public to address the legislative body directly
24 pursuant to Section 54954.3 at each teleconference ~~location~~.
25 *location, except as provided in subparagraph (A)*.

26 (A) *If a member of a legislative body elects to teleconference*
27 *from a location that is not public, the address does not need to be*
28 *identified in the notice and agenda or be accessible to the public*
29 *when the legislative body has elected to allow members to*
30 *participate via teleconferencing.*

31 (B) *If a legislative body elects to use teleconferencing, they shall*
32 *provide both of the following:*

- 33 (i) *A video stream accessible to members of the public.*
34 (ii) *An option for members of the public to address the body*
35 *remotely during the public comment period through an audio-visual*
36 *or call-in option.*

37 (4) For the purposes of this section, “teleconference” means a
38 meeting of a legislative body, the members of which are in different
39 locations, connected by electronic means, through either audio or

1 video, or both. Nothing in this section shall prohibit a local agency
2 from providing the public with additional teleconference locations.

3 (5) *For the purposes of this section, “video streaming” means*
4 *media in which the data from a live filming or a video file is*
5 *continuously delivered via the internet to a remote user, allowing*
6 *a video to be viewed online by the public without being downloaded*
7 *on a host computer or device.*

8 (c) (1) No legislative body shall take action by secret ballot,
9 whether preliminary or final.

10 (2) The legislative body of a local agency shall publicly report
11 any action taken and the vote or abstention on that action of each
12 member present for the action.

13 (3) Prior to taking final action, the legislative body shall orally
14 report a summary of a recommendation for a final action on the
15 salaries, salary schedules, or compensation paid in the form of
16 fringe benefits of a local agency executive, as defined in
17 subdivision (d) of Section 3511.1, during the open meeting in
18 which the final action is to be taken. This paragraph shall not affect
19 the public’s right under the California Public Records Act (Chapter
20 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
21 inspect or copy records created or received in the process of
22 developing the recommendation.

23 (d) (1) Notwithstanding the provisions relating to a quorum in
24 paragraph (3) of subdivision (b), if a health authority conducts a
25 teleconference meeting, members who are outside the jurisdiction
26 of the authority may be counted toward the establishment of a
27 quorum when participating in the teleconference if at least 50
28 percent of the number of members that would establish a quorum
29 are present within the boundaries of the territory over which the
30 authority exercises jurisdiction, and the health authority provides
31 a teleconference number, and associated access codes, if any, that
32 allows any person to call in to participate in the meeting and the
33 number and access codes are identified in the notice and agenda
34 of the meeting.

35 (2) Nothing in this subdivision shall be construed as
36 discouraging health authority members from regularly meeting at
37 a common physical site within the jurisdiction of the authority or
38 from using teleconference locations within or near the jurisdiction
39 of the authority. A teleconference meeting for which a quorum is

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section.

3 (3) For purposes of this subdivision, a health authority means
4 any entity created pursuant to Sections 14018.7, 14087.31,
5 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
6 and Institutions Code, any joint powers authority created pursuant
7 to Article 1 (commencing with Section 6500) of Chapter 5 of
8 Division 7 for the purpose of contracting pursuant to Section
9 14087.3 of the Welfare and Institutions Code, and any advisory
10 committee to a county-sponsored health plan licensed pursuant to
11 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
12 Health and Safety Code if the advisory committee has 12 or more
13 members.

14 (e) (1) A local agency may use teleconferencing without
15 complying with the requirements of paragraph (3) of subdivision
16 (b) if the legislative body complies with the requirements of
17 paragraph (2) of this subdivision in any of the following
18 circumstances:

19 (A) The legislative body holds a meeting during a proclaimed
20 state of emergency, and state or local officials have imposed or
21 recommended measures to promote social distancing.

22 (B) The legislative body holds a meeting during a proclaimed
23 state of emergency for the purpose of determining, by majority
24 vote, whether as a result of the emergency, meeting in person
25 would present imminent risks to the health or safety of attendees.

26 (C) The legislative body holds a meeting during a proclaimed
27 state of emergency and has determined, by majority vote, pursuant
28 to subparagraph (B), that, as a result of the emergency, meeting
29 in person would present imminent risks to the health or safety of
30 attendees.

31 (2) A legislative body that holds a meeting pursuant to this
32 subdivision shall do all of the following:

33 (A) The legislative body shall give notice of the meeting and
34 post agendas as otherwise required by this chapter.

35 (B) The legislative body shall allow members of the public to
36 access the meeting and the agenda shall provide an opportunity
37 for members of the public to address the legislative body directly
38 pursuant to Section 54954.3. In each instance in which notice of
39 the time of the teleconferenced meeting is otherwise given or the
40 agenda for the meeting is otherwise posted, the legislative body

1 shall also give notice of the means by which members of the public
2 may access the meeting and offer public comment. The agenda
3 shall identify and include an opportunity for all persons to attend
4 via a call-in option or an internet-based service option. This
5 subparagraph shall not be construed to require the legislative body
6 to provide a physical location from which the public may attend
7 or comment.

8 (C) The legislative body shall conduct teleconference meetings
9 in a manner that protects the statutory and constitutional rights of
10 the parties and the public appearing before the legislative body of
11 a local agency.

12 (D) In the event of a disruption which prevents the public agency
13 from broadcasting the meeting to members of the public using the
14 call-in option or internet-based service option, or in the event of
15 a disruption within the local agency's control which prevents
16 members of the public from offering public comments using the
17 call-in option or internet-based service option, the body shall take
18 no further action on items appearing on the meeting agenda until
19 public access to the meeting via the call-in option or internet-based
20 service option is restored. Actions taken on agenda items during
21 a disruption which prevents the public agency from broadcasting
22 the meeting may be challenged pursuant to Section 54960.1.

23 (E) The legislative body shall not require public comments to
24 be submitted in advance of the meeting and must provide an
25 opportunity for the public to address the legislative body and offer
26 comment in real time. This subparagraph shall not be construed
27 to require the legislative body to provide a physical location from
28 which the public may attend or comment.

29 (F) Notwithstanding Section 54953.3, an individual desiring to
30 provide public comment through the use of an internet website, or
31 other online platform, not under the control of the local legislative
32 body, that requires registration to log in to a teleconference may
33 be required to register as required by the third-party internet
34 website or online platform to participate.

35 (G) (i) A legislative body that provides a timed public comment
36 period for each agenda item shall not close the public comment
37 period for the agenda item, or the opportunity to register, pursuant
38 to subparagraph (F), to provide public comment until that timed
39 public comment period has elapsed.

1 (ii) A legislative body that does not provide a timed public
2 comment period, but takes public comment separately on each
3 agenda item, shall allow a reasonable amount of time per agenda
4 item to allow public members the opportunity to provide public
5 comment, including time for members of the public to register
6 pursuant to subparagraph (F), or otherwise be recognized for the
7 purpose of providing public comment.

8 (iii) A legislative body that provides a timed general public
9 comment period that does not correspond to a specific agenda item
10 shall not close the public comment period or the opportunity to
11 register, pursuant to subparagraph (F), until the timed general
12 public comment period has elapsed.

13 (3) If a state of emergency remains active, or state or local
14 officials have imposed or recommended measures to promote
15 social distancing, in order to continue to teleconference without
16 compliance with paragraph (3) of subdivision (b), the legislative
17 body shall, not later than 30 days after teleconferencing for the
18 first time pursuant to subparagraph (A), (B), or (C) of paragraph
19 (1), and every 30 days thereafter, make the following findings by
20 majority vote:

21 (A) The legislative body has reconsidered the circumstances of
22 the state of emergency.

23 (B) Any of the following circumstances exist:

24 (i) The state of emergency continues to directly impact the
25 ability of the members to meet safely in person.

26 (ii) State or local officials continue to impose or recommend
27 measures to promote social distancing.

28 (4) For the purposes of this subdivision, “state of emergency”
29 means a state of emergency proclaimed pursuant to Section 8625
30 of the California Emergency Services Act (Article 1 (commencing
31 with Section 8550) of Chapter 7 of Division 1 of Title 2).

32 (f) This section shall remain in effect only until January 1, 2024,
33 and as of that date is repealed.

34 SEC. 2. Section 54953 of the Government Code, as added by
35 Section 4 of Chapter 165 of the Statutes of 2021, is amended to
36 read:

37 54953. (a) All meetings of the legislative body of a local
38 agency shall be open and public, and all persons shall be permitted
39 to attend any meeting of the legislative body of a local agency,
40 except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the ~~public~~. *public, except as provided in subparagraph (A).* During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference ~~location~~. *location, except as provided in subparagraph (A).*

(A) If a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda, or be accessible to the public when the legislative body has elected to allow members to participate via teleconferencing.

(B) If a legislative body elects to use teleconferencing, they shall provide both of the following:

- (i) A video stream accessible to members of the public.*
- (ii) An option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.*

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different

1 locations, connected by electronic means, through either audio or
2 video, or both. Nothing in this section shall prohibit a local agency
3 from providing the public with additional teleconference locations

4 (5) *For the purposes of this section, “video streaming” means*
5 *media in which the data from a live filming or a video file is*
6 *continuously delivered via the internet to a remote user, allowing*
7 *a video to be viewed online by the public without being downloaded*
8 *on a host computer or device.*

9 (c) (1) No legislative body shall take action by secret ballot,
10 whether preliminary or final.

11 (2) The legislative body of a local agency shall publicly report
12 any action taken and the vote or abstention on that action of each
13 member present for the action.

14 (3) Prior to taking final action, the legislative body shall orally
15 report a summary of a recommendation for a final action on the
16 salaries, salary schedules, or compensation paid in the form of
17 fringe benefits of a local agency executive, as defined in
18 subdivision (d) of Section 3511.1, during the open meeting in
19 which the final action is to be taken. This paragraph shall not affect
20 the public’s right under the California Public Records Act (Chapter
21 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
22 inspect or copy records created or received in the process of
23 developing the recommendation.

24 (d) (1) Notwithstanding the provisions relating to a quorum in
25 paragraph (3) of subdivision (b), if a health authority conducts a
26 teleconference meeting, members who are outside the jurisdiction
27 of the authority may be counted toward the establishment of a
28 quorum when participating in the teleconference if at least 50
29 percent of the number of members that would establish a quorum
30 are present within the boundaries of the territory over which the
31 authority exercises jurisdiction, and the health authority provides
32 a teleconference number, and associated access codes, if any, that
33 allows any person to call in to participate in the meeting and the
34 number and access codes are identified in the notice and agenda
35 of the meeting.

36 (2) Nothing in this subdivision shall be construed as
37 discouraging health authority members from regularly meeting at
38 a common physical site within the jurisdiction of the authority or
39 from using teleconference locations within or near the jurisdiction
40 of the authority. A teleconference meeting for which a quorum is

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section.

3 (3) For purposes of this subdivision, a health authority means
4 any entity created pursuant to Sections 14018.7, 14087.31,
5 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
6 and Institutions Code, any joint powers authority created pursuant
7 to Article 1 (commencing with Section 6500) of Chapter 5 of
8 Division 7 for the purpose of contracting pursuant to Section
9 14087.3 of the Welfare and Institutions Code, and any advisory
10 committee to a county-sponsored health plan licensed pursuant to
11 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
12 Health and Safety Code if the advisory committee has 12 or more
13 members.

14 (e) This section shall become operative January 1, 2024.

15 SEC. 3. The Legislature finds and declares that Sections 1 and
16 2 of this act, which amends Section 54953 of the Government
17 Code, further, within the meaning of paragraph (7) of subdivision
18 (b) of Section 3 of Article I of the California Constitution, the
19 purposes of that constitutional section as it relates to the right of
20 public access to the meetings of local public bodies or the writings
21 of local public officials and local agencies. Pursuant to paragraph
22 (7) of subdivision (b) of Section 3 of Article I of the California
23 Constitution, the Legislature makes the following findings:

24 This act is necessary to ensure minimum standards for public
25 participation allowing for greater public participation in
26 teleconference meetings.

27 SEC. 4. (a) The Legislature finds and declares that during the
28 COVID-19 public health emergency, certain requirements of the
29 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
30 of Part 1 of Division 2 of Title 5 of the Government Code) and the
31 Bagley-Keene Open Meeting Act (Article 9 (commencing with
32 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
33 the Government Code) were suspended by Executive Order No.
34 N-29-20. Audio and video teleconference were widely used to
35 conduct public meetings in lieu of physical location meetings, and
36 public meetings conducted by teleconference during the COVID-19
37 public health emergency have been productive, have increased
38 public participation by all members of the public regardless of
39 their location in the state and ability to travel to physical meeting
40 locations, have protected the health and safety of civil servants

1 and the public, and have reduced travel costs incurred by members
2 of state bodies and reduced work hours spent traveling to and from
3 meetings.

4 (b) The Legislature finds and declares that Sections 1 and 2 of
5 this act, which amend Section 54953 of the Government Code,
6 imposes a potential limitation on the public's right of access to the
7 meetings of public bodies or the writings of public officials and
8 agencies within the meaning of Section 3 of Article I of the
9 California Constitution. Pursuant to that constitutional provision,
10 the Legislature makes the following findings to demonstrate the
11 interest protected by this potential limitation and the need for
12 protecting that interest:

13 By removing the requirement for each teleconference location
14 to be identified in the notice and agenda, including the member's
15 private home address, this act protects the personal, private
16 information of public officials and their families while preserving
17 the public's right to access information concerning the conduct of
18 the people's business.

O

April 19, 2022

Sen. Nancy Skinner
California State Senate
1021 O Street, Suite 8630
Sacramento, CA 95814

Assm. Buffy Wicks
California State Assembly
State Capitol
Sacramento, CA 95814

Re: Support for Assembly Bill 1944

Dear Sen. Skinner & Assm. Wicks,

The Pinole City Council is writing to express support for Assembly Bill 1944, which would amend the Brown Act to create greater flexibility for local agencies to hold teleconference meetings.

Specifically, AB 1944 would amend Government Code section 54953 to provide that if a member of a local legislative body elects to participate in a meeting via teleconference from a location that is not public, the address of that location need not be identified in the notice and agenda, or be accessible to the public. AB 1944 would also require the local body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for the public to address the body remotely.

AB 1944's amendment of the Government Code would protect the personal, private information of public officials and their families, while preserving the public's right to participate in the conduct of public business.

For these reasons, the City of Pinole supports AB 1944.

Best regards,

Vincent Salimi
Mayor

Devin Murphy
Mayor Pro-Tem

Norma Martinez-Rubin
Councilmember

Anthony Tave
Councilmember

Maureen Toms
Councilmember

5091719.1



CITY COUNCIL REPORT

9F

DATE: APRIL 19, 2022

TO: MAYOR AND COUNCIL MEMBERS

FROM: SANJAY MISHRA, PUBLIC WORKS DIRECTOR

SUBJECT: LETTER OF SUPPORT FOR ASSEMBLY BILL (AB) 1814 (GRAYSON)
REGARDING INVESTMENTS IN EV CHARGING

RECOMMENDATION

Staff recommends that the City Council consider sending a letter of support (attached) for California Assembly Bill (AB) 1814.

BACKGROUND

At the March 15, 2022, City Council meeting, the Council directed staff to return with an agenda item to consider a letter of support for AB 1814. This is an act to amend Section 740.12 of the Public Utilities Code, relating to electricity.

Across California, more than 40% of greenhouse gas emissions (GHGs) come from the transportation sector. As such, there is a strong statewide emphasis on deploying more electric and other zero-emission vehicles, and the charging/refueling infrastructure needed to support them. The California Energy Commission has found that more than 1 million additional public and shared electric vehicle (EV) chargers must be installed by 2030 in order to meet state zero-emission vehicle goals.

City of Pinole joined Marin Clean Energy (MCE) a community choice aggregator (CCA) that provides clean electricity at competitive rates to more than one million residents and businesses in Contra Costa, Marin, Napa, and Solano counties, including most of Pinole residents and businesses. MCE also offers a wide range of clean energy programs and incentives that are tailored to meet the needs of the communities it serves.

MCE currently offers programs and incentives to support EVs, with particular focus on the customers that are hardest to reach, including small businesses, multi-family properties, low-income customers. These programs are funded through MCE's own revenues and supplemented with other state funds. MCE intends to continue pursuing additional state and federal funds to support EV deployment and adoption.

To support the transition to EVs, the California Public Utilities Commission (CPUC) has statutory authority to approve applications from Investor-Owned Utilities (IOUs) for funding to support their EV charging programs. This funding is collected from all customers, including those who receive electric service from CCAs like MCE. However, CCAs are not currently permitted to apply for this funding to support their own EV charging programs.

AB 1814 (Grayson) would permit CCAs to apply to the CPUC to receive funding to support their own EV charging programs. Importantly, AB 1814 would not increase electric rates for any customers. It would simply give CCAs the chance to apply for available CPUC funding.

With access to supportive funding through the CPUC, as well as other state and federal sources, CCAs will be able to work more closely with City of Pinole to deploy EV charging stations that best meet the needs of Pinole residents and businesses.

The League of California Cities has not established a position on this bill. City staff has drafted a letter of support (attached) for the City Council's consideration and action.

FISCAL IMPACT

There would be no direct fiscal impact to the City created by submitting a position letter on this State legislation.

Attachments

- A- Text of AB 1814
- B- Fact Sheet
- C- Draft City of Pinole Letter of Support for AB

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL**No. 1814****Introduced by Assembly Member Grayson**

February 7, 2022

An act to amend Section 740.12 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as introduced, Grayson. Transportation electrification: community choice aggregators.

The California Constitution and the Public Utilities Act vest the Public Utilities Commission (PUC) with regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission and the State Air Resources Board, to direct electrical corporations to file applications for programs and investments to accelerate widespread transportation electrification to reduce dependence on petroleum, meet air quality standards, achieve the goals set forth in the Charge Ahead California Initiative, and reduce emissions of greenhouse gases to 40% below 1990 levels by 2030 and to 80% below 1990 levels by 2050. Existing law requires that those programs proposed by electrical corporations seek to minimize overall costs and maximize overall benefits. Existing law requires the PUC to approve, or modify and approve, programs and investments in transportation electrification, including those that deploy charging infrastructure, through a reasonable cost recovery mechanism, if they are consistent with the above-described purposes, do not unfairly compete with nonutility enterprises, include performance accountability measures, and are in the interests of ratepayers.

Existing law authorizes a community choice aggregator to aggregate the electrical load of interested electricity consumers within its boundaries and requires a community choice aggregator to file an implementation plan with the PUC, to register with the PUC, and to enter into an operating service agreement with an electrical corporation.

This bill would, as part of the PUC's program described above, authorize community choice aggregators to file applications for programs and investments to accelerate widespread transportation electrification, as specified.

Under existing law, a violation of the Public Utilities Act or an order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill would be a part of the act and because a violation of a PUC action implementing the bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 740.12 of the Public Utilities Code is
2 amended to read:

3 740.12. (a) (1) The Legislature finds and declares all of the
4 following:

5 (A) Advanced clean vehicles and fuels are needed to reduce
6 petroleum use, to meet air quality standards, to improve public
7 health, and to achieve greenhouse gas emissions reduction goals.

8 (B) Widespread transportation electrification is needed to
9 achieve the goals of the Charge Ahead California Initiative
10 (Chapter 8.5 (commencing with Section 44258) of Part 5 of
11 Division 26 of the Health and Safety Code).

12 (C) Widespread transportation electrification requires increased
13 access for disadvantaged communities, low- and moderate-income
14 communities, and other consumers of zero-emission and
15 near-zero-emission vehicles, and increased use of those vehicles
16 in those communities and by other consumers to enhance air

1 quality, lower *emissions of greenhouse gases* ~~emissions, gases,~~
2 and promote overall benefits to those communities and other
3 consumers.

4 (D) Reducing emissions of greenhouse gases to 40 percent below
5 1990 levels by 2030 and to 80 percent below 1990 levels by 2050
6 will require widespread transportation electrification.

7 (E) Widespread transportation electrification requires ~~electrical~~
8 ~~corporations~~ *load-serving entities, as defined in Section 380,* to
9 increase access to the use of electricity as a transportation fuel.

10 (F) Widespread transportation electrification should stimulate
11 innovation and competition, enable consumer options in charging
12 equipment and services, attract private capital investments, and
13 create high-quality jobs for Californians, where technologically
14 feasible.

15 (G) Deploying electric vehicles should assist in grid
16 management, integrating generation from eligible renewable energy
17 resources, and reducing fuel costs for vehicle drivers who charge
18 in a manner consistent with electrical grid conditions.

19 (H) Deploying electric vehicle charging infrastructure should
20 facilitate increased sales of electric vehicles by making charging
21 easily accessible and should provide the opportunity to access
22 electricity as a fuel that is cleaner and less costly than gasoline or
23 other fossil fuels in public and private locations.

24 (I) According to the State Alternative Fuels Plan analysis by
25 the Energy Commission and the State Air Resources Board, light-,
26 medium-, and heavy-duty vehicle electrification results in
27 approximately 70 percent fewer greenhouse gases emitted, over
28 85 percent fewer ozone-forming air pollutants emitted, and 100
29 percent fewer petroleum used. These reductions will become larger
30 as renewable generation increases.

31 (2) It is the policy of the state and the intent of the Legislature
32 to encourage transportation electrification as a means to achieve
33 ambient air quality standards and the state's climate goals.
34 Agencies designing and implementing regulations, guidelines,
35 plans, and funding programs to reduce *emissions of greenhouse*
36 ~~gas emissions~~ *gases* shall take the findings described in paragraph
37 (1) into account.

38 (b) (1) The commission, in consultation with the State Air
39 Resources Board and the Energy Commission, shall direct electrical
40 ~~corporations~~ *corporations, and authorize community choice*

1 *aggregators*, to file applications for programs and investments to
2 accelerate widespread transportation electrification to reduce
3 dependence on petroleum, meet air quality standards, achieve the
4 goals set forth in the Charge Ahead California Initiative (Chapter
5 8.5 (commencing with Section 44258) of Part 5 of Division 26 of
6 the Health and Safety Code), and reduce emissions of greenhouse
7 gases to 40 percent below 1990 levels by 2030 and to 80 percent
8 below 1990 levels by 2050. ~~Programs~~

9 (2) *Programs* proposed by electrical corporations or *community*
10 *choice aggregators* shall seek to minimize overall costs and
11 maximize overall ~~benefits~~. ~~The benefits, including through~~
12 ~~leveraging nonratepayer funding sources.~~

13 (3) *The* commission shall approve, or modify and approve,
14 programs and investments in transportation electrification,
15 including those that deploy charging infrastructure, via a reasonable
16 cost recovery mechanism, if they are consistent with this section,
17 do not unfairly compete with nonutility enterprises as required
18 under Section 740.3, include performance accountability measures,
19 and are in the interests of ratepayers as defined in Section 740.8.

20 ~~Not~~

21 (4) *If a community choice aggregator's application is approved,*
22 *the applicable electrical corporation shall collect the approved*
23 *charge from its distribution customers and shall distribute those*
24 *moneys to the community choice aggregator pursuant to the*
25 *approved application.*

26 (5) *Not* less than 35 percent of the investments *made* pursuant
27 to this subdivision shall be in underserved ~~communities~~
28 *communities*, as that term is defined in Section 1601.

29 (c) The commission shall review data concerning current and
30 future electric transportation adoption and charging infrastructure
31 ~~utilization prior to use before~~ authorizing an electrical corporation
32 to collect new program costs related to transportation electrification
33 in customer rates. If market barriers unrelated to the investment
34 made by an electric corporation or *community choice aggregator*
35 prevent electric transportation from adequately ~~utilizing~~ *using*
36 available charging infrastructure, the commission shall not permit
37 additional investments in transportation electrification without a
38 reasonable showing that the investments would not result in
39 long-term stranded costs recoverable from ratepayers.

(d) This section applies to an application to the commission for transportation electrification programs and investments if one of the following conditions is met:

(1) The application is filed on or after January 1, 2016.

(2) The application is filed before January 1, 2016, but has an evidentiary hearing scheduled on or after July 1, 2016.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O



ASSEMBLYMEMBER TIM GRAYSON

AB 1814

Transportation Electrification Funds: Community Choice Aggregators

Summary:

AB 1814 would authorize Community Choice Aggregators (CCAs) to submit applications to the California Public Utilities Commission (CPUC) to receive funding to administer transportation electrification programs in their service areas.

Background:

California has held lofty initiatives of meeting stringent air quality and climate change targets. A major component in meeting these targets are the state's transportation objectives to achieve five million zero-emission vehicles (ZEVs) on the road by 2030¹ and 250,000 electric vehicle charging stations by 2025². These are essential because the transportation sector contributes a large percentage of nitrogen emissions, diesel particulate matter, and statewide greenhouse gas (GHG) emissions.

The CPUC plays a critical role in achieving these emission targets. Under their authority to regulate Investor-Owned Utilities (IOUs), they are directing strategic investments for transportation electrification projects, designing electricity rates, adopting vehicle-grid integration policy and pilot programs, and conducting program evaluation and interagency coordination to ensure strategically coordinated ZEVs investments.³

Alternative to IOUs, CCAs are local government entities that supply energy needs for their communities, offering an alternative and tailored choice in the market and serve over 11 million customers in more than 200 cities and counties. CCAs can provide the communities that they serve with competitively priced, clean energy choices while reinvesting revenues into projects and programs, supporting the local economy, such as offering complementary programs such as EV charging and battery storage.

Problem:

The California Energy Commission (CEC) has assessed California's electric vehicle charging infrastructure rollout and determined that the state will be almost 1 million chargers short of what will be required to support the state's 2035 EV adoption goals.

While CPUC authorizes IOUs to file applications to receive ratepayer funded transportation electrification program funding, CCAs are not explicitly authorized in existing law to access these funds, despite CCA customers also paying into these same funds. As a result, local leaders have little ability to tailor electric vehicle infrastructure and programs to serve residents and businesses, particularly in traditionally underrepresented areas.

Solution:

AB 1814 would explicitly authorize CCAs to file applications for programs and investments to accelerate widespread transportation electrification. In order to submit these applications, CCAs would be regulated to meet all of the same requirements that IOUs are currently required to meet.

In order to meet the state's EV adoption goals, CCAs must also be included in the solution. CCAs should be given the opportunity to apply for funding through CPUC for transportation electrification projects as a means of potentially addressing energy needs as identified by specific communities. By creating parity within IOUs and CCAs, the state may be able to meet our GHG emission reduction goals in the transportation sector.

Support:

California Community Choice Association
(Sponsor)

Staff Contact:

Samantha Yturalde
Samantha.Yturalde@asm.ca.gov
(916) 319-2014

¹ <https://www.ca.gov/archive/gov39/2018/01/26/governor-brown-takes-action-to-increase-zero-emission-vehicles-fund-new-climate-investments/index.html>

² <https://www.ca.gov/archive/gov39/2012/03/23/news17472/index.html>

³ <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/transportation-electrification>



CITY OF PINOLE

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April 19, 2022

The Honorable Eduardo Garcia
Chair, Assembly Utilities and Energy Committee
via email

Re: AB 1814 (Grayson) – SUPPORT

Dear Assemblymember Garcia,

On behalf of City of Pinole, I write in support of AB 1814, a narrow bill that would allow Community Choice Aggregators (CCAs) to submit applications to the California Public Utilities Commission (CPUC) to receive funding to support transportation electrification. The City of Pinole is a community of approximately 19,573 residents situated in Western Contra Costa County on the east side of San Francisco Bay. City of Pinole is a member of Marin Clean Energy (MCE), and supports efforts to ensure that CCAs have a full suite of tools necessary to confront the climate crisis by eliminating fossil fuel greenhouse gas emissions and to create equitable community benefits.

Transportation electrification (TE) is a vital component of California's climate change mitigation strategy, as well as a key environmental priority for Pinole. With an ambitious state goal of achieving at least five million zero-emission vehicles (ZEVs) on the road by 2030 and 250,000 electric vehicle charging stations by 2025, City of Pinole seeks to ensure that an appropriate share of these investments is located in and benefits its residents. CCAs are well-suited to deploy TE infrastructure in ways that best benefit local communities and residents.

City of Pinole supports AB 1814 because it would correct the current funding inequity and allow CCAs as well as IOUs to access CPUC funding for TE. By adding effective and nimble additional administrators to the CPUC's programs, AB 1814 will make the CPUC's TE programs more successful as well.

CCAs have a proven track record of serving customers and communities with programs and service options tailored to meet local needs and priorities. AB 1814 will help to expand upon already-successful CCA TE offerings and ensure ratepayer fairness for CCA communities.

For these reasons, City of Pinole is pleased to support AB 1814. Thank you for your leadership on this important issue.

Sincerely,

Vincent Salimi
Mayor, City of Pinole

Cc: The Honorable Assemblymember Tim Grayson
The Honorable Assemblymember Buffy Wicks
The Honorable Senator Nancy Skinner
Honorable Members of the Assembly Utilities and Energy Committee
Laura Shybut, Consultant, Assembly Utilities and Energy Committee
Sam Caygill, East Bay Division, League of California Cities (Via email)
League of California Cities (Via email: cityletters@cacities.org)

DRAFT



CITY COUNCIL REPORT

10A

DATE: APRIL 19, 2022

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: ERIC CASHER, CITY ATTORNEY

SUBJECT: CONDUCT FIRST READING OF ORDINANCE ADOPTING A
MILITARY EQUIPMENT USE POLICY AND ADDING CHAPTER 2.60
TO THE PINOLE MUNICIPAL CODE IN COMPLIANCE WITH AB 481

RECOMMENDATION

Staff recommends that the City Council conduct the first reading of an ordinance adding Chapter 2.60 to the Pinole Municipal Code adopting the City of Pinole Police Department's proposed Military Equipment Funding, Acquisition And Use Policy in compliance with AB 481.

BACKGROUND

On September 30, 2021, Governor Newsom signed into law Assembly Bill (AB) 481, to address the use of military equipment by law enforcement agencies in California. AB 481's stated goals are to increase transparency, accountability and oversight related to the acquisition and use of military equipment by state and local law enforcement agencies, as well as, to provide legally enforceable safeguards to protect the public's welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used by local law enforcement agencies.

AB 481, codified as Government Code sections 7070 et seq., requires that the City of Pinole Police Department ("Department") adopt a written military equipment use policy approved by the City Council by way of an ordinance, prior to taking certain actions relating to the funding, acquisition, or use of military equipment as defined by the State legislature. Specifically, the Department must adopt a military equipment use policy approved by the City Council before the Department: (1) continues to use any military equipment acquired before January 1, 2022; (2) purchases, raises funds for, or acquires military equipment after January 1, 2022; or (3) collaborates with another law enforcement agency in the deployment or use of military equipment within the Department's jurisdiction, or allows use of said equipment by any person not previously approved by Council.

"Military equipment" as defined by AB 481 does not necessarily indicate equipment used by or acquired from the military. "Military equipment" as defined by AB 481

includes, but is not limited to, armored or weaponized vehicles, remotely powered vehicles, large-caliber and specialized firearms, explosive breaching tools, and “flashbang” grenades and projectile launchers. Any equipment which falls under the definition of “military equipment” as set forth in Government Code section 7070(c) (1)-(16) is subject to the terms of AB 481.

A military equipment use policy under AB 481 is a public document that sets forth the intended use and purpose of the military equipment by the Department. The policy must address a number of specific topics as set forth in Government Code section 7070(d) including the type, quantity, capabilities, purposes, and authorized uses of each type of military equipment, the fiscal impact of their acquisition and use, the legal and procedural rules that govern their use, the training required by any officer allowed to use them, the mechanisms in place to ensure policy compliance, and the process and procedures by which the public may register complaints for violation of the policy. Nothing under AB 481 is intended to outright prohibit any particular kind of military equipment.

Under AB 481, the City Council must consider the proposed military equipment use policy in open session of a City Council meeting and may only approve the policy if it makes specific findings regarding the equipment including safeguards, cost effectiveness, reasonableness of use, and fiscal impact. Specifically, City Council must make all of the following findings:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

Once the ordinance is adopted approving the Department’s military equipment use policy, City Council must review the policy annually to determine whether it complies with the standards for approval set forth above and must either disapprove, renew, or amend the policy based on its findings. The City Council’s findings at the time of annual review must include a review of an annual military equipment report to be prepared by the Department and must be done during a City Council meeting’s open session.

Attachment B is the Department’s proposed military equipment use policy. Attachment C is the inventory list of military equipment the Department currently has, and intends to use in the future, that falls within the definition of “military equipment” under AB 481.

DISCUSSION

The proposed ordinance complies with the requirement under AB 481 that the City Council approve the Department's Military Equipment Funding, Acquisition And Use Policy (the "Policy") by ordinance. The Policy contains all the required elements of Government Code section 7070 (d) set forth above. The Policy outlines each item identified as "military equipment" in Government Code section 7070 (c) under the qualifying equipment inventory that is currently owned by the City. The Policy and inventory also include the current use and cost of each item, type, quantity, capabilities, purposes, and authorized uses, legal and procedural rules that govern their use, and the mechanisms in place to ensure policy compliance. These particular items, and their stated uses, have been in place prior to the implementation of AB 481. Future acquisitions of any item deemed to be "military equipment" will require a further public meeting, policy update, and council approval.

Additionally, the Policy states the procedures by which the public may register complaints for violation of the Policy. Specifically, the Department has established a Community Concerns and Complaints process with forms available at the Department and online. The public will have the ability to provide verbal concerns/complaints over the telephone or in-person at the Pinole Police Department.

Through adoption of the ordinance, the City Council will authorize the continued use of preexisting equipment considered "military equipment" under AB 481. This includes a Mine Resistant Ambush Protected Vehicle (MRAP) for use as an Emergency Rescue Vehicle (ERV) to safely evacuate residents in the event of a natural disaster or critical incidents, to move personnel and/or resources in support of natural disasters (i.e. flood, fire, earthquake), large scale logistics, active shooter incidents, and incidents where there is reason to expect potential armed resistance requiring protection. The Policy also includes a single unmanned, remotely piloted, powered ground vehicle used to enhance peace officer and community safety when encountering potentially dangerous situations by providing first responders with the ability to capture video and still images, and to transport communication equipment or other resources prior to, or in lieu of, sending in personnel into hazardous incidents or environments.

Other items deemed to be "military equipment" via AB 481 include foundational equipment such as rifles and ammunition. These rifles allow peace officers to address lethal threats from a greater distance and with greater precision. The Department also seeks authorization to use four preexisting pepper ball launchers and projectiles, to limit the escalation of conflict where employment of lethal force is prohibited or undesirable. The projectiles provide officers with a less-lethal option in incidents of combative or self-destructive individuals, riot/crowd control and civil unrest incidents, circumstances where a tactical advantage can be obtained, potentially vicious animals, and training exercises or approved demonstrations. The equipment allows for more time and opportunity to attempt to deescalate situations and provide for safer tactics to resolve life threatening events in the safest way possible.

The Policy safeguards the public's welfare, safety, civil rights and civil liberties by ensuring that there are safeguards, including transparency, oversight, and accountability measures in place. For instance, the Policy authorizes the Chief of Police to designate a member of the Department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include, but are not limited, acting as a liaison to City Council for all matters related to the requirements of AB 481, identifying "military equipment" as defined under the statute, conducting annual inventory and review, collaborating with outside agencies, and scheduling and coordinating an annual community engagement hearing to address the Department's funding, acquisition, and use of military equipment.

California Government Code section 7071(b) requires that the Police Department post to its website the Military Equipment Use Policy that it plans to propose to City Council, at least thirty (30) days prior to any public hearing concerning the policy, for any comments, questions or concerns from the public. The Department complied with this requirement by posting the Policy on the City's website on March 18, 2022. As of the time this agenda report is published, we have not received any comments. Additionally, on April 11, 2022, the Municipal Code Update Subcommittee reviewed and approved the proposed ordinance and related Policy, without revision.

The Department has a significant interest in continuing to have access to equipment that will provide peace officers as many options as possible to safeguard lives, ensure safety, and protect civil liberties of the citizens of the City of Pinole. The use of the military equipment identified on the inventory list is vital to the Department's mission and will continue to be strictly regulated through internal processes and oversight.

FISCAL IMPACT

There is no direct fiscal impact from the adoption of the ordinance approving the military equipment use policy. The Policy explicitly references the fiscal impact related to costs to maintain or acquire equipment.

ATTACHMENTS

- A. Ordinance Approving And Adopting A Military Equipment Use Policy And Adding Chapter 2.60 To The Pinole Municipal Code In Compliance With Assembly Bill 481
- B. Military Equipment Funding, Acquisition and Use Policy
- C. AB 481 Qualifying Equipment Inventory

ATTACHMENT A

ORDINANCE NO. 2022-XXXX

AN ORDINANCE OF THE CITY OF PINOLE APPROVING AND ADOPTING A MILITARY EQUIPMENT USE POLICY AND ADDING CHAPTER 2.60 ENTITLED “MILITARY EQUIPMENT POLICY” TO TITLE 2 OF THE CITY OF PINOLE MUNICIPAL CODE IN COMPLIANCE WITH ASSEMBLY BILL 481 (GOVERNMENT CODE SECTION 7070, *et. seq.*)

Section 1. Authority. This Ordinance is adopted pursuant to the provisions set forth in Government Code Section 36937(b) and pursuant to all other applicable laws.

Section 2. Findings.

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 relating to the use of military equipment by California law enforcement agencies; and

WHEREAS, Assembly Bill 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used by law enforcement agencies; and

WHEREAS, Assembly Bill 481, codified at California Government Code section 7070, *et. seq.*, requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment” use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term “military equipment” is defined in California Government Code section 7070 subdivision (c).

WHEREAS, the Pinole Police Department is in possession of certain items of equipment that may qualify as “military equipment” under Assembly Bill 481; and

WHEREAS, Assembly Bill 481 requires that a law enforcement agency possessing and using such qualifying equipment prepare a publicly released, written, military equipment use policy. The policy must be a document covering the inventory, description, purpose, use, acquisition, maintenance, fiscal impacts, procedures, training, oversight, and complaint process, applicable to the Department’s use of such equipment; and

WHEREAS, Assembly Bill 481 allows the governing body of a city to approve the military equipment use policy for continued or future funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations; and

WHEREAS, the military equipment use policy and supporting information must, upon adoption by ordinance, thereafter be approved by the governing body by ordinance, and reviewed annually; and

WHEREAS, the proposed military equipment use policy has been prepared by the Pinole Police Department as “Military Equipment Funding, Acquisition and Use Policy” identified as Policy 707;

WHEREAS, Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy was published on the Pinole Police Department's internet website on March 18, 2022 in compliance with Government Code Section 7071 subdivision (b); and

WHEREAS, the Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy was presented to City Council on April 19, 2022; and

WHEREAS, the Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy meets the requirements of California Government Code Section 7070 subdivision (d); and

WHEREAS, the City Council of the City of Pinole, having received the information required under Assembly Bill 481 regarding the Pinole Police Department's use of military equipment as defined in said law, and makes the specified determinations required under Government Code Section 7071 subdivision (d), deems it to be in the best interest of the City to approve the Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy as set forth herein.

NOW THEREFORE, BE IT RESOLVED, in accordance with Government Code Section 36937, and pursuant to the findings stated herein, that the City Council of the City of Pinole hereby finds as follows:

Section 3. Determinations.

Based on the findings above, in addition to information provided to the City Council at the public meeting, the City Council determines as follows:

1. The Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
2. The Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. The military equipment identified in the Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safety.
4. Prior military equipment use by the Pinole Police Department complied with the military equipment use policy although it was not yet in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
5. The Pinole Police Department's Military Equipment Funding, Acquisition and Use Policy setting forth the City's military equipment use policy is approved and adopted.

Section 4. That a new Chapter 2.60 entitled “MILITARY EQUIPMENT POLICY” is added to Title 2. “ADMINISTRATIVE AND PERSONNEL” of the City of Pinole Municipal Code to read as follows:

“2.60 Military Equipment Policy.

(a) Pursuant to Government Code Section 7071 (d), the City Council has made the following determinations:

(1) The military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;

(2) The proposed military equipment use policy (“Policy”) will safeguard the public’s welfare, safety, civil rights, and civil liberties;

(3) The equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety (if any);

(4) Prior military equipment use complied with the applicable equipment use policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(b) The Police Department has submitted a proposed Policy to the City Council entitled “Military Equipment Funding, Acquisition and Use Policy” identified as Pinole Police Department Policy 707 and has made those documents available on the Police Department’s website for at least 30 days prior to the public hearing concerning the military equipment at issue.

(c) The Policy was considered by the City Council as an agenda item in an open session of a regular meeting, noticed in accordance with the Ralph M. Brown Act, at which public comment was permitted.

(d) The Policy shall be made publicly available on the Police Department’s website for as long as the military equipment is available for use.

(e) The Police Department shall submit an annual military equipment report to the City Council, containing the information required in Government Code Section 7072, and the City Council shall determine whether each type of military equipment identified in that report has complied with the standards for approval set forth in (a)(1)-(4) above.

(f) The City Council shall review this ordinance, and vote on whether to renew it, on an annual basis at a regular meeting, in accordance with Government Code Section 7071(e)(2)

(g) The City Council approves the use of the Policy described as “Military Equipment Funding, Acquisition and Use Policy” identified as Pinole Police Department Policy 707, and finds that it satisfies the requirements of Government Code Section 7070(d).”

Section 5: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each of every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 7. Effective Date and Duration. This ordinance shall take effect thirty (30) days after its final adoption.

Section 8. Publication. The City Clerk is directed to cause this ordinance to be published in a manner required by law.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on April 19, 2022, the City Council passed this urgency ordinance by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of Pinole on April ____, 2022.

Heather Bell, CMC
City Clerk

5008188.1

Military Equipment Funding, Acquisition and Use Policy

707.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072). This policy applies to all members of the Department

707.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

Military Equipment Funding, Acquisition and Use Policy

707.2 POLICY

It is the policy of the Pinole Police Department that members of this department comply with the provisions of Government Code § 7070 and 7071 with respect to the use and acquisition of military equipment.

707.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Pinole Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting.
 - 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).

707.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department: [See attachment: Military Equipment Pinole Police Department Final 4_2022.pdf](#)

707.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.

Military Equipment Funding, Acquisition and Use Policy

- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

707.6 COORDINATION WITH OTHER JURISDICTIONS

On occasion, the department may be required to assist or be assisted by other law enforcement agencies in a formal Mutual Aid Request or support with day to day operational collaboration (i.e. pursuits, investigative unit assistance, joint law enforcement operations, etc.). The specific guidance and requirements for Mutual Aid is governed by PPD Policy 331 - Outside Agency Assistance.

In certain mutual aid or operational collaboration circumstances, it may be necessary for sworn department members to utilize military equipment in order to fulfill an assigned mission (i.e. active shooter, civil unrest, barricaded suspects in a vehicle, etc.). When sworn department members utilize military equipment in instances of mutual aid or law enforcement collaboration, the following shall apply:

- a. Department members are required to adhere to the Department's Military Equipment Procedure and all policies and procedures outlined within the Pinole Police Department's Policy and Procedures Manual, regardless of operational jurisdiction.
- b. Should the Pinole Police Department request mutual aid from another law enforcement agency within Contra Costa County and military equipment is required during the course of the response, the following shall apply:
 - 1. The Pinole Police Department shall remain in charge of the overall incident command.
 - 2. The Incident Commander or designee shall brief the supervisor from the assisting agency and inform them of the mission, enforcement posture, and any pertinent information related to the incident.
 - 3. The assisting agency will be expected to adhere to their respective policies and procedures, particularly those governing the use of military equipment.
 - 4. If the Incident Commander or their designee is informed of or witnesses the utilization of military equipment by an assisting agency inconsistent with the guidelines set forth in this

Military Equipment Funding, Acquisition and Use Policy

procedure, the Incident Commander may elect to cancel the request for mutual aid or re-assign the assisting agency to a different support mission.

707.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

707.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

707.9 COMMUNITY CONCERNS AND COMPLAINTS

The Pinole Police Department has established a Community Concerns and Complaints process with forms available at the department and online. The community will have the ability to provide verbal concerns/complaints over the telephone or in-person at the Pinole Police Department (PPD policy 1010).

707.10 CITY COUNCIL APPROVAL

Pursuant to California Government Code section 7071, the City Council of Pinole approved this Policy pursuant to Ordinance # _____ on _____, 2022. Further substantive amendments to the Policy need to be reviewed and approved by the City Council.

Attachments

ATTACHMENT C

Military Equipment Pinole Police Department Final 4_2022.pdf

AB 481 Qualifying Equipment Inventory: Pinole Police Department

1. Equipment Type: Mine Resistant Ambush Protected Vehicle (MRAP) – CA Govt Code §7070(c)(2)	
Quantity Owned or Sought: 1	Lifespan: Unknown
Purpose/Authorized User: Emergency Rescue Vehicle (ERV) to safely evacuate residents in the event of a natural disaster or critical incidents. To move personnel and/or resources in support of natural disasters (i.e. flood, fire, earthquake), large scale logistics, active shooter incidents, and incidents where there is reason to expect potential armed resistance requiring protection. Use may be authorized by Watch Commander or Tactical/Operations Commander, based on the circumstances of the given incident.	
Fiscal Impact: Acquired under the Law Enforcement Support Program Office (LESO): \$0 for equipment. \$9,200 for delivery, paint and upfitting. Annual maintenance cost is approximately \$1,000.00	
Legal and Procedural Rules Governing: It is the policy of the department to utilize armored vehicles only for law enforcement purposes and pursuant to State and Federal law.	
Training Required: Department provided training.	
Other Notes: The MRAP is an armored vehicle manufactured by BAE Systems/Caiman weighing over 34,000 pounds and can carry a payload of over 4,000 pounds. The vehicle has six (6) wheels fitted with tires and is all-wheel drive, powered by a diesel engine. The vehicle measures approximately 22 feet long, 8 feet wide, and 10 feet tall.	

2. Equipment Type: Unmanned, remotely piloted, powered ground vehicles - CA Gov't Code §7070(c)(1)	
Quantity Owned/Sought: 1	Lifespan: Approximately 15 years
Equipment Capabilities: Vehicle is capable of being remotely navigated to provide scene information and intelligence in the form of video and still images transmitted to first responders.	
Manufacturer Product Description: iRobot PackBot 510 Multi Mission Robot (MMR)	
Purpose/Authorized Uses: To enhance officer and community safety when encountering potentially dangerous situations by providing first responders with the ability to capture video and still images, to transport communication equipment or other resources prior to, in lieu of sending in personnel into hazardous incidents or environments.	
Fiscal Impacts: Acquired under the Law Enforcement Support Program Office (LESO): \$0 for equipment. Annual maintenance cost is approximately \$500.	
Legal/Procedural Rules Governing Use: The use of unmanned, remotely piloted, powered ground vehicles potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to all applicable privacy laws and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy.	
Training Required: Department provided training.	

AB 481 Qualifying Equipment Inventory: Pinole Police Department

Other Notes: None

3. Equipment Type: Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units – CA Govt Code §7070(c)(5)
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Quantity Owned or Sought: 1	Lifespan: 20 years
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Purpose/Authorized User: Trailer is purpose-built to facilitate the operational control and direction of public safety units conducting DUI enforcement checkpoints, traffic safety operations, and responding to or at an incident. The Command and Control (C&C) trailer serves as a centralized location for command decision making, enhanced communication and other situational awareness capabilities. Use may be authorized by Watch Commander or Tactical/Operations Commander, based on the circumstances of the given incident.

Fiscal Impact: Acquired by grant issued by the State of California Office of Traffic Safety under a Traffic Safety Grant. \$40,415 for equipment. Annual maintenance cost is approximately \$1000.

Legal and Procedural Rules Governing: It is the policy of the department to utilize C&C trailer only for law enforcement purposes and pursuant to State and Federal law.

Training Required: Department provided training.

Other Notes: The command-and-control trailer is standard tow-behind trailer with dual axels manufactured by Universal Trailer with a GVW of 3,100 pounds. The trailer measures approximately 16 feet long, 8.5 feet wide, and 9 feet tall. The trailer is equipped with a fold-down rear door, lighting, and a generator.
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4. Equipment Type: Semiautomatic Rifles and Ammunition - CA Gov't Code §7070(c)(10)
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Quantity Owned or Sought: 28	Lifespan: 15 years
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Purpose/Authorized User: Colt AR-15/M4 Carbine semiautomatic shoulder fired rifle with long spirally grooved barrel that fires .223 Rem/5.56 mm projectile bullet. The rifles are equipped with 10.5" barrel, Surefire muzzle brake, and Surefire SOCOM556-RC2 suppressors. Ammunition is Speer Gold Dot caliber .223 62 grain.
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A standard officer issue to be used as a precision weapon to address a threat with more precision and/or greater distances than a handgun, if present and feasible.

Fiscal Impact:

- Colt AR-15/M4 Rifle: \$32,400, quantity: 28
- Surefire muzzle brake: \$2,779, quantity: 28
- Surefire SOCOM556-RC2 Suppressors: \$22,408, quantity: 28
- Speer Gold Dot caliber .223 62 gr ammunition: \$4,300, quantity: 9,780
- Annual maintenance cost is approximately \$1,500

Legal and Procedural Rules Governing: All applicable State, Federal and Local laws governing police use of force. Various Pinole Police Department Policies on Use of Force and Firearms.
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AB 481 Qualifying Equipment Inventory: Pinole Police Department

Training Required: Department firearms training and qualifications as required by law and policy by POST certified instructors. CA POST certified 24-hour patrol rifle course.

Other Notes: These rifles are standard issue service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and in the interest of transparency.

5. Equipment Type: Pepper Ball Launcher and Projectiles - CA Gov't Code §7070(c)(12)**Quantity Owned or Sought:** 4**Lifespan:** 20 years

Purpose/Authorized User: PepperBall VKS Carbine is a Variable Kinetic System (VKS) launcher utilizing compressed-air to fire non-lethal PepperBall projectiles. The VKS features a dual feed system that offers the ability to quickly switch between hopper fed and magazine fed projectiles. Projectiles: 2% PAVA ball containing pepper powder designed for direct impact and area saturation, Glass Breaker ball composed of hardened plastic designed to break glass barriers, and Inert/H2O balls for training.

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Provides officers with a less-lethal option in incidents of combative or self-destructive individuals, riot/crowd control and civil unrest incidents, circumstances where a tactical advantage can be obtained, potentially vicious animals, and training exercises or approved demonstrations.

Fiscal Impact:

- PeppberBall VKS Launcher: \$5,360, quantity: 4
- 2% PAVA Ball: \$2,900, quantity: 1,100
- Glass Breaker Ball: \$480, quantity: 200
- Inert/H2O Training Ball: \$950, quantity: 1,000
- Annual maintenance cost is approximately \$250

Legal and Procedural Rules Governing: All applicable State, Federal and Local laws governing police use of force. Various Pinole Police Department Policies on Use of Force.

Training Required: Department provided training conducted by POST certified instructors.

Other Notes: None

6. Equipment Type: Less-Lethal Shotgun and Bean Bag Projectile - CA Gov't Code §7070(c)(14)**Quantity Owned or Sought:** 4**Lifespan:** 25 years

Purpose/Authorized User: Remington 870 Less-Lethal 12-gauge Shotgun with orange and black marked stocks is used to deploy the less lethal 12-gauge CTS Super-Sock Beanbag round. The Combined Tactical Systems (CTS) Super-Sock Beanbag round is a less-lethal 2.4-inch 12-gauge shotgun round firing a ballistic fiber bag filled with 40 grams of lead shot.

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Provides officers with a less-lethal option in incidents of combative or self-destructive individuals, riot/crowd control and civil unrest incidents, circumstances where a tactical advantage can be obtained, potentially vicious animals, and training exercises or approved

AB 481 Qualifying Equipment Inventory: Pinole Police Department

demonstrations.
Fiscal Impact: • Remington 870 Less-Lethal 12-guage Shotgun: \$2,200, quantity: 4 • CTS Model 2581 Super-Sock Beanbag Round: \$1,090, quantity: 200 • Glass Breaker Ball: \$480, quantity: 200 • Annual maintenance \$0
Legal and Procedural Rules Governing: All applicable State, Federal and Local laws governing police use of force. Various Pinole Police Department Policies on Use of Force.
Training Required: Department provided training conducted by POST certified instructors.
Other Notes: None



CITY COUNCIL REPORT

11A

DATE: APRIL 19, 2022

TO: MAYOR AND COUNCIL MEMBERS

FROM: CHRIS WYNKOOP, FIRE CHIEF

SUBJECT: FIRE DEPARTMENT UPDATE

RECOMMENDATION

City staff recommends that Council receive the Fire Chief's update regarding departmental improvements and progress toward reopening Pinole Fire Station 74 using County Measure X funds in collaboration with Contra Costa County Fire Protection District (Confire).

INTRODUCTION

In March of 2021, the Pinole Fire Chief addressed Council with recommendations to fortify fire service delivery in response to the study conducted by Emergency Services Consulting International (ESCI) in 2019/20. The Fire Chief recommended three strategies; they were:

1. Adding an Administrative Fire Captain position
2. Transitioning from a contract Fire Inspector to a sworn Fire Prevention Captain
3. Returning to Council in Q3 FY 2021-22 with an update regarding:
 - a) Restoring pre-2003 staffing of 15 frontline personnel deployed as an engine-squad model from Station 73 and/or
 - b) Contract for service/integration with Confire

BACKGROUND

Regarding the first strategy, the Fire Chief and City staff recommended that the Pinole Fire Department (PFD) add staff to address certain fundamental managerial and administrative functions such as planning, policymaking, training, records management, and evaluation. These functional deficiencies created liability and made it difficult to observe industry best practices and achieve maximum efficiency. The addition of the Administrative Fire Captain assignment supports the City's Strategic Plan initiative of creating and maintaining a "High Performance Pinole" through "optimizing efficiencies" (Goal #4; Strategy #2).

As to the second strategy, the Fire Chief and City staff advised that the PFD should perform a broader set of fire prevention activities. Although fire prevention functions had been well performed through a contract with a private company, the Fire Chief and City

staff determined that it would be more cost effective and productive in the long run to in-house that function by eliminating the contract for service and creating a Fire Prevention Captain position which could also be tasked with restoring the Community Emergency Response Team (CERT) program. This strategy supports the City's Strategic Plan initiative of maintaining a "Safe and Resilient Pinole" by "restoring the (CERT) program" (Goal #1; Strategy #3). The Administrative and Prevention Captains also add a layer of organizational versatility by being available to backfill fire engine personnel when backfill is difficult because of limited staff, as was encountered during COVID staffing shortages.

The third strategy was to return to Council with an update regarding either 1) returning to the staffing configuration prior to the original opening of Station 74 in 2003 (15 frontline staff deployed as an engine-squad model from Station 73); and/or 2) engaging in discussions with Confire about a contract for service/integration through which Station 74 could be reopened. Because some potential opportunities, such as Measure X and consolidation discussions among other agencies, were still unfolding at the time of the Fire Chief's last address, City staff recommended returning to Council in Q3 FY 2021-22 with a clearer picture as to how Confire and PFD could most effectively collaborate. Measure X funds were subsequently allocated to Confire for fire service fortification countywide under their superintendence in November of 2021, thus the picture has indeed become much clearer.

DISCUSSION

The Administrative Fire Captain assignment was filled in February 2022. In the brief two months since then, the appointment has already yielded significant dividends; among them are:

- Implementation of a recognized industry best practice narcotics tracking software (PSTrax). The program is currently enabled in its testing phase among departmental personnel. It is scheduled to go live May 1st.
- Establishment of an electronic daily staffing application (Vector Scheduling) which interfaces with the City's current Tyler Incode payroll software. This program is also enabled in its testing phase and is scheduled to go live May 23rd.
- Initiation of a cost recovery program to capture billable service fees from vehicle accident insurance claims and other insurance claim-related incidents. First bills for service are anticipated to be submitted the week of May 2nd with monthly cost recovery reimbursements expected to start in June.
- Pinole representation at county-level fire operations and EMS meetings.

Additionally, the Administrative Captain oversees the departmental report management system (RMS), policy/procedure implementation, emergency medical services (EMS) administration, fire training, vehicle maintenance, and departmental projects. The PFD is already a more efficient organization because of the addition of the Administrative Captain.

The Fire Prevention Captain was also chosen for assignment in February; however, the prospective Prevention Captain was reassigned to Engine 73 due to operational need, as another PFD Captain accepted a position with a neighboring fire agency. The department is scheduled to conduct a Captain's promotional exam in June 2022, after which a new Prevention Captain will be assigned. In the meantime, fire prevention services continue to be offered through the department's contract Fire Inspector.

Opportunities identified over the past year have brought clarity regarding whether to consider using City funds to restore pre-2003 staffing at Station 73 versus reopening Station 74 using County Measure X funds in collaboration with Confire. Measure X, which passed in the November 2020 election, is a ½ cent sales tax intended to *"keep Contra Costa's regional hospital open and staffed; fund community health centers; provide timely fire and emergency response; support crucial safety-net services; invest in early childhood services; protect vulnerable populations; and for other essential county services."*

In May of 2021, the Contra Costa County Executive Fire Chiefs presented a request to the County Measure X Advisory Board for funding to:

- Reopen five (5) closed fire stations and add 45 firefighters countywide
- Mitigate extreme wildfire danger
- Address aging facilities and infrastructure
- Improve training facilities
- Update communications/emergency operations centers
- Improve emergency preparedness/planning
- Support diversity and inclusion in the workforce

Among the five fire stations proposed for reopening was Pinole Station 74. Council submitted letters to the Measure X Advisory Board as well as the County Board of Supervisors (Attachments A and B, respectively) supporting the County Chiefs' proposal, and in November of 2021, the Board of Supervisors approved funding to support the County Chiefs' request. \$2M annually (plus COLA) of that funding was allocated toward reopening Station 74 under an integrative agreement with Confire.

With Council's approval, the City has initiated discussions with Confire regarding a contract for service whereby the City's budgetary contribution, subsidized by the \$2M Measure X allocation, would enable both Station 73 and Station 74 to be fully staffed and operational under Confire's superintendence. It is anticipated that the City's contribution would be comparable to that which it currently budgets to operate one station.

At the time of submission of this staff report, the Pinole City Manager, City Attorney, and Fire Chief will have just met, or be scheduled to meet, with representatives from the County Administrator's Office, County legal counsel, and the Confire Fire Chief, to discuss the finer points of a proposed contract between our respective agencies. Once tentative contract terms are agreed upon, an independent fiscal analysis, service plan, letter of

agreement from the labor group, and resolution of Council support, will need to be submitted with the contract to the Contra Costa County LAFCO for approval. Anticipated timeline for completion of contract and LAFCO submission/approval is fall of 2022, with an estimated implementation, to include the reopening of Station 74, in late winter/early spring of 2023.

FISCAL IMPACT

There is no fiscal impact related to receiving this update. Regarding the fiscal impact of collaborating with Confire through contract for service, it is the City's intent to negotiate a contract with Confire through which Pinole is served by two fully staffed fire stations for a cost comparable to that which is currently being budgeted for a single station.

ATTACHMENTS

- | | |
|--------------|--|
| Attachment A | Council Letter of Support to the Measure X Advisory Board for Measure X Funding for Fire and Emergency Services |
| Attachment B | Council Letter of Support to the County Board of Supervisors for Measure X Funding for Fire and Emergency Services |



CITY OF PINOLE

City Hall
2131 Pear Street
Pinole, CA 94564

Phone: (510) 724-9000
FAX: (510) 724-9826
www.ci.pinole.ca.us

Date: July 6, 2021

To: Contra Costa County Measure X Advisory Board

From: Pinole City Council

Subject: Support of the Contra Costa County Executive Fire Chiefs' Request for Measure X Funding to Address Critical Community Fire and Emergency Services Needs

Dear Board Members,

The Pinole City Council submits this letter supporting the Contra Costa County Executive Fire Chiefs' request for \$28.85M (and \$27.35M annually thereafter) in County Measure X funding to:

- Reopen five (5) closed fire stations and add 45 firefighters countywide
- Mitigate extreme wildfire danger
- Address aging facilities and infrastructure
- Improve training facilities
- Update communications/emergency operations centers
- Improve emergency preparedness/planning
- Support diversity and inclusion in the workforce

Council shares the County Chiefs' confidence that these measures will reduce countywide community risk through:

- Improved response times
- Increased services for underserved communities
- Equitable distribution of services
- Operational and administrative efficiencies

A robust fire service delivery model is a top priority for our citizens in Pinole, especially given the designated Very High Fire Hazard Severity Zone (VHFHSZ) in which many of our residents live. Moreover, the scarcity of West County hospital emergency room services since the closure of Doctor's Medical Centers in Pinole and San Pablo, resulting in reliance on firefighters as first-line medical assistance for many of our underserved citizens, underscores Pinole's local concern within the broader context of the regional risk reduction strategy proposed by the County Chiefs.

In addition to serving our local citizens, the Pinole Fire Department (along with Richmond FD) serves the County's interests by responding to the emergency needs of residents in the unincorporated County areas of Tara Hills, Bay View, and Montalvin Manor. With regard to the Advisory Board's commitment to equity, Montalvin Manor, as defined in SB 1000, is a "Disadvantaged Community" as is Rodeo, which the Pinole FD serves in support of the Rodeo-Hercules Fire Protection District through our County Battalion 7 automatic aid agreement.

Council agrees that this regional approach represents an equitable and sustainable solution to the issue of providing critical life-saving emergency response services countywide, and we urge the Measure X Advisory Board to approve the County Chiefs' proposal as requested.

Sincerely,

A handwritten signature in blue ink, reading "Norma Martínez-Rubin". The signature is fluid and cursive, with the first name "Norma" and last name "Martínez-Rubin" clearly distinguishable.

Norma Martínez-Rubin
Mayor
City of Pinole

cc. Honorable Members of the Contra Costa County Board of Supervisors
 County Administrator Nino
 County Finance Director Driscoll
 Contra Costa County Executive Fire Chiefs



CITY OF PINOLE

City Hall
2131 Pear Street
Pinole, CA 94564

Phone: (510) 724-9000
FAX: (510) 724-9826
www.ci.pinole.ca.us

Date: November 8, 2021

To: Honorable Members of the Contra Costa County Board of Supervisors

From: Pinole City Council

Subject: Support of the Contra Costa County Executive Fire Chiefs' Request for Measure X Funding to Address Critical Community Fire and Emergency Services Needs

Dear Board Members,

The Pinole City Council submits this letter supporting the Contra Costa County Executive Fire Chiefs' request for \$28.85M (and \$27.35M annually thereafter) in County Measure X funding to:

- Reopen five (5) closed fire stations and add 45 firefighters countywide
- Mitigate extreme wildfire danger
- Address aging facilities and infrastructure
- Improve training facilities
- Update communications/emergency operations centers
- Improve emergency preparedness/planning
- Support diversity and inclusion in the workforce

Council shares the County Chiefs' confidence that these measures will reduce countywide community risk through:

- Improved response times
- Increased services for underserved communities
- Equitable distribution of services
- Operational and administrative efficiencies

A robust fire service delivery model is a top priority for our citizens in Pinole, especially given the designated Very High Fire Hazard Severity Zone (VHFHSZ) in which many of our residents live. Moreover, the scarcity of West County hospital emergency room services since the closure of Doctor's Medical Centers in Pinole and San Pablo, resulting in reliance on firefighters as first-line medical assistance for many of our underserved citizens, underscores Pinole's local concern within the broader context of the regional risk reduction strategy proposed by the County Chiefs.

In addition to serving our local citizens, the Pinole Fire Department (along with Richmond FD) serves the County's interests by responding to the emergency needs of residents in the unincorporated County areas of Tara Hills, Bay View, and Montalvin Manor. With regard to the Advisory Board's commitment to equity, Montalvin Manor, as defined in SB 1000, is a "Disadvantaged Community" as is Rodeo, which the Pinole FD serves in support of the Rodeo-Hercules Fire Protection District through our County Battalion 7 automatic aid agreement.

Council agrees that this regional approach represents an equitable and sustainable solution to the issue of providing critical life-saving emergency response services countywide, and we urge the Board to approve the County Chiefs' proposal as requested.

Sincerely,



Norma Martínez-Rubin
Mayor
City of Pinole

cc. County Administrator Nino
County Finance Director Driscoll
Contra Costa County Executive Fire Chiefs



CITY COUNCIL REPORT

12A

DATE: APRIL 19, 2022

TO: MAYOR AND COUNCIL MEMBERS

FROM: MARIA PICAZO, RECREATION MANAGER

SUBJECT: RECEIVE REPORT ON HOW THE CITY FACILITATES/SUPPORTS
COMMUNITY EVENTS ORGANIZED BY PRIVATE ORGANIZATIONS
AND PROVIDE DIRECTION AS APPROPRIATE

RECOMMENDATION

Staff recommends that the City Council receive a report on how the City currently facilitates/supports community events organized by private organizations, and provide direction to staff as appropriate.

BACKGROUND

At its meeting on May 4, 2021, the City Council approved a future agenda item on how the City can facilitate/support community events organized by private organizations.

The City has supported numerous community events hosted by private organizations over the years. Community events organized by private organizations have well complemented the many community events that the City organizes and have led to increased community engagement and quality of life in the City. The Pinole Car Show, Pinole Historical Society's Veterans Day event, Bike the Bridges, Special Olympics (plunge fundraiser), Friends of Pinole Creek Watershed cleanup events, and Pinole Valley High School Day on the Green event are some examples.

In these cases, the event organizers are responsible for coordinating the events, such as determining the program, space, and City support needed for the event as well as inviting presenters/exhibitors and participants. The City has historically supported events such as these through a variety of means, including the following:

- Facilitating the event organizers' application for City permits;
- Paying the cost of permits and rental fees on the organizers' behalf;
- Installing traffic barricades;
- Providing additional garbage receptacles, garbage collection, and post-event clean up;
- Filming and televising events;

- Providing audio/visual equipment;
- Providing chairs;
- Coordinating and paying for portable toilets;
- Providing additional public safety staffing; and
- Providing use of City facilities.

In addition to the large-scale events noted above, in recent years the City has received requests from local organizations and individuals wishing to host community cleanup events or free community events in the parks. Recent requests have included use of garbage bags and pick up and disposal of trash collected.

The City has not had clear, consistent, well-documented policies and procedures for how to facilitate/support these events. In the past, not all events were required to get necessary City permits nor pay for the cost of City support for events.

In fiscal year (FY) 2021/22, the City undertook a reorganization to improve efficiency, add resources, and clarify responsibility for various City functions that did not previously have a clear organizational home. As part of the reorganization, the newly created Community Services Department was assigned responsibility for coordinating special events, in order to provide a single point of contact for private organizations that would like to hold events in the City and/or receive some form of City support or sponsorship for their event.

The City implemented the practice of having the Recreation Manager serve as the single point of contact for private organizations that wanted to hold events open to the community. As the single point of contact, the Recreation Manager received inquiries from event organizers; gathered information on the organizers' event plans/vision; worked across City departments to determine what City approvals would be required for an event; facilitated the organizer's application for appropriate permits; and informed the organizer of what support the City could provide to the organizer, and the cost of that support. The Recreation Manager was also tasked with ensuring that all event organizers applied for necessary permits, and that the cost of City support for the event was well documented and funded by the event organizer or a City Council appropriation.

This approach was piloted with the fall 2021 Pinole Car Show and resulted in more coordinated and better documented City support for that event. The City has since received inquiries about some new types of privately organized community events, such as an event at the skate park. The experience with the pilot as well as recent inquiries for new types of events has revealed that the City would benefit from a specific special event permitting process. City staff is in the process of creating a special event permit application, which is expected to be completed and implemented in (FY) 2022/23.

In FY 2021/22, the City also took the step of appropriating funding to specifically cover the cost of City support for the City's largest privately sponsored community event, the Pinole Car Show, as well as funding for City support for other yet-to-be-determined privately sponsored community events. The budget included \$15,000 for the fall 2021 Car Show and \$100,000 for the summer 2022 Car Show and other events. This increased awareness and transparency regarding City support to these events.

REVIEW AND ANALYSIS

Implementing the procedure that a specific City staff person serve as the single point of contact for private event organizers and appropriating funding specifically for City support of privately organized community events has been successful and an improvement over the prior, ad hoc process. However, the City still lacks detailed policies regarding what forms and amount of support it can provide to privately organized community events. City staff recommends that the Community Services Department draft such policies for City Council's consideration subsequent to the arrival of the new Community Services Director.

FISCAL IMPACT

There is no fiscal impact from receiving this report.

ATTACHMENTS

None



CITY COUNCIL REPORT

12B

DATE **APRIL 19, 2022**

TO: **MAYOR AND COUNCIL MEMBERS**

FROM: **DAVID SNELL, PINOLE COMMUNITY TELEVISION COORDINATOR**

**SUBJECT: OVERVIEW OF THE HISTORY AND ACTIVITIES OF PINOLE
COMMUNITY TELEVISION (PCTV)**

RECOMMENDATION

Staff recommends that the City Council receive this overview of the history and activities of Pinole Community Television (PCTV).

BACKGROUND

Introduction

The City of Pinole operates a television station, called Pinole Community Television (PCTV), which broadcasts programming through two dedicated channels provided by the City's two local cable television service providers, Comcast (Xfinity) and AT&T, as well as through livestreaming on the City's website. The two dedicated channels are referred to as "Channel 26" and "Channel 28," after the channel numbers that Comcast assigned the channels. PCTV broadcasts the following types of programming:

- Live and replayed meetings of the City's legislative bodies (e.g., City Council, Finance Subcommittee, Planning Commission, etc.);
- Cultural and educational programming created by PCTV, including live and replayed broadcasts of City-sponsored community events (e.g., National Night Out) and privately organized community events (e.g., the Pinole Car Show) (referred to as "local origination" programming);
- Cultural and educational programming created by other governmental or nonprofit organizations; and
- Programming created by members of the public.

In addition to broadcasting content on Channel 26 and Channel 28 and livestreaming it on the City's website, PCTV also films and produces, on a cost reimbursement basis, public meetings of some other local government agencies, which are broadcasted on those agencies' local cable television networks and websites. PCTV also provides filming and production services, on a cost reimbursement basis, for private clients. PCTV has also provided audio/visual services for City events.

PCTV's resources and activities have varied over the years, as described below.

The Origin of Cable Television Networks

Up until the early 1980s, it was infeasible due to technological, economic, and regulatory factors to broadcast television programming to a wide audience except through electromagnetic signals received through television antennas. Deregulation of the television industry in the 1980s and technological advances made it feasible at that time to begin broadcasting television programming through cable networks.

Public, Educational, and Government (PEG) Access Channels

The federal Cable Communications Policy Act of 1984 deregulated traditional television, allowing cable television to expand, and also established some requirements for cable television networks. In an effort to encourage cable television networks to provide the widest possible diversity of information sources and services to the public, the Act authorized cities to require cable networks to which they granted franchises (for use of the public right of way) to set aside channels in their network for public, educational, and governmental (PEG) access. PEG uses are more thoroughly described in Attachment A.

Public access programming consists of video programming and other electronic information produced, directed, and engineered by nonprofit community groups, neighborhood organizations, social service agencies, and individual citizens. It focuses on many aspects of community life, ranging from the services and activities of community organizations to the opinions and beliefs of individuals in the community. "Public access channels are often the video equivalent of the speaker's soap box or the electronic parallel to the printed leaflet. They provide groups and individuals who generally have not had access to the electronic media with the opportunity to become sources of information in the electronic marketplace of ideas."

Educational access programming is developed or acquired by school or college employees, students, and school volunteers. It typically focuses on distance learning, school activities, and information that the school/college wants to get out to the community or share among schools.

Government access programming is created or acquired by local government employees, elected officials, and volunteers. It typically focuses on information about services provided by local, State, and regional governments, issues faced by local governments, and public meeting coverage. Government access is also used for other purposes, such as providing training to City employees or exchanging information between City agencies and other institutions.

Many cities did require the cable television network providers to which they granted franchises to set aside channels for these purposes.

Pinole Cable Franchises

When it became apparent in the early-1980s that cable television networks would soon approach the City with franchise requests, the City Council established a Cable Subcommittee to recommend a framework for City cable franchises. Subsequent to the recommendations of the Cable Subcommittee, in 1982, the Pinole City Council passed Ordinance No. 441 (Attachment A), which authorized the granting of non-exclusive franchises to cable providers for the construction, maintenance, and operation of cable television systems. In 1982, the Council granted Contra Costa County Cable Company (doing business as Viacom Cablevision) a non-exclusive franchise (Attachment B) to construct, maintain, and operate a cable television system in the City of Pinole. In that agreement, the City required the company to set aside two channels for the broadcast of PEG content.

Pinole Cable Television

After Ordinance No. 441 was adopted, the City established the new Pinole Cable TV Access Commission in 1984 (Attachment C). The Commission was a pool of volunteers that developed the policies and procedures of the City's new cable television station, PCTV, as well performed much of the operations of the station.

PCTV broadcasted its first programming in December 1983. Content included public meetings, a local variety show that covered local Pinole events, some other local origination material, and for-credit Contra Costa College courses. At that time, many other Contra Costa County cities had their own television stations, including Hercules and El Cerrito. The City eventually brought on paid City staff to provide consistent coverage of public meetings. Additional City staff were brought on as more local programming was created and broadcasted.

In 1997, the City adopted Ordinance No. 97-112 establishing the Cable Television Access Commission to replace the Pinole Cable TV Access Commission (Attachment D). It is unclear for how long this body was seated. Around the same time, perhaps due to changes in City revenues or the arrival of a new City staff member, the PCTV Coordinator, the Cable Television Access Commission was put in abeyance. It might have been the case that the hiring of highly proficient City employees to operate the station obviated the need for a commission of volunteers to help operate the station. The City Council has not appointed members to the commission since that time.

Also in 1997, PCTV began a progressive effort to create and broadcast more "local origination" content. This included live broadcasting of Pinole Valley High School (PVHS) sports and Concerts in the Park. PCTV broadcasted the first live PVHS football game in 1997. The cost to the City of broadcasting live PVHS sporting events was covered by donations PCTV staff solicited from local businesses and individuals, referred to as "sponsors".

In 2001, as a preliminary part of the renewal of the franchise agreement with AT&T, the City distributed a customer survey aimed at assessing the needs and desires of the Pinole community as it relates to cable television. Survey respondents thought programs about

Pinole residents, organizations, events, schools, and government were very important. In order of priority, people were interested in seeing the following:

- Programs about City services including local public safety information
- Community festivals and neighborhood events
- City Government meetings
- Local business news and information
- Local arts, history, and culture
- Local health and wellness programs
- Programs about local organizations and clubs
- Gardening Programs
- Courses from area Colleges and Universities
- Senior citizen activities and concerns
- Local sports and recreational activities (little league, football, soccer)
- Board of Education meetings
- Programs about schools and school activities
- Student production programs

In 2003, the City reviewed the operations of PCTV and adopted a new Pinole Television Business Plan (Attachment D). The Business Plan included the Pinole Community Access Television Manual, which outlined the station's policies and procedures. (The station still operates per the policies and procedures of the 2003 Manual.) The Business Plan also noted that unless there is a well-defined benefit to the Pinole community related to broadcast of another organization's content, that organization should cover the City's full cost of the broadcast. Shortly after the adoption of the Business Plan, the City began construction of the Youth Center with a new PCTV studio, offices, and control rooms funded with Redevelopment funds.

To standardize the regulation of cable television networks in California, the State passed the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). DIVCA assigned the authority for granting cable television franchises to the California Public Utilities Commission (CPUC) rather than cities. In 2008, the City's cable television system operator (Comcast) renewed its franchise agreement with Pinole. (That agreement is still in effect.) As part of that renewal, the operator pledged to provide the City with one percent of its gross revenue from Pinole customers to be used for the City's maintenance and replacement of television station equipment (commonly referred to as "PEG fees") and five percent of its gross revenue from Pinole customers as franchise fees to be used for general City purposes.

As a result of the Great Recession, PCTV's budget was reduced in 2011 and the station began producing and broadcasting less local origination content. Broadcasts of City-sponsored public events can require substantial staff time, particularly when staff assists in their creation or editing (as opposed to merely covering or airing an event). Concerts in the Park as well as the festivals not only required a full video production staff, but the full concert public address system, with an audio staff capable of mixing the live concert. Cinema or Movies in the Park require three personnel to position the screen, set-up and

operate the projector and PA systems. The twenty-five-foot inflatable screen is over 350 pounds and challenging for three staff to position and then pack away. The former staff of three full-time employees was reduced to two full-time employees. In fiscal year (FY) 2016/17, the City established new rates for organizations that wanted to have their local events broadcast on PCTV. As a result, local organizations discontinued having their local events broadcast on PCTV. Due to the prior reduction in City-created local origination content and organizations discontinuing PCTV broadcast of their events, PCTV's remaining work was simply live and replayed meetings of the City's legislative bodies and filming and production, on a cost reimbursement basis, of public meetings of some other local government agencies. Most of the content currently broadcasted on PCTV's two channels, which are both on the air 24 hours per day, are original airing of public meetings, re-runs of past local origination shows, and a small number of new local origination shows. Channel 26 features government related programming and Channel 28 includes mostly locally produced and special interest programming. PCTV has played a significant role in establishing remote and hybrid meeting capabilities during COVID for the City's legislative bodies.

Over time, and particularly as a result of the loss of municipal revenue due to the Great Recession and dissolution of redevelopment agencies and the proliferation of other platforms through which members of the public can film and share video content, many city-owned television stations have closed. There are now just the following municipal-owned television stations in Contra Costa County: PCTV, KCRT Richmond, CCTV Contra Costa County, Concord, and Walnut Creek Television.

In FY 2021/22, the City expects to collect \$302,972 in franchise fees from Xfinity and AT&T. \$250,000 is budgeted for the General Fund and \$52,972 is budgeted to PCTV. The City expects to collect \$50,500 in PEG fees. PCTV has budget for two full-time employees and two part-time employees. The station also continues to use volunteers for some things, including equipment operation, equipment set-up and take-down, electrical wiring.

PCTV currently has contracts to film and produce in-person or hybrid City Council meetings for the cities of El Cerrito, Benicia, and Vallejo as well as board meetings for WestCAT. PCTV has not been required to support these meetings while the meetings have been held virtually due to COVID. When these bodies return to hybrid or in-person meetings, it will require significant PCTV staff.

PCTV remains in a minimal operational status serving the City of Pinole and client-based meetings. Efforts are taken to maintain the equipment operationally ready for field productions, however some equipment replacement plans have been delayed. Some of the delayed purchases have required additional staff time in content and data management further impacting the staffing shortage. Equipment storage has become an issue. Disposal of the E-waste held in storage for inventory documentation may relieve some of the congested storage. The production studio remains ready for use.

City staff intends to provide additional detail in the proposed FY 2022/23 budget on what specific local origination content can be created by PCTV under a status quo budget, as

well as what additional local origination content could be created with increased budget. It is possible that the forthcoming Communication and Engagement Plan will recommend that the City create more local origination content on City programs, policies, and activities. The citywide cost allocation plan and fee study that is nearing completion will also likely recommend new rates that PCTV should charge non-City customers to fully cover PCTV's costs.

There are new developments with Assembly Bill 2635 that may lead to PEG operations in California being offered in High Definition (HD). This would be a big improvement in the resolution and quality of the video delivered to the viewers. PCTV would need to make some equipment upgrades to broadcast its content in HD.

RECOMMENDATION

That the Council receive this report.

FISCAL IMPACT

There is no fiscal impact from receiving the report.

ATTACHMENTS

Attachment A:	Ordinance No. 441
Attachment B:	Ordinance No. 444 and Cable Television Franchise Agreement
Attachment C:	Resolution No. 1941 Establishing the Pinole Cable TV Access Commission
Attachment D:	Ordinance No. 97-112 Establishing the Cable Television Access Commission
Attachment E:	Pinole Television Business Plan 2003

CITY OF PINOLE
CABLE TELEVISION ORDINANCE
ORDINANCE NO. 441

AN ORDINANCE AMENDING THE PINOLE MUNICIPAL CODE BY
ADDING A NEW CHAPTER 13.18 BEING SECTIONS 13.18.010
THROUGH 13.18.970 TO PROVIDE FOR THE ESTABLISHMENT
AND GRANTING OF FRANCHISES OR PRIVILEGES FOR THE
CONSTRUCTION, MAINTENANCE AND OPERATION OF CABLE
COMMUNICATION, OR CABLE TELEVISION SYSTEMS AND
FURTHER PROVIDING FOR THE CONTINUING REGULATION AND
ADMINISTRATION OF THESE FRANCHISES AND THE ACTIVITIES
RELATIVE TO THEM.

THE CITY COUNCIL OF THE CITY OF PINOLE DOES ORDAIN AS FOLLOWS:

Section 1. The Municipal Code is hereby amended by the addition
of a new Chapter 13.18 entitled, "CABLE TELEVISION" containing sections
13.18.010, through and including 13.18.970, reading as follows:

"Chapter 13.18
CABLE TELEVISION

13.18.010 Intent.

The City of Pinole finds that the development of cable television and communications systems has the potential of having great benefit and impact upon the people of the City. Because of the complex and rapidly changing technology associated with cable television, the City further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the City or such persons as the City shall designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to attain the best possible public interest and public purpose in these matters and any franchise issued pursuant to this ordinance shall be deemed to include this finding as an integral part thereof.

13.18.020 Short Title.

This chapter shall be known and may be cited as the "City of Pinole Cable Television Ordinance."

13.18.030 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

13.18.031 "Access Channel" means any program or signal channel available for non-profit use by government agencies, educational institutions, community groups, individual members of the public, under terms established by the franchise agreement.

13.18.032 "Additional Subscriber Service" means any service not included in "Basic Subscriber Television Service," or "Basic Subscriber Radio Service" or "Institutional Service," including, but not limited to, pay-cable.

13.18.033 "Basic Subscriber Radio Service" means the provision to all subscribers of such audio services as the retransmission of broadcast FM radio signals, the retransmission of shortwave, weather, news, time and other similar audio broadcast channels, and the transmission of cablecast FM radio signals, as permitted by the FCC.

- 13.18.034 "Basic Subscriber Television Service" means the total of all of the following:
- (a) The retransmission to all subscribers of area broadcast television channel signals authorized by the FCC and provided for herein;
 - (b) the provision to all subscribers of non-broadcast open channel signals, originating from sources outside the Cable Communications System;
 - (c) the cablecasting to all subscribers of programming on any Local Origination or Access channels;
 - (d) the transmission to all subscribers of all other cablecast open-channel signals.
- 13.18.035 "Broadcast Signal" means a television or radio signal that is transmitted over the air to a wide geographic audience and is received by a Cable Communications System off-the-air or by microwave or satellite link.
- 13.18.036 "Cable Communications System: or 'System,'" also referred to as "Cable Television System" or "CATV System," means a system of antennas, cables, amplifiers, towers, microwave links, cablecasting studios, and any other conductors, converters, equipment or facilities, designed and constructed for the primary purpose of distributing video programming to home subscribers, and the secondary purpose of producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electronic or electrical signals.
- 13.18.037 "Cablecast Signal" means a non-broadcast signal that originates within the facilities of the Cable Communications System.
- 13.18.038 "Channel" means a six Megahertz (MHz) frequency band, which is capable of carrying either one standard video signal, a number of audio, digital or other non-video signals, or some combination of such signals.
- 13.18.039 "City" or "Grantor" means the City of Pinole, as it is presently, and may be in the future, constituted.
- 13.18.040 "Closed-Circuit" or "Institutional Service" means such video, audio, data and other services provided to institutional users on an individual application, private channel basis. These may include, but not be limited to, two-way video, audio or digital signals among institutions, or from institutions to residential subscribers.
- 13.18.041 "Council" means the City Council, the governing body of the City of Pinole.
- 13.18.042 "Educational Channel," or "Educational Access Channel" means any channel where educational institutions are the only designated programmers.
- 13.18.043 "FCC" means the Federal Communications Commission and any legally appointed or elected successor.

- 13.18.044 "Franchise" means the non-exclusive rights granted pursuant to this ordinance to construct and operate a Cable Communications System along the public ways within all or a specified area in the City. Any such authorizations, in whatever form granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within the City as required by other ordinances and laws of this City.
- 13.18.045 "Franchise Agreement" means a franchise award ordinance accepted on the part of the Grantee, or a written agreement between the Grantor and Grantee, containing the specifications, franchise applications, and other related material.
- 13.18.046 "Franchise Fee" means the charges imposed as consideration for the granting of a franchise and the continuing use of the public streets and rights-of-way.
- 13.18.047 "Government Channel" or "Government Access Channel" means any channel where local government agencies are the only designated programmers.
- 13.18.048 "Grantee" means any "person," corporation or other business entity receiving a franchise pursuant to this ordinance and its lawful successor, transferee or assignee.
- 13.18.049 "Grantor" means the City of Pinole as represented by the City Council or its delegate acting within the scope of its jurisdiction.
- 13.18.050 "Gross Revenues" means the annual gross revenues received by the Grantee from all sources of operations of the Cable Communication System within the franchise area, except that any sales, excise or other taxes collected for direct pass-through to local, state or federal government shall not be included.
- 13.18.051 "Initial Service Area" means the area of the City which will receive service initially, as set forth in the franchise agreement.
- 13.18.052 "Leased Channel" or "Leased Access Channel" means any channel available for lease and programming by persons or entities other than the Grantee, including those portions of the other access channels not in use by their designated programmers.
- 13.18.053 "Local Origination Channel" means any channel where the Grantee is the only designated programmer, and provides local programs to subscribers.
- 13.18.054 "Non-Broadcast Signal" means a signal that is transmitted by a Cable Communications System that is not involved in an over-the-air broadcast transmission path.
- 13.18.055 "Open Channel" means any channel that can be received by all subscribers, without the necessity for special equipment.
- 13.18.056 "Pay-Cable" or "Pay-Television" means the delivery to subscribers, over the Cable Communications System, of television signals for a fee or charge to subscribers over and above the charge for Basic Subscriber Service, on a per program, per channel, or other subscription basis.

- 13.18.057 "Person" means an individual, partnership, association, organization, corporation or any lawful successor, transferee or assignee of said individual, partnership, association, organization or corporation.
- 13.18.058 "Private Channel" or "Closed-Circuit Channel" means any channel which is available only to subscribers who are provided with special converter or terminal equipment to receive signals on that channel.
- 13.18.059 "Programmer" means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital, or other signals, either live or from recorded tapes or other storage media, to subscribers, by means of the Cable Communications System.
- 13.18.060 "Public Access Channel," "Community Access Channel," or "Community Channel" means any channel where any member of the general public or any non-commercial organization may be a programmer, without charge, on a non-discriminatory basis.
- 13.18.061 "Resident" means any person residing in the City as otherwise defined by applicable law.
- 13.18.062 "Section" means any section, subsection, or provision of this franchise ordinance.
- 13.18.063 "Service Area" means the entire geographic area within the franchise territory.
- 13.18.064 "State" means the State of California.
- 13.18.065 "Street" shall include each of the following which have been dedicated to the public or hereafter dedicated to the public and maintained under public authority or by others and located within the City limits: streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public ways and extensions and additions thereto, together with such other public property and areas that the City shall permit to be included within the definition of street from time to time.
- 13.18.066 "Subscriber" means any person, firm, corporation, or other entity who or which elected to subscribe to, for any purpose, a service provided by the Grantee by means of or in connection with the cable communications system.
- 13.18.067 "Tapping" means observing a communications signal exchange, where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.
- 13.18.068 "Year" means the remaining portion of 1982. Thereafter, "year" means a full calendar year.
- 13.18.080 Grant of Franchise. In the event that Grantor shall grant to the Grantee a non-exclusive franchise to construct, operate, maintain, and reconstruct a Cable Communications System within the City, said franchise shall constitute both a right and an obligation to provide the services of a Cable Communications System as required by the provisions of this ordinance and franchise agreement. The franchise agreement shall include those provisions of the Grantee's "Application for Franchise" that are finally negotiated and accepted by the Grantor and the Grantee.

13.18.090 Variance. Any franchise granted under the terms and conditions of this chapter shall be consistent with statutory requirements which are incorporated by this reference as though fully set forth herein. Such franchise shall conform and be subject to the terms and conditions of this chapter, provided that the City Council may in its discretion, upon a showing that it is within the purpose and intent of this chapter, vary the conditions of a franchise, subject to such variance being described in the franchise and the franchise being adopted by an ordinance of the City of Pinole.

Nothing in a franchise shall be deemed to waive the requirements of the various code sections and ordinances of the City regarding permits, fees to be paid or manner of construction.

Except as is herein provided, in the event of a conflict between a franchise and this chapter, this chapter shall prevail.

13.18.100 Franchise Territory. The Grantor may grant a franchise for all or any defined portion of the City. The service area shall be the entire territory defined in the franchise agreement. The initial service area shall be that portion of the franchise territory scheduled to receive initial service, as stated in the franchise agreement.

13.18.110 Use of Public Streets and Ways. For the purpose of operating and maintaining a Cable Communications System in the City, the Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets and ways within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the Cable Communications System. Prior to the construction or alteration, however, the Grantee shall, in each case, file plans with the appropriate City agencies and utility companies, and receive written approval before proceeding.

13.18.120 Duration. The maximum term of a franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be fifteen (15) years from the effective date of the franchise unless terminated sooner as hereinafter provided. The effective date of the franchise ordinance shall be thirty (30) days after adoption of the franchise ordinance by the Council. The Grantee must file by the effective date in the Office of the City Clerk a written acceptance of the franchise, or the franchise shall be null and void.

13.18.130 Franchise Non-Exclusive. Any franchise granted pursuant to this chapter is non-exclusive. The Grantor specifically reserves the right to grant, at any time, such additional franchises for a Cable Communications System as it deems appropriate. The Grantor also reserves the right to grant one or more franchises for the provision of specifically defined services not being provided by any Grantee including but not limited to institutional communications services and interactive residential services.

13.18.140 Transfer of Ownership or Control
(a) Transfer of Franchise. Any franchise granted hereunder shall be a privilege to be held for the benefit of the public. Said franchise cannot in any event be sold, transferred, leased,

assigned or disposed of, including but not limited to, by forced or voluntary sale, merger, consolidation, receivership, inheritance, or other means without the prior consent of the Grantor and then only under such conditions as the Grantor may establish. If any transfer of the franchise occurs without the prior consent of the Grantor, the franchise may, at Grantor's sole option, be terminated immediately.

- (b) Ownership or Control. The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the Grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten percent (10%) of the voting shares of the Grantee. Every change, transfer or acquisition of control of the Grantee shall make the franchise subject to cancellation unless and until the Grantor shall have consented thereto, which consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the Grantor may inquire into the qualification of the prospective controlling party and the Grantee shall assist the Grantor in any such inquiry. In seeking the Grantor's consent to any change in ownership or control, the Grantee shall have the responsibility:

(1) To show to the satisfaction of the Grantor whether the proposed purchaser, transferee, or assignee, (the "proposed transferee"), which in the case of a corporation, shall include all officers, directors, employees and all persons having a legal or equitable interest in five percent (5%) or more of its voting stock, or any of the proposed transferee's principals:

[a] Has ever been convicted or held liable for acts involving moral turpitude (including, but not limited to any federal or state agency, or violation of any tax or securities law), or is presently under an indictment, investigation or complaint charging such acts;

[b] Has ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him or them by any court of competent jurisdiction; or

[c] Has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system.

(2) To establish, to the satisfaction of the Grantor, the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee which the Grantee was required to submit in its franchise application, and such other data as the Grantor may request.

(3) To establish to the satisfaction of the Grantor that the financial standing of the proposed transferee is such as shall enable it to maintain and operate the cable system for the remaining term of the franchise.

- (c) The Grantor agrees that any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the Grantor that it or its designee satisfactory to the Grantor will take control and operate the cable television system. Further, said financial institution shall also submit a plan for such operation that will insure continued service and compliance with all franchise obligations during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one year unless extended by the Grantor in its discretion and during said period of time it shall have the right to petition the Grantor to transfer franchise to another Grantee. If the Grantor finds that the legal, financial, character, technical and other public interest qualities of the applicant are satisfactory, the Grantor may transfer and assign the rights and obligations of such franchise as in the public interest. The consent of the Grantor to such transfer shall not be unreasonably withheld.
- (d) The consent or approval of the Grantor to any transfer of the Grantee shall not constitute a waiver or release of the rights of the Grantor in and to the streets, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this franchise.
- (e) In the absence of extraordinary circumstances, the Grantor shall not approve any transfer or assignment of the franchise prior to substantial completion of construction of the proposed system.
- (f) In no event shall a transfer of ownership or control be approved without successor in interest becoming a signatory to the franchise agreement.

13.18.150 Franchise Renewal.

- (a) Any franchise granted under this ordinance may be renewed by the City upon application of the Grantee pursuant to the procedure established in subsection (b) of this section, and in accordance with the then applicable law.
- (b) Procedures. Except by mutual agreement of Grantor and Grantee, no earlier than two years and not less than eighteen (18) months prior to the expiration date of this franchise, the Grantee may submit an application for renewal to the Grantor by registered or certified mail. At that time, after giving due public notice, the Grantor shall review the provisions of the franchise and shall evaluate the performance of the Grantee, including but not limited to the results of System Performance and System and Services Review sessions. In making this evaluation, the Grantor shall

consider relevant factors, including, but not limited to, the following:

- (1) Technical development and performance of the Grantee's cable system;
- (2) Programming;
- (3) Additional services offered by the Grantee;
- (4) Cost of service;
- (5) All obligations of Grantee as prescribed in the franchise;
- (6) Cable industry performance nationwide; and
- (7) Comments from residents and representatives of community organizations submitted in a manner to be determined by the Grantor.

After holding a public hearing, the Grantor shall take such actions as it deems appropriate, which may include any of the following:

- (1) If the Grantor finds the Grantee's performance satisfactory, a franchise renewal may be granted pursuant to this ordinance as amended, for an additional period of up to fifteen (15) years;
- (2) In the event the Grantee is determined by the Grantor to have performed unsatisfactorily, new applicants shall be sought and evaluated and a franchise awarded in accordance with franchising procedures then in force;
- (3) The Grantor may direct the Grantee to remove and dismantle its cable system at the Grantee's cost. Such action shall only be taken after a full revocation process in which it has been determined that Grantee is in material breach of the franchise contract or at the expiration of the franchise and a determination by grantor that the franchise will not be renewed.
- (4) Absent a timely request from Grantee to renew the franchise, the franchise shall terminate at the end of its initial or any renewal term.
- (5) The Grantor may take such other action as allowed by law which, in its sole discretion, it shall deem appropriate.

13.18.160 Police Powers. In accepting this franchise, the Grantee acknowledges that its rights hereunder are subject to the police power of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power.

Any conflict between the provisions of this franchise and any other present or future lawful exercise of the Grantor's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction or applies exclusively to Grantee or Cable Communications Systems which contains provisions inconsistent with this franchise shall prevail only if upon such exercise, the Grantor finds an emergency exists constituting a danger to health, safety, property or general welfare or such exercise is mandated by law.

13.18.170

Franchise Fee.

- (a) Annual Franchise Payment. A Grantee of a franchise hereunder shall pay to the Grantor an annual fee in an amount as designated in the franchise agreement, but in no event less than five percent (5%) of the annual gross revenues. Such payment shall be in addition to any other and commence as of the effective date of the franchise. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, by a Certified Public Accountant, reflecting the total amounts of annual gross revenues and the above charges, deductions and computations for the period covered by the payment.
- (b) Acceptance by Grantor. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee under this ordinance or for the performance of any other obligation of the Grantee.
- (c) Failure to Make Required Payment. In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, Grantee shall pay as additional compensation:
 - (1) an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate in effect upon the due date;
 - (2) a sum of money equal to five percent (5%) of the amount due in order to defray those additional expenses and costs incurred by the Grantor by reason of delinquent payment. Such action shall only be taken after Grantee has been notified of failure to make payments and has not responded within fifteen (15) days.
- (d) Payments due the Grantor under this provision shall be computed and paid semi-annually for the preceding year. Each payment shall be accompanied by a brief report showing the basis for the computation and such other relevant facts as may be required by the Grantor.
- (e) Grantor reserves the right to include in any franchise agreement a requirement for Grantee to pay specified franchise fees in advance, either in the form of lump sum payment or minimum annual fees, to help defray Grantor's regulatory costs during the initial years of the franchise, before cable system revenues have stabilized.

13.18.180

Forfeiture or Revocation.

The Grantor reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in the following circumstances, each of which shall represent a default and breach under this ordinance and the franchise grant:

- (1) If the Grantee should default in the performance of any of its material obligations under this ordinance or under such documents, contracts and other terms and provisions entered into by and between the Grantor and the Grantee;
- (2) If the Grantee should fail to provide or maintain in full force and effect, the liability and indemnification coverages or the performance bond as required. Action will

not be taken unless Grantee has been notified of failure to make payments and has not responded within fifteen (15) days;

(3) If any court of competent jurisdiction, the FCC, or any state regulatory body by rules, decisions, or other action determines that any material provision of the franchise documents, including this ordinance, is invalid or unenforceable prior to the commencement of system construction;

(4) If the Grantee should violate any orders, or any rulings of any regulatory body having jurisdiction over the Grantee relative to this franchise unless such orders or rulings are being contested by the Grantee in a court of competent jurisdiction;

(5) If the Grantee attempts to evade any of the provisions of this ordinance or the franchise agreement or practices any fraud or deceit upon the City;

(6) The Grantee's construction schedule is delayed for more than eighteen (18) months later than the schedule contained in the franchise agreement;

(7) The Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt.

(a) Procedure Prior to Revocation.

(1) The Grantor make written demand that the Grantee do so comply with any such requirement, limitation, term, condition, rule or regulation or correct any action deemed cause for the revocation. If the failure, refusal or neglect of the Grantee to take action to remedy violation continues for a period of thirty (30) days following such written demand, the Grantor may place its request for termination of the franchise upon a regular Council meeting agenda. The Grantor shall cause notice to be served upon such Grantee, at least ten (10) days before such a meeting in a newspaper of general circulation within the City.

(2) The Council shall hear any persons interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the Grantee was with just cause.

(3) If such failure, refusal or neglect by the Grantee was with just cause, the Council shall direct the Grantee to comply within such time and manner and upon such terms and conditions as are reasonable.

(4) If the Council shall determine such failure, refusal or neglect by the Grantee was without just cause, then the Council may, by resolution, declare that the franchise of such Grantee shall be terminated and bond forfeited unless there be compliance by the Grantee within such period as the Council may fix.

(b) Disposition of Facilities. In the event a franchise expires, is revoked, or otherwise terminated, the Grantor may order the removal of the system facilities from the City within a reasonable period of time as determined by the Grantor or

require the original Grantee to maintain and operate its system until a subsequent Grantee is selected.

- (c) Restoration of Property. In removing its plant, structures and equipment, the Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its equipment and appliances without affecting the electrical or telephone cable wires, or attachments. The Grantor shall inspect and approve the condition of the public ways and public places; and cables, wires, attachments and poles after removal. The liability, indemnity and insurance as provided herein and the performance bond provided therein shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this paragraph and this ordinance.
- (d) Restoration by Grantor, Reimbursement of Costs. In the event of a failure by the Grantee to complete any work required by subsection (c) above or any other work required by Grantor, law or ordinance within the time as may be established and to the satisfaction of the Grantor, the Grantor may cause such work to be done and the Grantee shall reimburse the Grantor the cost thereof within thirty (30) days after receipt of an itemized list of such costs or the Grantor may recover such costs through any security fund provided by Grantee.
- (e) "Extended Operation and Continuity of Service." Upon either the expiration or revocation of a franchise, the Grantor may require the Grantee to continue to operate the system for an extended period of time not to exceed six (6) months from the date of such expiration or revocation unless extended by Council resolution. The Grantee shall, as trustee for its successor in interest, continue to operate the Cable Communications System under the terms and conditions of this ordinance and the franchise and to provide the regular subscriber service and any and all of the services that may be provided at that time.

It shall be the right of all subscribers to continue to receive all available services insofar as their financial and other obligations to the Grantee are honored. The Grantee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances, including operation of the system during transitional periods following franchise expiration or termination.
- (f) Grantor's Right Not Affected. The termination and forfeiture of any franchise shall in no way affect any of the rights of the Grantor under the franchise or any provision of law.

13.18.190 Receivership and Foreclosure.

- (a) In the event of bankruptcy, receivership or foreclosure, any franchise as herein granted shall, at the option of the Grantor, cease and terminate one hundred twenty (120) days after the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of the Grantee whether in a receivership, a reorganization, bankruptcy

or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

(1) Such receivers or trustees shall have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this ordinance and the franchise granted pursuant hereto, and the receivers or trustees within said one hundred twenty (120) days shall have remedied all defaults under the franchise; and

(2) Such receivers or trustees shall, within said one hundred twenty (120) days, execute an agreement duly approved by the Court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of the franchise herein granted.

(b) In the case of a foreclosure or other judicial sale of the plant, property and equipment of the Grantee, or any part thereof, including or excluding this franchise, the Grantor may serve notice of termination upon the Grantee and the successful bidder at such sale, in which event the franchise herein granted and all rights and privileges of the Grantee hereunder shall cease and terminate thirty (30) days after service of such notice, unless:

(1) The Grantor shall have approved the transfer of this franchise, as and in the manner in this ordinance provided; and

(2) Such successful bidder shall have covenanted and agreed with the Grantor to assume and be bound by all the terms and conditions of this franchise.

13.18.200 Franchise Required. No Cable Communications System shall be allowed to occupy or use the streets of the City or be allowed to operate without a franchise in accordance with the provisions of this ordinance.

13.18.210 Franchise Processing Costs. Costs to be borne by Grantee shall include, but shall not be limited to, all costs of publications of notices prior to any public meeting provided for pursuant to a franchise, publication of relevant ordinances and franchise agreements and any cost not covered by franchise application fees, incurred by the Grantor in its study, preparation of proposal documents, evaluation of all applications, and processing of the franchise agreement.

13.18.220 Regulation of Franchise. The Grantor shall exercise appropriate regulatory authority under the provisions of this ordinance and applicable law. Grantor may, at its sole option, participate in a joint regulatory agency, with delegated responsibility in the area of cable related communications.

13.18.230 Regulatory Responsibility. The Grantor may exercise or delegate the following regulatory responsibility:

- (a) Administering and enforcing the provisions of the Cable Communications System franchise.
- (b) Coordination of the operation of activities and channels for public use, as provided for in any franchise agreements.

- (c) Providing for technical, programming and operational support to public agency users, such as City departments, schools and health care institutions.
- (d) Establishing procedures and standards for institutional operations and services, use of dedicated channels, and sharing of public facilities.
- (e) Planning expansion and growth of cable services on channels set aside for public use.
- (f) Analyzing the possibility of integrating cable communications with other City, State or regional public telecommunications networks.
- (g) Formulating and recommending long range public telecommunications plans.

13.18.240 Public Usage of the System. If so specified in a franchise agreement, the Grantor may utilize a portion of the cable system capacity and associated facilities and resources, to develop and provide cable services that will be in the public interest. In furtherance of this purpose, the Grantor may establish a public non-profit corporation to receive and allocate facilities, support funds and other considerations provided by the Grantee, and/or others. Such a public corporation, if established, may be delegated responsibility such as the following:

- (a) Receive, and utilize or reallocate for utilization, channel capacity, facilities, funding and other support provided specifically for public usage of the cable system.
- (b) Review the status and progress of each service developed for public benefit.
- (c) Reallocate resources on a periodic basis to conform with changing priorities and public needs.
- (d) Report to the Grantor annually on the utilization of resources, the new public services developed and the benefits achieved for the City and its residents.

13.18.250 Reservation by Grantor. The Grantor reserves the right, at its discretion, from time to time, to determine if the Corporation described in 13.18.240 above is performing its purposes in a manner satisfactory to the Grantor and if it is not, the Grantor may receive and re-allocate all or a portion of the channel capacity, operating appropriation, and capital appropriation, including any facilities and equipment purchased previously with such appropriations, to another entity. A new entity shall be required to comply in all respects with the legal responsibilities which the corporation has assumed under Section 13.18.240.

13.18.260 Review of System Performance. The Grantor and Grantee shall meet publicly to review the performance and quality of service of the cable television system as requested by the Grantor but no more than once annually. The reports required in Section 13.18.410 regarding subscriber complaints, records of performances tests and the opinion survey report shall be utilized as the basis for review. In addition, any subscriber may submit complaints during the review meetings, either orally or in writing, and these shall be considered.

- (a) Within thirty (30) days after the conclusion of the system performance review meetings. Grantor shall issue findings

with respect to the adequacy of system performance and quality of service. If inadequacies are found, Grantor may direct Grantee to correct the inadequacies within a reasonable period of time.

- (b) If the Grantee fails, after due notice, to correct the inadequacies, the Grantor may, at its sole discretion, levy any penalty within the scope of this ordinance considered appropriate.

13.18.270 System and Services Review. To provide for technological, economic, and regulatory changes in the state of the art of cable communications, to facilitate renewal procedures, to promote the maximum degree of flexibility in the cable system, and to achieve a continuing, advanced modern system, the Grantor and the Grantee shall comply with the following system and services review provisions:

- (a) As requested by the Grantor, the Grantor and the Grantee shall hold a System and Services Review Session on or about the third anniversary date of the franchise agreement. Subsequent System Review Sessions shall be scheduled by the Grantor each three (3) years thereafter. All such review sessions shall be open to the public, and notice shall be given.
- (b) The schedule system and services review session shall include a report to Grantor indicating the following:
 - (1) A list of cable services that are being provided on an operational basis, excluding tests and demonstrations, to cities in the U.S. with populations between ten and twenty thousand.
 - (2) A plan for adding such services or a brief description indicating why such services are not feasible for the City.
- (c) Topics for discussion and review at the System and Services Review Sessions shall include but shall not be limited to, services provided, rate structure, free or discounted services, application of new technologies, system performance, programming, subscriber complaints, user complaints, rights of privacy, amendments to the franchise, undergrounding processes, developments in the law, and regulatory constraints.
- (d) Either the Grantor or the Grantee may select additional topics for discussion at any Review Session.
- (e) Not later than sixty (60) days after the conclusion of each System and Services Review Session, Grantor shall issue findings, including specifically a listing of any cable services not then being provided to the City that are considered feasible. Grantor may request Grantee to provide such services within a reasonable time, under reasonable rates and conditions as agreed to by Grantee. Failure to provide such agreed to services may be considered a breach of the franchise, subject to penalties as provided in this ordinance.

13.18.280 Rate Regulation. Grantor may regulate cable system rates in accordance with this chapter, and applicable law. If any rate regulation authority currently preempted by state or federal government

laws or regulations should, in the future, no longer be preempted, Grantor shall have the right to assume regulatory authority to the extent then permitted.

13.18.290 Initial Rates.

- (a) The Grantee shall establish initial rates that shall be applied fairly and uniformly to all subscribers for its services, in accordance with the rates contained in the franchise agreement.
- (b) Initial basic subscriber rates shall be effective for a minimum of two (2) years from the date cable service commences, or until Grantee has completed all construction proposed in its application for the first and second years, whichever is longer, or, for franchise renewals, for the term specified in the renewal agreement.

13.18.300 Rate Change Procedure.

- (a) Within sixty (60) days of the filing of a petition for rate change, the Grantor shall hold an appropriate public hearing to consider the proposed rate change, at which hearing all persons desired to be heard, including the Grantee, shall be heard on the matter, including but not limited to, the performance of this franchise, the Grantee's services, and the proposed new rates.
- (b) Upon notice of any public hearing, the Grantee shall notify its subscribers of the time, place, and subject matter of the public hearing by announcement on any channels set aside for public use, between the hours of 7:00 p.m. and 9:00 p.m. for at least five (5) consecutive days prior to the hearing. In addition, notice of any public hearing shall be published in a newspaper of general circulation at least once.
- (c) Within ninety (90) days after said hearing, the Grantor shall render a written decision on the Grantee's petition, either accepting, rejecting, modifying or deferring the same and reciting the basis of its decision. The Grantor shall consider, but not be limited to, the following factors in approving or disapproving the petition.
 - (1) Grantee's substantial fulfillment of all material requirements of the franchise.
 - (2) Quality of service, as indicated by the number and type of service complaints, Grantee's response to complaints, and the result of periodic system performance tests.
 - (3) Prevailing rates for comparable services in other cable systems of similar size and complexity.
 - (4) Rate of return on Grantee's equity, as compared to businesses of equivalent risk. The rate of return shall be calculated on a cumulative basis for all system revenues and costs including services such as pay-television that may be exempt from local rate regulation. Upon request of Grantor, Grantee shall promptly provide, from the Grantee, its parent company and any subsidiary company, all information as shall be reasonably necessary to determine system revenues and costs.
 - (5) Performance of Grantee in introducing new services and expanding the cable system's capability, as compared to other systems of similar size and complexity.

(6) The original cost of the system less depreciation determined on a straight line.

(7) Tax benefits received by Grantee, its partners or shareholders, as the result of their investment in the system.

(8) Cash flow derived from system services.

The Grantor shall not consider any valuation based upon the franchise or the Grantee's goodwill and these items of value shall neither be amortized as an expense nor shall a return be paid on them.

(d) If the Grantor fails to render a written decision either accepting, rejecting, modifying, or deferring Grantee's petition within one hundred fifty (150) days of the Grantee's petition pursuant to subsection (b) above, the Grantee shall thereafter be entitled to put its proposed new rates into effect.

(e) The Grantee's petition for a rate increase may include, but not be limited to, the following financial reports, which shall reflect the operations of the system.

- (1) Balance Sheet
- (2) Income Statement
- (3) Statement of Sources and Application of Funds
- (4) Detailed Supporting Schedules of Expenses, Income, Assets and other items as may be required.
- (5) Statement of Current and Projected Subscribers and Penetration.

The Grantee's accounting records applicable to the system shall be available for inspection by the Grantor at all reasonable times. The Grantor shall have access to records of financial transactions for the purpose of verifying burden rates or other indirect costs prorated to the operation. The documents listed above shall include sufficient detail and/or footnotes as may be necessary to provide the Grantor with the information needed to make accurate determinations as to the financial condition of the system. All financial statements shall be certified as accurate by an officer of the Grantee. If deemed necessary by Grantor, Grantor may require review by a CPA.

(f) Schedule of Rates. Grantee shall maintain a complete schedule of subscriber rates including all fees and charges for services not subject to approval by the Grantor.

(g) Disconnections. There shall be no charge for disconnection from the system. However, if a subscriber has failed to pay properly due monthly fees, or if a subscriber disconnects for seasonal period, the Grantee may require, in addition to full payment of any delinquent fees, a reasonable fee for reconnection.

(h) No Consideration Beyond Schedule. The Grantee shall receive no consideration whatsoever for or in connection with its provision of service to its subscribers other than as set forth in this section or as filed with and/or approved by the Grantor.

13.18.310

Access Channel Management.

(a)

Intent. It is the intent of the Grantor to ensure that access and community channels provided for in any franchise agreement, shall be managed in the best public interest, so that programming on such channels will be free of censorship, open to all residents, and available for all forms of public expression, community information and debate of public issues. Pursuant to these objectives, the Grantor may delegate the responsibility for access channel management to a nonprofit entity, termed the Access Channel Manager, which may include, but not be limited to, any of the following:

- (1) A nonprofit public corporation.
- (2) An access management commission or committee appointed by the Grantor, and representing a broad spectrum of the community.
- (3) An established nonprofit entity with special cable-casting capability, such as a local or regional community college.

(b)

Functions. The Access Channel Manager shall have the following functions:

- (1) Responsibility for program production for and management of the Public Access Channel and all other channels as may in the franchise agreement be designated for community-based programming. Community channels may include Government and Educational Access channels as well as Public Access channels.
- (2) Establishment of budgets on an annual basis, and utilization of funds and resources received from the Grantor or the public usage corporation designated in Section 13.18.240, for the purpose of access programming.
- (3) To assure that no censorship or control over program content of the Public Access and Community channel(s) exist, except as necessary to comply with FCC prohibition of material that is obscene, or contains commercial advertising, or conducts a lottery, and to assure that Public Access and Community channels are made available to all residents of the City on a non-discriminatory, first-come, first-served basis.
- (4) To devise, establish, and administer all rules, regulations, and procedures pertaining to the use and scheduling of the Public Access and Community channels.
- (5) To prepare, in conjunction with the Grantee, such regular or special reports as may be required or desirable.
- (6) To hire and supervise staff.
- (7) To make all purchases of materials and equipment that may be required.
- (8) To develop additional sources of funding, such as foundation or federal or state grants, to further community programming.
- (9) To perform such other functions relevant to the Public and Community channel(s) as may be appropriate.

(c)

Access Channel Manager Reports to Grantor. The Access Channel Manager shall provide a report to the Grantor, at least annually, indicating achievements in community-based programming and services.

13.18.320

Construction and Performance Bond.

- (a) Within thirty (30) days after the granting of any franchise and prior to the commencement of any construction work by the Grantee, the Grantee shall file with the Grantor a construction and performance bond in the amount specified in the franchise agreement, in favor of the Grantor and any other person who may claim damages as a result of the breach of any duty by the Grantee assured by such bond.
- (b) Such bond, as contemplated herein, shall be in the form approved by the City Attorney and shall, among other matters, cover the cost of removal of any properties installed by the Grantee in the event said Grantee shall default in the performance of its construction obligation.
- (c) In no event shall the amount of said bond be construed to limit the liability of the Grantee for damages.

13.18.330

Compliance Bond.

- (a) In addition to the performance bond set forth above, the Grantee shall, at least thirty (30) days prior to the commencement of operation, file with the Grantor a compliance bond in the amount specified in the franchise agreement in favor of the Grantor and any other person who may be entitled to damages as a result of any occurrence in the operation or termination of the Cable Communications System operated under this franchise, and including the payments required to be made to the Grantor hereunder.
- (b) Such bond as contemplated herein shall be in the form approved by the City Attorney and shall, among other matters, cover the cost of removal of any properties installed by the Grantee in the event said Grantee shall default in the performance of its franchise obligations.
- (c) In no event shall the amount of said bond be construed to limit the liability of the Grantee for damages.

13.18.340

Security Fund.

- (a) Within thirty (30) days after the effective date of the franchise, the Grantee shall deposit into a bank account established by the Grantor, and maintained on deposit through the term of this franchise, the sum specified in the franchise agreement, as security for the faithful performance by it of all the provisions of the franchise, this chapter and compliance with all orders, permits and directions of any agency of the Grantor having jurisdiction over its acts or defaults under the franchise, and the payment by the Grantee of any claims, liens and taxes due the Grantor which arise by reason of the construction, operation or maintenance of the system. With the concurrence of Grantor, this requirement may be satisfied by a letter of credit in a form approved by the City Attorney, issued by a bank which may be similarly assessed by the Grantor. The security funds or letter of credit may be assessed after due notice by the Grantor for purposes including, but not limited to the following:
 - (1) Failure of Grantee to pay Grantor sums due under the terms of the franchise;
 - (2) Reimbursement of costs borne by the Grantor to correct franchise violations not corrected by the Grantee;

(3) Monetary penalties assessed against Grantee due to default or violation of franchise requirements.

- (b) Within thirty (30) days after notice to it that any amount has been withdrawn by the Grantor from the security fund pursuant to subdivision (a) of this section, the Grantee shall deposit a sum of money sufficient to restore such security fund to the original amount.
- (c) If, following the procedure outlined in Section 13.18.520, the Grantee fails, after ten (10) days notice to pay to the Grantor any taxes due and unpaid; or fails to repay to the Grantor, within such ten (10) days, any damages, costs or expenses which the Grantor shall be compelled to pay by reason of any act or default of the company in connection with this franchise; or fails, after thirty (30) days notice of such failure by the Grantee to take action to comply with any provision of the franchise which the Grantor reasonably determines can be remedied by an expenditure of the security, the Grantor may immediately withdraw the amount thereof, with interest and any penalties, from the security fund or upon the letter of credit. Upon such withdrawal, the Grantor shall notify the Grantee of the amount and date thereof.
- (d) Any security fund deposited pursuant to this section shall become the property of the Grantor in the event that the franchise is cancelled by reason of the default of the Grantee or revoked for cause. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the franchise, or upon termination of the franchise at an earlier date, provided that there is then no outstanding default on the part of the Grantee.
- (e) The rights reserved to the Grantor with respect to the security fund are in addition to all other rights of the Grantor whether reserved by this contract or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the Grantor may have.
- (f) The security fund or letter of credit provided in this Section 13.18.340 may be assessed only after Procedure for remedying Franchise Violations described in Section 13.18.520 has been completed.

13.18.350 Indemnification.

- (a) The Grantee shall by acceptance of a franchise as described herein, indemnify, defend and hold harmless the Grantor, its officers, boards, communications, agents and employees from any and all claims, suits, judgments for damages in any way arising out of or through or alleged to arise out of or through: (1) the act of the Grantor in granting a franchise and, (2) the acts or omissions of Grantee, its servants, employees or agents. Both such indemnifications shall cover such claims arising in tort, contracts, violations of statutes, ordinances or regulations or otherwise.
- (b) In the event any such claims shall arise, the Grantor shall tender the defense thereof to the Grantee provided, however, that the Grantor in its sole discretion may participate in the defense of such claim at its expense.

13.18.360

Insurance.

- (a) The Grantee shall maintain throughout the term of the franchise, insurance in amounts at least as follows:
- (1) Workers' Compensation Insurance: in such coverage as may be required by the workers' compensation insurance and safety laws of the State of California and amendments thereto.
 - (2) Grantee's Liability: in the amount specified in the franchise agreement.
 - (3) Comprehensive General Liability: bodily injury and property damage in the amount specified in the franchise agreement.
 - (4) Comprehensive Automobile Liability: including non-ownership and hired car coverage as well as owned vehicles with minimum limits bodily injury and property damage as specified in the franchise agreement.
- (b) The Grantee shall furnish the Grantor with copies of such insurance policies and certificates of insurance.
- (c) Such insurance policies provided for herein shall name the Grantor, its officers, boards, commissions, agents, and employees as additional insureds and shall contain the following endorsement:
- "It is hereby understood and agreed that this insurance policy may not be cancelled by the surety or the intention not to renew be started by the surety until 30 days after receipt by the Grantor by registered mail written notice of such intention to cancel or not renew."
- (d) The minimum amounts set forth for such insurance shall not be construed to limit the liability of the Grantee to the Grantor under the franchise issued to the amounts of such insurance.

13.18.370

Annual Reports. Within sixty (60) days after the close of Grantee's fiscal year, for the franchise, the Grantee shall submit a written annual report, in a form approved by the Grantor, including, but not limited to, the following information:

- (a) A summary of the previous year's, (or, in the case of the initial report year, the initial year's), activities in development of the cable system, including but not limited to, services begun or discontinued during the reporting year, and user participation;
- (b) A financial statement including a statement of income, revenues, operating expenses, value of plant, annual capital expenditures, depreciation with an attached depreciation schedule, interest paid, taxes paid, balance sheets, and a statement of sources and application of funds, covering all years since the beginning of the franchise;
- (c) A current statement of costs of construction by component categories;
- (d) A projected income statement, balance sheet, statement of sources and application of funds, and statement of projected construction for the next two years;

- (e) A reconciliation between previously projected construction and/or financial estimates, as the case may be, and actual results;
- (f) A list of Grantee's officers, members of its board of directors and other principals of the Grantee;
- (g) A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in the Grantee;
- (h) To the extent that money, other than profits, is paid to a parent, subsidiary or other person affiliated with the Grantee, the amounts of such payments and the basis for computation of such amounts, (e.g., the basis for computing any management fees or share of "home office" overhead).

13.18.380 Plant Survey Report. Simultaneously with the annual report required by Section 13.18.370, Grantee shall submit to the Grantor an annual plant survey report which shall be a complete survey of the Grantee's plant and a full report thereon. Said report shall include, but not be limited to, an appropriate engineering evaluation including suitable electronic measurements and shall be conducted in conformity with such requirements, including supervision, as the Grantor may prescribe. Said report shall be in sufficient detail to enable the Grantor to ascertain that the technical standards of the FCC and/or the franchise are achieved and maintained. At Grantor's request, but no more often than once per three years, the Grantee and the Grantor shall agree upon the appointment of a qualified independent engineer to evaluate the technical performance of the Cable System. The cost of such evaluation shall be borne by the Grantee.

13.18.390 Copies of Federal and State Reports. The Grantee shall submit to the Grantor copies of all pleadings, applications, reports, communications and documents of any kind, submitted by the Grantee to, as well as copies of all decisions, correspondence and actions by, any federal, state and local courts, regulatory agencies and other government bodies relating to its cable television operations within the franchise area. Grantee shall submit such documents to the Grantor simultaneously with their submission to such courts, agencies and bodies; and within five (5) days after their receipt from such courts, agencies and bodies. The Grantee hereby waives any right to claim confidential, privileged or proprietary rights to such documents. However, information otherwise confidential by law and so designated by the Grantee, which is submitted to the Grantor, shall be retained in confidence by the Grantor and its authorized agents and shall not be made available for public inspection.

13.18.400 Public Reports. A copy of each Grantee's annual and other periodic public reports and those of its parent, subsidiary and affiliated corporations and other entities, as the Grantor requests and is reasonably appropriate, shall be submitted to the Grantor within five (5) days of its issuance.

13.18.410 Complaint File and Reports. An accurate and comprehensive file shall be kept by the Grantee of any and all service (complaints) calls regarding the cable system. A procedure shall be established by the Grantee by the time of installation of the cable system to remedy complaints quickly and reasonably to the satisfaction of the Grantor. Complete records of Grantee's actions in response to all complaints

shall be kept. These files and records shall remain open to the public during normal business hours.

- (a) A summary of complaints, identifying the number and nature of complaints and their disposition, in a form approved by the Grantor, shall be completed for each month and submitted to the Grantor by the tenth (10th) day of the succeeding month.
- (b) An annual opinion survey report which identifies satisfaction or dissatisfaction among subscribers with cable communications services offered by the Grantee shall be submitted to the Grantor on or before March 31 of each year. The surveys ~~may~~ required to make said report shall be conducted in conformity with such requirements, including supervision, as the Grantor may prescribe.

13.18.420 Privacy Report. Grantee shall submit to the Grantor an annual report indicating the degree of compliance with the privacy provisions of Section 13.18.570 of this ordinance, and all steps taken to assure that the privacy rights of individuals have been protected.

13.18.430 Miscellaneous Reports. Grantee shall submit to the Grantor such other information or reports in such forms and at such times as the grantor may request or require.

13.18.440 Income Tax Returns. The Grantee shall submit to the Grantor copies of all income tax returns and reports which are filed with the local, state or federal governments pertaining to its Cable System in the franchise area within five (5) days of the date on which such reports are filed.

13.18.450 Inspection of Facilities. The Grantee shall allow the Grantor to make inspections of any of the Grantee's facilities and equipment at any time upon one (1) day's prior notice, or, in case of emergency, upon demand without prior notice, to allow Grantee to verify the accuracy of any submitted report.

13.18.460 Business Office and Files. The Grantee shall retain an office within the franchise area and shall keep complete and accurate books and records. The Grantor shall have the right to inspect at any time during normal business hours all books, records, maps, plans, income tax returns, financial statements, service complaint logs, performance test results and other like materials of the Grantee which relate to the operation of the Cable System. Access of the aforementioned records shall not be denied by the Grantee on the basis that said records contain confidential, privileged or proprietary information.

13.18.470 Public Inspection. All reports required under this Section, except as otherwise herein provided, shall be available for public inspection in the City Clerk's office during normal business hours.

13.18.480 Failure to Report. The refusal, failure or neglect of the Grantee to file any of the reports required under this Section, or as the Grantor may direct, shall be deemed a material breach of the franchise, and shall subject the Grantee to all penalties and remedies, legal or equitable, which are available to the Grantor under the franchise or otherwise.

- 13.18.490 False Statements. Any materially false or misleading statement or representation made knowingly by the Grantee in any report required under the franchise shall be deemed a material breach of the franchise and shall subject the Grantee to all penalties and remedies, legal or equitable, which are available to the Grantor under the franchise or otherwise.
- 13.18.500 Cost of Reports. All reports and records required under this or any other Section shall be furnished at the sole expense of the Grantee.
- 13.18.510 Remedies for Franchise Violations. If the Grantee fails to perform any obligation under the franchise or fails to do so in a timely manner, the Grantor may, at its option and in its sole discretion:
- (a) Assess against the Grantee penalties per diem for construction delays, and per diem penalties for all other violations as specified in the franchise agreement which the Grantee hereby agrees to pay, said assessment to be levied against the security fund, hereinabove provided, and collected by Grantor immediately upon said assessment. Such assessment shall not constitute a waiver by the Grantor of any other right or remedy it may have under the franchise or under applicable law, including, without limitation, its right to recover from Grantee such additional damages, losses, costs and expenses, including actual attorney fees, as may have been suffered or incurred by Grantor by reason of or arising out of such breach of the franchise. This provision for assessment of damages is intended by the parties to be separate and apart from Grantor's right to enforce the provisions of the Construction and Performance or Compliance bonds provided for in Sections 13.18.320 through and including Section 13.18.360.
 - (b) For violations considered by Grantor to have materially degraded the quality of service, order and direct Grantee to issue rebates or reduce its rates and/or charges to subscribers in an amount solely determined by Grantor to provide monetary relief substantially equal to the reduced quality of service resulting from Grantee's failure to perform. This is not intended and shall not be construed to apply on an individual basis but shall apply to the system as a whole.
 - (c) Require Grantee to cure all substantial defaults and material breaches of its obligations hereunder before Grantee is entitled to increase any rate or charge to subscribers hereunder.
 - (d) Terminate the franchise for any of the causes stated in Section 13.18.180.
 - (e) No penalty shall be imposed by Grantor against Grantee for any violation of this franchise without Grantee being afforded due process of law.

Grantor may, in its sole judgment and discretion, impose any or all of the above enumerated measures against Grantee, which shall be in addition to any and all other legal or equitable remedies it has under this franchise or under any applicable law.

- 13.18.520 Procedure for Remedying Franchise Violations. In the event that the Grantor determines that the Grantee has violated any provision of the franchise, any rule or regulation promulgated pursuant hereto or any applicable federal, state or local law, the Grantor may make a written demand on the Grantee that it remedy such violation. If the violation, breach, failure, refusal or neglect is not remedied to the satisfaction of the Grantor within thirty (30) days following such demand, the Grantor shall determine whether or not such violation, breach, failure, refusal or neglect by the Grantee was excusable or inexcusable, in accordance with the following procedure:
- (a) A public hearing shall be held and the Grantee shall be provided with an opportunity to be heard upon thirty (30) days written notice to the Grantee of the time and the place of the hearing provided and the allegations of franchise violations.
 - (b) If, after notice is given and, at the Grantee's option, a full public proceeding is held, the Grantor determines that such violation, breach, failure, refusal or neglect by the Grantee was excusable as provided in Section 13.18.530 below, the Grantor shall direct the Grantee to correct or remedy the same within such additional time, in such manner and upon such terms and conditions as the Grantor may direct.
 - (c) If, after notice is given and, at the Grantee's option, a full public proceeding is held, the Grantor determines that such violation, breach, failure, refusal or neglect was inexcusable, then the Grantor may assess a penalty or remedy in accordance with Section 13.18.510.
 - (d) If, after notice is given and, at the Grantee's option, a full public proceeding is held, the Grantor declares the franchise or any renewal thereof breached, the parties may pursue their remedies pursuant to the franchise or any other remedy, legal or equitable.
- 13.18.530 Force Majeure; Grantee's Inability to Perform. In the event Grantee's performance of any of the terms, conditions, obligations or requirements of the franchise is prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof. Such causes beyond Grantee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, Acts of God, civil emergencies, and labor strikes.
- 13.18.540 Open Books and Records. The Grantee shall manage all of its operations in accordance with a policy of open books and records. The Grantor shall have the right to inspect at any time during normal business hours and upon reasonable notice, all books and records pertaining to revenues paid by the Grantee to the Grantor and rate increase requests, maps, plans, service complaint logs, FCC performance test results and other like materials of the Grantee which relate to the operation of the franchise. Access to the aforementioned records shall not be denied by the Grantee on the basis that said records contain "proprietary" information.

13.18.550

Records Required.

(a)

The Grantee shall at all times maintain:

- (1) A record of all complaints received and interruptions or degradation of service experienced for three (3) years.
- (2) A full and complete set of plans, records and "as-built" maps showing the exact location of all Cable Communication System equipment installed or in use in the City, exclusive of subscriber service drops.
- (3) Filing. When not otherwise prescribed herein, all matters required to be filed with the City shall be filed with the City Clerk.

(b)

Other Records. The City may impose reasonable requests for additional information, records and documents from time to time.

(c)

Inspection of Property and Records. At all reasonable times, Grantee shall permit examination by any duly authorized representative of the Grantor, all franchise property, together with any appurtenant property of the Grantee situated within or without the City. Grantee shall also permit any duly authorized representative of the Grantor to examine and transcribe any and all maps and other records described in Section.540. Open books and records, kept or maintained by Grantee or under its control concerning the operations, affairs, transactions or property of Grantee. If any of such maps or records are not kept in the City, they shall be made available upon reasonable request by the City.

13.18.560

Maintenance and Complaints.

(a)

The Grantee shall maintain an office which shall be open during all usual business hours, have a publicly listed toll-free telephone, and be so operated to receive subscriber complaints and requests for repairs or adjustments on a 24-hour basis. A written log shall be maintained listing all complaints and their disposition, including the time taken to respond to the complaint and to repair the problem.

(b)

The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during period of minimum use of the system. A written log shall be maintained for all service interruptions.

(c)

The Grantee shall maintain a repair force of technicians capable of responding to subscriber complaints or requests for service within twenty-four (24) hours after receipt of the complaint or request.

(d)

The Grantee shall furnish each subscriber at the time service is installed, written instructions that clearly set forth procedures, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed, and furnish information concerning the City

office responsible for administration of the franchise with the address and telephone number of the office.

13.18.570

Rights of Individuals.

- (a) Grantee shall not deny service, deny access or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex. Grantee shall comply at all times with all other applicable federal, state and local laws and regulations, and all executive and administrative orders relating to non-discrimination which are hereby incorporated and made part of this chapter by reference.
- (b) Grantee shall strictly adhere to the equal employment opportunity requirements of the FCC, state and local regulations, and as amended from time to time.
- (c) Neither the Grantee, nor any person, agency, or entity shall, without the subscriber's consent, tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose except routine maintenance of the system, polling with audience participation, or audience viewing surveys to support advertising research regarding viewers where individual viewer behavior cannot be identified.
- (d) In the conduct of providing its services or pursuit of any collateral commercial enterprise resulting therefrom, Grantee shall take any and all necessary action to prevent an invasion of a subscriber's or general citizen's right to privacy or other personal rights as such rights are delimited and defined by applicable law. Grantee shall not without lawful court order or other applicable valid legal authority utilize the system's interactive two-way equipment or capability for unauthorized personal surveillance of any subscriber or general citizen.
- (e) No cable line, wire, amplifier, converter or other piece of equipment owned by Grantee shall be installed by Grantee without first securing the written permission of the owner/agent of any property involved; provided, however, that where the property owner has granted an easement or a servitude to another and the servitude by its terms contemplates uses such as Grantee's intended use, Grantee shall not be required to secure the written permission of the owner for the installation of cable television equipment or facilities unless the Grantee elects to do so. If permission is later revoked, whether by the original or a subsequent owner, the Grantee shall remove forthwith any of its equipment which is visible and movable.
- (f) The Grantee shall not sell or otherwise make available any list which identifies, by name, subscriber viewing habits, or personalized data pertaining to a subscriber's use of any of Grantee's services without the express written consent of the subscriber to which the personalized data pertains. For purposes of this section, "personalized data" shall mean the name and addresses of an individual subscriber directly associated with data obtained on his or her use of specific services provided by or through the Grantee. Nothing herein shall be construed to prevent, as a normal incident of commercial enterprise, the sale or availability of "non-personalized" or "aggregated data" which is not personalized data as defined herein.

- 13.18.580 Tenant Rights. Grantee shall be required to provide service to tenants in individual units of a multiple housing facility with all services offered to other dwelling units within the City, so long as the owner/agent of the facility consents in writing, if requested by Grantee, to the following:
- (a) To Grantee's providing of the service to units of the facility;
 - (b) To reasonable conditions and times for installation, maintenance, and inspection of the system on the facility premises;
 - (c) To reasonable conditions promulgated by Grantee to protect Grantee's equipment and to encourage widespread use of the system; and
 - (d) To not demand or accept payment from Grantee for permitting Grantee to provide service to the facility and to not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not.
- 13.18.590 Grantee Rules and Regulations. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations.
- 13.18.600 System Design. The Cable Communications System shall be constructed in accordance with the design requirements contained in the franchise agreement.
- 13.18.610 Geographical Coverage. The Grantee shall design and construct the system in such a manner as to have the eventual capability to pass by every single-family dwelling unit, multiple family dwelling unit, agency, and business establishment within the area of the franchise. Service shall be provided to subscribers in accordance with the schedules and line extension policies specified in the franchise agreement.
- 13.18.620 Cablecasting Facilities. The Grantee shall provide cablecasting facilities in accordance with the requirements of the franchise agreement.
- 13.18.630 System Construction Schedule.
- (a) The Grantee shall comply with the requirements of the system construction schedule contained in the franchise agreement.
 - (b) Service need not be provided where power and telephone utilities are not available.
 - (c) The Grantee shall provide a detailed construction plan indicating progress schedule, area construction maps, test plan, and projected dates for offering service. In addition, the Grantee shall update this information on a monthly basis, showing specifically whether schedules are being met and the reasons for any delay.

- (d) Failure to begin construction within one (1) year after award of the franchise will be grounds for franchise revocation, at the option of the Grantor.

13.18.640 Penalties for Delay in Construction. The Grantor may at its sole option, apply any of the following in connection with delays in system construction:

- (a) Reduction in the duration of the franchise on a month-for-month basis for each month of delay exceed six (6) months.
- (b) Forfeiture of construction and performance bonds and/or assessment of a penalty not to exceed the maximum amount specified in the franchise agreement levied against the security fund for delays exceeding one year.
- (c) Termination of the franchise for delays exceeding eighteen (18) months. Any penalties applied shall be in accordance with the procedures contained in Sections 13.18.510 through 13.18.530.

13.18.650 Provision of Service. After service has been established by activating trunk cables for any area, the Grantee shall provide service to any requesting subscriber within that area ninety (90) days from the date of request.

13.18.660 Undergrounding of Cable. The undergrounding of cables is encouraged. In any event, cables shall be installed underground at Grantee's cost where existing utilities are already underground. Previously installed aerial cable shall be undergrounded in concert, and on a cost-sharing basis, with other utilities, when such other utilities may convert from aerial to underground construction.

13.18.670 New Development Undergrounding. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give Grantee reasonable notice of such construction or development, and of the particular date on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at the developer's expense. Grantee shall provide specifications as needed for trenching.

13.18.680 Street Occupancy.

- (a) Grantee shall utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different or additional poles, conduits or other facilities whether on public property or on privately-owned property until the written approval of the Grantor is obtained. However, no location of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the Grantor determines that the public convenience would be enhanced thereby.
- (b) Grantee shall notify the Grantor prior to commencing any construction in any streets in compliance with existing building codes. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such streets and that proposed construction shall be done in accordance with the pertinent provisions

of the ordinances of the City.

- (c) All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times, shall be kept and maintained in a safe, adequate and substantial condition, and in good repair. The Grantee shall, at all times, employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.
- (d) Grantee shall, at its own expense, and in a manner approved by the Grantor, restore to Grantor standards and specifications any damage or disturbance caused to the public way as a result of its operations or construction on its behalf.
- (e) Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Grantor to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence by the Grantor.
- (f) Grantee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities subject to the supervision and direction of the Grantor. Trimming of trees on private property shall require written consent of the property owner.
- (g) The Grantee at his expense shall protect, support, temporarily disconnect relocate or remove any property of Grantee when, in the opinion of the Grantor, the same is required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, waterpipes, power line, signal line, transportation facilities, tracks, or any other types of structure or improvements by governmental agencies whether acting in a governmental or a proprietary capacity, or any other structure or public improvement, including but not limited to movement of buildings, urban renewal and redevelopment, and any general program under which the Grantor shall undertake to cause all such properties to be located beneath the surface of the ground. The Grantee shall in all cases have the privilege, subject to the corresponding obligations, to abandon any property of Grantee in place. Nothing hereunder shall be deemed as taking of the property of Grantee and Grantee shall be entitled to no surcharge by reason of anything hereunder. Nothing hereunder shall permit the Grantor to single out the Grantee to take the actions described hereunder unless utilities similarly affected are also required to take such actions.
- (h) Upon failure of Grantee to commence, pursue or complete any work required by law or by the provisions of this ordinance to be done in any street, within the time prescribed and to the satisfaction of the Grantor, the Grantor may, at its option, cause such work to be done and the Grantee

shall pay to the Grantor the cost thereof in the itemized amounts reported by the Grantor to Grantee within thirty (30) days after receipt of such itemized report.

- (i) The Grantee shall make no paving cuts or curb cuts unless absolutely necessary, but only after written permission has been given by the Grantor.
- (j) The Grantee shall install in conduit, all cable passing under any major roadway.

13.18.690 Construction and Technical Standards.
 (a) Construction Standard.

(1) Compliance with Safety Codes. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all state and local codes where applicable.

(2) Compliance with Electrical Codes. All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the Basic BOCA Electrical Code as amended.

(3) Antennas and Towers. Antenna supporting structure (towers) shall be designed for the proper loading as specified in Electronics Industry Association's R.S-2-22A Specifications.

(4) Compliance with Aviation Requirements. Antenna supporting structures (tower) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local codes and regulations.

(5) Construction Standards and Requirements. All of the Grantee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or interfere with improvements the municipality may deem proper to make, or to interfere in any manner with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic on municipal properties.

(6) Safety, Nuisance, Requirements. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

- (b) Technical Standards. The Cable Communications System shall meet all technical and performance standards contained in the franchise agreement.

- (c) Test and Compliance Procedure. The Grantee shall submit, within sixty (60) days after the effective date of the franchise agreement, a detailed test plan describing the methods and schedules for testing the Cable Communications System on an ongoing basis to determine compliance with the provisions of FCC technical standards and the franchise agreement. The

tests for Basic Subscriber Television Services shall be performed periodically, at intervals no greater than annually, on a minimum of 20 subscriber television receivers, located throughout the service area. At least eight (8) of these locations shall be at the far end of the distribution trunk cables and written test reports shall be available to the Grantor upon request. If more than ten percent (10%) of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated. This process shall be self-perpetuating.

- (d) Special Tests. At any time after commencement of service to subscribers, the Grantor may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy. The Grantor shall endeavor to so arrange its requests for such special tests so as to minimize hardship or inconvenience to Grantee or to the subscriber.

13.18.700 Areawide Interconnection.

- (a) Interconnection Required. If provided for in the franchise agreement, the Grantee shall interconnect origination and access channels of the Cable Communications System with any or all other cable systems in adjacent areas, upon the directive of the Grantor. Interconnection of systems shall permit interactive transmission and reception of program material and may be done by direct cable connection, microwave link, satellite or other appropriate method.
- (b) Interconnection Procedure. Upon receiving the directive of the Grantor to interconnect, the Grantee shall immediately initiate negotiations with the other affected system or systems. The cost shall be borne by both Grantees, in the proportion of the number of channels received to total number of channels transmitted and received, under the assumption that benefits accrue primarily through receipt of additional channels.
- In the case of regional or state-wide interconnection, the same principle shall apply.
- (c) Cooperation Required. The Grantee shall cooperate with any interconnection corporation, regional interconnection authority or city, county, state and federal regulatory agency which may be hereafter established for the purpose of regulating, financing or otherwise providing for the interconnection of cable systems beyond the boundaries of the City.
- (d) Initial Technical Requirements to Assure Future Interconnection Capability.
- (1) All Cable Communications Systems receiving franchises to operate within the City shall use the same frequency allocations for designated television signals.
 - (2) Grantee(s) shall provide local origination equipment that is compatible through the area so that video cassettes or video tapes can be shared by various systems.

- 13.18.710 Services to be Provided. The Grantee shall provide, as a minimum, the number of services listed in the franchise agreement. Services shall not be reduced without prior approval of Grantor.
- 13.18.720 Basic Subscriber Television Service (BSTS). The "Basic Subscriber Television Service" shall include the FCC-required services, the distant television broadcast signals, the imported non-broadcast signals, the provision of all other cablecast open-channel signals. This service shall be provided to all subscribers at the established BSTS monthly subscription rates. BSTS may be provided in various service tiers or configurations subject to Grantor approval.
- 13.18.730 Basic Subscriber Radio Service (BSRS). The "Basic Subscriber Radio Service" shall include the provision of all audio services designated in the franchise agreement, including broadcast FM and cablecast FM signals. This service shall be provided to all subscribers at the established BSRS monthly subscription rates.
- 13.18.740 Institutional Service (IS). The "Institutional Service" if provided by the franchise agreement, shall include the provision of transmission and/or reception services to institutional users, on a leased channel basis at established IS rates. Services may include the distribution of video or non-video signals.
- 13.18.750 Additional Subscriber Services. "Additional Subscriber Services," not included in the BSTS and BSRS services specified above, may be provided.
- 13.18.760 Local Origination Channel. The Grantee shall operate the cablecasting studios on a high-quality, professional basis for the purpose of providing cablecast programming responsive to local needs and interests. The emphasis for the Local Origination channel if provided by the franchise agreement, shall be on providing programming that is unavailable to viewers on broadcast television channels and other national program services.
- 13.18.770 Government Access Channel. The Grantee shall provide the number of channels specified in the franchise agreement for the use of the Grantor at no charge to the Grantor. The Grantee shall make every effort to provide advice and technical expertise to aid in the utilization of these channels.
- 13.18.780 Educational Access Channel. The Grantee shall provide the number of channels specified in the franchise agreement for the use of the local educational institutions at no charge. The Grantee shall make every effort to provide advice and technical expertise to aid in the utilization of these channels.
- 13.18.790 Public Access Channel. The Grantee shall provide the number of channels specified in the franchise agreement to be available to the public at no charge. The Public Access channel(s) shall be manned and operated by the Access Channel Manager, as described in Sections 13.18.220 through and including 13.18.310. The Grantee shall make available for programmers of the public access channel the facilities and support listed in the franchise agreement.
- 13.18.800 Public Access Channel (Closed Circuit). If the Cable Communications System includes a closed-circuit institutional network, the Grantee shall make at least three two-way channels available for local government, educational and public use at no charge. The Public

Access two-way channel shall be managed and operated by the Access Channel Manager.

- 13.18.810 Leased Access Channels. Grantee shall make available for lease on a nondiscriminatory basis, the number of channels specified in the franchise agreement. Grantee shall not use its franchise position to deny leased access to others who may wish to offer a non-entertainment service competitive to a service provided by Grantee. All leased channel service revenues at the subscriber level shall be included in gross revenues subject to the franchise fee. Such revenues shall include monthly or per-use fees charged to users of services by lessees, but shall not include direct revenues generated by the sale of specific products offered by these services.
- 13.18.820 Universal Connection. The Grantor may require that all dwelling units within the City shall be connected physically to the cable system by the Grantee by means of drop cables terminating at each dwelling unit, whether or not the dwelling unit occupants desire to subscribe to cable service. The cost and charges shall be determined by the Grantor at the time such connection is required. Grantee shall be entitled to recover the incremental cost of providing a universal connection.
- 13.18.830 Right to Purchase the System. The Grantor may in any lawful manner and upon the payment of a fair market value lawfully purchase the property and plant of the Grantee in whole or in part. Fair market value is herein defined as the price a willing buyer would pay a willing seller. Fair market value will be determined by an independent and impartial appraiser acceptable to both Grantor and Grantee. Nothing herein shall require Grantee to turn over his property to the Grantor without full payment for such property.
- 13.18.840 Right of Inspection of Construction. The Grantor shall have the right to inspect all construction or installation work performed subject to the provisions of the franchise and to make such tests as it shall find necessary to ensure compliance with the terms of this franchise and other pertinent provisions of law.
- 13.18.850 Right of Intervention. The Grantor shall have the right of intervention in any suit or proceeding to which the Grantee is party, if the Grantor's interests as a municipality are or may be directly affected by the outcome of the suit or proceeding, and the Grantee shall not oppose such intervention by the Grantor at Grantor's cost.
- 13.18.860 Right to Require Removal of Property. At the expiration of the term for which the franchise is granted, or upon its revocation or expiration, as provided for herein, the Grantor shall have the right to require the Grantee to remove, at its own expense, all portions of the Cable Communications System from all streets and public ways within the City.
- 13.18.870 Right of Grantee. Should the Grantee become dissatisfied with any material decision or ruling of the Grantor pertaining to cable communications matters, the Grantee may pursue such other remedies as are available, including the bringing of action in any court of competent jurisdiction. The Grantor shall not violate the confidentiality of any records to which it has access and which are not open to the public.

- 13.18.880 Compliance with State and Federal Laws. Notwithstanding any other provisions of this franchise to the contrary, the Grantee shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof. Provided, however, if any such state or federal law or regulation shall require the Grantee to perform any service, or shall permit the Grantee to perform any service, or shall prohibit the Grantee from performing any service, in conflict with the terms of this ordinance or of any law or regulation of the Grantor, then as soon as possible following knowledge thereof, the Grantee shall notify the Grantor of the point of conflict believed to exist between such regulation or law and the laws or regulations of the Grantor or this ordinance, and the Grantee shall be excused from performance hereunder, provided that it acts in good faith reliance thereon, pending resolution of such conflict.
- 13.18.890 Separability - Non-Material Provisions. If any provision of this ordinance or any related agreements is held by any federal, state or county agency of competent jurisdiction to be invalid as conflicting with any federal, state or county law, rule or regulation now or thereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, and if said provision is considered non-material by the Grantor, said provision shall be considered a separate, distinct and independent part of this ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision hereof or thereof which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect and shall thereafter be binding on the parties hereto, provided that the Grantor shall give the Grantee thirty (30) days written notice of such change before requiring compliance with said provision.
- 13.18.900 Separability - Material Provisions. If any material section of this ordinance, as determined by the Grantor, is held to be invalid or preempted by federal or state regulations or laws, the Grantor shall negotiate with Grantee appropriate modifications to the franchise to provide reasonable relief from such invalidity or preemption including the payment of liquidated damages. If the parties are unable to reach agreement on such modifications, then the dispute will be submitted to a mutually agreeable arbitrator, in accordance with state law, who will determine what modifications and/or liquidated damages are appropriate. The arbitrator's decision shall be binding on the parties, provided that no decision of the arbitrator shall require the Grantor or Grantee to be in violation of any federal or state law or regulation.
- 13.18.910 Notices. All notices from the Grantee to the Grantor pursuant to this franchise shall be to the City Clerk. Grantee shall maintain with the Grantor, throughout the term of the franchise, an address for service of notices by mail. Grantee shall also maintain within the franchise territory, a local office and telephone number for the conduct of matters related to this franchise during normal business hours.
- 13.18.920 Captions. The captions to sections throughout this proposal are intended solely to facilitate reading and reference to the sections and provisions of this proposal. Such captions shall not affect the meaning or interpretation of this proposal.

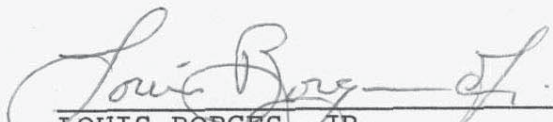
- 13.18.930 No Recourse Against the Grantor. The Grantee shall have no recourse whatsoever against the Grantor or its officials, boards, commissions, agents or employees for any loss, cost, expense, or damage arising out of any provision or requirement of the franchise or because of the enforcement of the franchise.
- 13.18.940 Nonenforcement by the Grantor. The Grantee shall not be relieved of its obligation to comply with any of the provisions of this permit by reason of any failure of the Grantor to enforce prompt compliance.
- 13.18.950 Theft of Services and Tampering.
- (a) No person, whether or not a subscriber to the cable system, may damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of Grantee, or commit any act to cause damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus, or appurtenances of Grantee in such manner as would be capable of obtaining a signal or impulse from the cable system without authorization from or compensation to the Grantee, or to obtain cable television or other communications service which deprives Grantee of any lawful charge to which it is entitled.
 - (b) Any person convicted of violating any provision of this section is subject to a fine of not more than five hundred dollars (\$500.00) for each offense. Each day's violation of this section shall be considered a separate offense.
- 13.18.960 Franchise Applications. Applicants for a franchise shall submit to the Grantor written applications utilizing a format acceptable to the Grantor, at the time and place designated by the Grantor for accepting applications, and including the designated application fee.
- 13.18.970 Franchise Processing Fee. The Grantee shall be required to reimburse the Grantor for reasonable costs expended in soliciting and evaluating applications, and processing the franchise award, to the extent that such costs are not recovered from application fees."
- Section 2. At least five (5) days prior to the date of adoption of this ordinance, a Notice of Intent to adopt this ordinance was published in a newspaper of general circulation and a certified copy of the full text of the proposed ordinance was posted in the office of the City Clerk.
- Section 3. Within fifteen (15) days after adoption, the City Clerk shall publish a summary of this ordinance in a newspaper of general circulation and full text of such adopted ordinance along with the names of those City Councilmembers voting for and against the ordinance.

THE FOREGOING ORDINANCE NO. 441, Cable Television Ordinance, was regularly introduced at a meeting of the City Council of the City of Pinole held on July 19, 1982, and duly adopted at an adjourned regular meeting held on October 12, 1982, by the following vote:

AYES: COUNCILMEMBERS: McCarty, Nelson, Shaver, Borges

NOES: COUNCILMEMBERS: Goularte

ABSENT: COUNCILMEMBERS: None



LOUIS BORGES, JR.
MAYOR of the City of Pinole

ATTEST:



ELIZABETH GRIMES
CITY CLERK of the City of Pinole

ORDINANCE NO. 444

AN ORDINANCE OF THE CITY OF PINOLE GRANTING A 15-YEAR NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO CONTRA COSTA COUNTY CABLE COMPANY, DOING BUSINESS AS VIACOM CABLEVISION, A WHOLLY OWNED SUBSIDIARY OF VIACOM INTERNATIONAL, AND PROVIDING FOR VARIANCES FROM THE CABLE TELEVISION ORDINANCE.

THE CITY COUNCIL OF THE CITY OF PINOLE DOES HEREBY ORDAIN:

Section 1. Pursuant to the authority of Section 13.18.080 of the Pinole Municipal Code, a 15-year, non-exclusive Cable Television Franchise is granted to CONTRA COSTA COUNTY CABLE CO., doing business as VIACOM CABLEVISION, a wholly owned subsidiary of VIACOM INTERNATIONAL.

Section 2. A copy of the Franchise Agreement, marked EXHIBIT "A", is attached hereto and included herein by reference.

Section 3. Subject to the provisions of this Ordinance, the terms and provisions of EXHIBIT "A" are approved, and pursuant to Section 13.18.090 of the Pinole Municipal Code, the City Council has considered sections of EXHIBIT "A" that are at variance with the provisions of Chapter 13.18 of the Municipal Code, and determined that such variances are within the purpose and intent of Chapter 13.18, and hereby grant such variances from the requirements of the Municipal Code.

Section 4. The City Manager is authorized and directed to execute the original of EXHIBIT "A" on behalf of the City of Pinole.

Section 5. At least five (5) days prior to the date of adoption of this ordinance, a Notice of Intent to adopt this ordinance was published in a newspaper of general circulation and a certified copy of the full text of the proposed ordinance was posted in the office of the City Clerk.

Section 6. Within fifteen (15) days after adoption, the City Clerk shall publish a summary of this ordinance in a newspaper of general circulation and full text of such adopted ordinance along with the names of those City Councilmembers voting for and against the ordinance.

THE FOREGOING ORDINANCE NO. 444 was duly introduced at a meeting of the City Council of the City of Pinole held on October 12, 1982, and duly adopted at at a regular meeting held on November 15, 1982, by the following vote:

AYES: COUNCILMEMBERS: McCarty, Nelson, Shaver, Borges
NOES: COUNCILMEMBERS: Goularte
ABSENT: COUNCILMEMBERS: None



LOUIS BORGES, JR.
MAYOR of the City of Pinole

ATTEST:



ELIZABETH GRIMES
CITY CLERK of the City of Pinole

EXHIBIT "A"

CABLE TELEVISION FRANCHISE AGREEMENT

CITY OF PINOLE, CALIFORNIA

CABLE TELEVISION FRANCHISE AGREEMENT

This is an agreement which awards Viacom Cablevision a 15-year non-exclusive franchise in keeping with the provisions of the Cable Television franchise ordinance. In the event of conflict, this agreement between Viacom Cablevision and the City of Pinole supercedes all other documents related to the operation of the cable television system in the City of Pinole, including the franchise proposal submitted by Viacom Cablevision on July 16, 1982 and the "City of Pinole--Cable Television Franchise Ordinance."

SECTION I Cable Television Franchise Ordinance

The following sections related to the Cable Television Franchise Ordinance should be modified as follows:

1.1 Franchise Territory

Section 13.18.100 of the enabling ordinance provides that the Grantor may grant a franchise for all or any defined portion of the City. The initial service area under this franchise agreement shall include the entire City and any annexed properties. Future annexed areas shall be serviced within one year, and service therein shall be compatible with existing services in other city areas served by Viacom. If annexed area is already serviced by another cable provider, Viacom may serve that area or may negotiate in good faith to purchase the existing system.

1.2 Use of Public Streets and Ways

Section 13.18.110 of the enabling ordinance specifies terms for use of public streets and ways, and establishes provisions for filing plans for construction with appropriate City agencies and utility companies and to receive prior written approval from both agencies. Under the terms of this franchise agreement, Viacom will not be required to file plans for construction or alteration to the existing cable system or to receive written approval. This is not required because necessary approvals have already been received for existing plant.

1.3 Franchise Fee

In Section 13.18.170 (e) the Grantor reserves the right to require advance payment of the franchise fee prior to the stabilization of revenues. Because cable system revenues are established and revenues are stabilized, Viacom will not be required to pay franchise fees in advance, under the terms of this agreement,.

1.4 Franchise Processing Costs

Section 13.18.210 specifies franchise processing costs to be born by the

Grantee. Under the terms of this agreement, franchise processing costs which apply to Viacom will be restricted to actual costs expended up to the date of acceptance of this agreement by the Grantor. Subsequent to the acceptance of this agreement, franchise processing costs which apply to Viacom will be restricted to franchise fees already paid or subsequent franchise fee payments.

1.5 Regulatory Responsibility

Section 13.18.230 establishes the Grantor's regulatory responsibilities. Under this agreement, the Grantor's regulatory responsibility with regard to public channels shall apply to one channel on the 35-channel capacity system (300 MHz), which shall be dedicated to the city as a public use channel. When 54-channel capacity system (400 MHz) system is activated, this number shall expand to no more than three public use channels. If such channels are not utilized, Viacom may place a basic service program on the unused city channel(s) with the consent of the City Council. This channel will remain available to the Grantor, and the Grantor may reclaim this channel subject to the terms and conditions agreed upon at the time the City turns the channel back for use by the Grantee.

1.6 Initial Rates

Section 13.18.290 (b) provides for a two-year freeze of initial rates or until Grantee has completed all proposed construction. This rate freeze period is not applicable to Viacom. A rate schedule which supercedes this section is attached to this franchise agreement as Schedule III.

1.7 Rate Change Procedures

Section 13.18.300 applies to procedures for granting rate increases. This section is not applicable to Viacom and is superceded by the formula for rate increases contained in Section 3.5 of this agreement.

1.8 Access Channel Management

Section 13.18.310 (a) defines management of community access. This section may be applied to Viacom only at the time the 54-channel capacity (400 MHz) system becomes operational.

1.9 Construction and Performance Bond

Construction and Performance bond as required in Section 13.18.320 required in lieu of security fund described in Section 13.18.340, as ammended per this agreement.

1.10 Compliance Bond

Compliance bond as required in Section 13.18.330 is not required in lieu of security fund described in Section 13.18.340, as ammended in Section 1.11 of this agreement.

1.11 Security Fund

Section 13.18.340 provides for a security fund. Under the terms of this agreement, Viacom will provide a total security fund in an amount of \$75,000 in cash, provided that said cash may be reduced dollar for dollar by a letter of credit issued by an established bank for an amount not to exceed \$50,000.

The security fund will be increased to \$200,000 in cash, during the 54 channel (400 MHz) rebuild of the system, provided that the cash may be reduced dollar for dollar by a letter of credit issued by an established bank for an amount not to exceed \$175,000. The form of all such letters of credit must be acceptable and approved as to form by the City Attorney.

Cash shall be delivered to the City of Pinole and deposited in a bank account in the name of the City of Pinole. Any interest earned by such deposits shall be subject to the security fund. Any excess over required cash deposit shall be delivered to grantee semi-annually.

Letters of credit shall be kept current and filed with the Pinole City Clerk.

1.12 Insurance

Section 13.18.360 (a) (2), "Grantee's Liability," is not applicable to Viacom. This provision has been incorporated into the provision on "General Liability," Section 13.18.360 (a, b), as ammended by this section of the franchise agreement.

Section 13.18.360 (a) (3) " Comprehensive General Liability" provides bodily injury and property damage insurance coverage as specified by the franchise agreement. Those amounts will be \$1,000,000 for each occurence; \$500,000 bodily injury and \$500,000 property damage.

Section 13.18.360 (a) (4) " Comprehensive Automobile Liability," provides bodily injury and property damage as specified by the franchise agreement. Those amounts will be \$1,000,000 for each occurence; \$500,000 bodily injury and \$500,000 property damage.

1.13 Reports

Section 13.18.370 (b) requires a financial statement. This financial statement will be provided by Viacom in conjunction with a rate increase request. Items (c) A current statement of costs of construction by component categories; (d) A projected income statement, balance sheet, statement of sources and applications of funds, and statement of projected construction for the next two years, and (e) A reconciliation between previously projected construction and/or financial estimates...and actual results, will be furnished to Grantor by Grantee on an "as requested" basis but no more than once annually.

1.14 Plant Survey Report

Section 13.18.380 provides for an annual plant survey report. Under the terms of this agreement, plant survey reports will be provided only in the event of failure of a system test.

1.15 Public Reports

Section 13.18.400 provides for periodic public reports to be submitted to Grantor within five days of issuance. Viacom will provide public reports in conjunction with normal distribution to stockholders.

1.16 Complaint File and Reports

Section 13.18.410 (a) and (b) require a summary of complaints and an opinion survey. Viacom will provide a summary of complaints annually, and opinion surveys will be compiled on an "as requested" basis but no more than once annually.

1.17 Privacy Report

Section 13.18.420 requires an annual report to the Grantor on protection of privacy rights. Upon construction of the 54-channel (400 MHz) two-way operational system, Viacom will compile these privacy reports upon request but no more than once annually.

1.18 Income Tax Returns

Section 13.18.440 specifies that Grantee shall submit copies of income tax returns. Viacom's income tax returns will not be available for inspection since all income tax records are consolidated and not recorded on an individual system basis.

1.19 Business Office and Files

Section 13.18.460 specifies requirements with regard to business office and files. Viacom's business office will be maintained within the franchise area or in the near vicinity.

1.20 Remedies for Franchise Violations

Assessment of penalties permitted in Section 13.18.510, remedied by Franchise Violations, will be subject to the procedures specified in Sections 13.18.520 and 13.18.530. A penalty of \$300 per day will be assessed for construction delays for the duration of the delay. See Schedule I attached for construction deadlines. Construction schedules may be revised subject to City Council approval. Other penalties will be a maximum of \$100 per day, commensurate with the severity of the violation.

1.21 Geographical Coverage

Section 13.18.610 provides for the design and construction of a cable system passing all dwellings, agencies, and businesses in the franchise area. Viacom will provide coverage as delineated in Schedule I of this agreement.

1.22 Cablecasting Facilities

Section 13.18.620 provides for cablecasting facilities. Viacom will provide cablecasting facilities as delineated in Schedule IV.

1.23 System Construction Schedule

Section 13.18.630 (a) provides for compliance with the system construction schedule provided in the franchise agreement. Viacom's system construction schedule is shown in Schedule I of this agreement. Item (c) which provides for a detailed construction plan, is not applicable to Viacom because it is an immediate rebuild of an existing cable system. Item (d) provides penalties for failure to construction within one year. This item is not applicable to Viacom because a rebuild will commence immediately. See Schedule I for timetable.

1.24 Construction and Technical Standards

Section 13.18.690 provides for construction and technical standards and compliance with various codes and regulations. Item (b) Technical Standards are contained in Schedule V of this agreement.

1.25 Areawide Interconnection

Section 13.18.700 (a), (b), (c), and (d) provides for areawide interconnection capability. Viacom shall only be directed to interconnect if Viacom deems the connection reasonable and the cost feasible.

Viacom will diligently pursue interconnection feasibility upon Grantor's request, and will put interconnection with schools in the immediate area on a priority basis. Viacom will ascertain need and inform Grantor of associated benefits and costs.

1.26 Services to be Provided

Section 13.18.710 provides that Grantee shall provide the number of services listed in the franchise agreement. Services to be provided are shown in Schedule II.

1.27 Government Access Channel

Section 13.18.770 provides that Grantee shall provide the number of channels specified in the franchise agreement for use by the Grantor. Channels to be provided are shown in Schedule IV.

1.28 Educational Access Channel

Section 13.18.780 provides that Grantee shall provide the number of channels specified in the franchise agreement for the use of local educational institutions. Channels to be provided are shown in Schedule IV.

1.29 Public Access Channel

Section 13.18.790 provides that the Grantee shall provide the number of channels specified in the franchise agreement to be available to the public. Channels to be provided are shown in Schedule IV.

1.30 Franchise Processing Fee

Section 13.18.970 provides for reimbursement of reasonable costs expended in soliciting and evaluating applications. In no event shall application and processing fees exceed actual costs.

SECTION II PROGRAMMING AND SERVICES

2.1 Increase in Channel Capacity

Viacom will increase the capacity of its Pinole cable system to 31 channels within six months of the acceptance of the franchise agreement and to 37 channel capacity by the end of 1983.

In Phase I, Viacom will program 27 of the available 31 channels with 30 different services. In addition to the programmed channels provided in the proposal, Viacom will provide a government access channel and a local origination channel (TV 30), which will be supplemented with "Daytime," a satellite delivered women's specialty service. These services should be considered firm commitments with the exclusion of unforeseeable problems. An FM radio service will also be provided.

In Phase II, programmed channels will increase to 33 channels by the end of 1983. These 33 channels will consist of all of the channels in Phase I, plus program services identified in Schedule II, Phase II. The programming identified therein is subject to program availability, completion of a marketing survey, and technical considerations. However, in no event will there be fewer than 33 programmed channels by the end of 1983.

There will be 50 programmed channels in Phase III. The programming identified in Schedule II, Phase III is subject to program availability, completion of a marketing survey, and technical considerations. However, in no event will there be fewer than 50 programmed channels.

2.2 Two-way Services

In Phase III, Viacom will have two-way interactive capability and will make at least four upstream channels available for programming. One of the four upstream channels will be programmed at the sole discretion of the Council, and the other three will be optional to Viacom with input from the Council. Two-way programming may consist of video and/or data, for example:

- Security Alarm Monitoring
- PlayCable
- Energy Management
- Home Shopping/Banking
- Videotext Information

2.3 Institutional Network

An institutional network will be constructed and completed simultaneously with the upgrade to a 54 channel (400 MHz) system. Activation and operation of the institutional network will be contingent on Council demand and Viacom's determination of the benefit/cost relationship. Final determination will be by the Council in consultation with Viacom.

2.4 Civil Emergency Alert

A Civil Emergency Alert feature will be implemented in Phase II.

2.5 Public Access/Local Origination Channels

See Schedule IV for Viacom's commitment to access and local origination programming.

SECTION III INITIAL RATES, DISCOUNTS, PROVISIONS FOR RATES INCREASES, AND FRANCHISE FEE

3.1 Initial monthly and installation rates

See Schedule III for monthly and installation rates.

3.2 Line Extensions/Estate Drops

Line extension/estate drops charges will not exceed 100 percent of actual cost.

3.3 Discount to Senior Citizens

Senior citizen subscribers who are 62 years of age or older and are heads of their households will be given a 10 percent discount on their first outlet of basic service upon showing proof of eligibility. Viacom reserves the right to restrict or modify eligibility requirements if discount recipients exceed 10 percent of the total subscriber base.

3.4 Consideration of Disabled (Non-ambulatory) Subscribers

Viacom will provide a remote control set-top converter/descrambler at no additional monthly charge to non-ambulatory subscribers receiving basic and/or pay services.

3.5 Provision for Rate Increase

In consideration of the services offered by Viacom as shown in the construction schedule for Phases I, II, and III, the following rate increase provision is made:

Upon completion of Phase II as defined in Schedule I, but no sooner than one year from the date of the last increase, and upon giving 90 days prior written notice to the City of Pinole, Viacom may initiate a rate increase based on a maximum of 70 percent of the percentage of increase in the consumer price index, using the date of the last increase as a base. This increase procedure shall be in effect, on an annual basis, during the life of the Phase II operation.

Upon completion of Phase III, as delineated in construction Schedule I, Viacom's performance with regard to its compliance with the cable television ordinance and franchise agreement may be reviewed by the City Council. Subject to Council findings, rate increase procedures may be continued, altered, or terminated at Council discretion. Under the assumption of a favorable review for Viacom, the rate increase procedure will continue throughout the Phase III operation.

Viacom may request an increase in excess of the CPI provision as stated above at any time. Council may grant such increase after a finding that the increase is merited.

The city council may at its sole option and subject to a majority decision request a presentation by Viacom of supporting documents relevant to any implemented rate increase regardless of the CPI provision, phase of operation, and/or year of franchise.

3.6 Franchise Fee

The City of Pinole will receive franchise fees equal to five percent of annual gross revenues, paid semi-annually.

SCHEDULE I: CONSTRUCTION

Phase I: Upgrade to 31 channel capacity (270 MHz)

- o 27 channels programmed.
- o Start: Upon council acceptance of franchise agreement
- o Complete: Six (6) months from acceptance of franchise agreement. (Six (6) months maximum - 3 months projected)

Phase II: Upgrade to 37 channel capacity (300 MHz)

- o 33 channels programmed.
- o Start: Six (6) months from acceptance of franchise agreement
- o Complete: December 31, 1983 (assumes seven months to initiate and complete additional receiving facilities and marketing surveys.

Phase III: Upgrade to 54 channel capacity (400 MHz)

- o 50 channels programmed.
- o Start: March 31, 1987 or sooner. First subscribers to receive service by September 1987 or sooner.
- o Complete: April 1, 1988 or sooner

Line Extensions & Estate Drops.

Requests for service in excess of 150 feet, measured from the closest existing cable distribution line, shall be considered a line extension and/or an estate drop and will be addressed on an individual basis. All requests for service will be completed subject to provisions within Schedule III.

SCHEDULE II: SERVICES

Phase I: 27 channels programmed.

Broadcast Network Affiliates

- 1 - KCRA-3 Sacramento NBC/ KQEC-32 San Francisco PBS *
- 2 - KRON-4 San Francisco NBC
- 3 - KXTV-10 Sacramento CBS
- 4 - KPIX-5 San Francisco CBS
- 5 - KQVR-13 Sacramento ABC/KDTV-14 San Francisco Spanish
International Network (SIN) *
- 6 - KGO-7 San Francisco ABC
- 7 - KNTV-11 San Francisco ABC

Public Broadcast Stations

- 8 - KQED-9 San Francisco
- 9 - KCSM-60 San Mateo
- 10 - KYEH-54 San Jose

Independent Broadcast Stations

- 11 - KTVU-2 Oakland
- 12 - KTZQ-20 San Francisco
- 13 - KTSF-26 San Francisco
- 14 - KGSC-36 San Jose
- 15 - KVOF-38 San Francisco/C-Span *
- 16 - KTXL-40 Sacramento
- 17 - KBHK-44 San Francisco
- 18 - KSTS-48 San Jose

Satellite Services

- 19 - Atlanta Superstation WTBS
- 20 - Cable News Network CNN
- 21 - Cable Health Network (CHN)
- 22 - Music TV (MTV)
- 23 - The Sports Channel
- 24 - Showtime (Optional Pay)
- 25 - Home Box Office (Optional Pay)

Community Programming

- 26 - Government Channel
- 27 - Local Origination/Daytime *

*Composite Channels

Phase II: 33 channels programmed.

All services in Phase I plus the following:

- 28 - Disney channel (Optional Pay)
- 29 - Nashville channel
- 30 - CBS Cable
- 31 - Alpha Numeric Information
- 32 - Christian Broadcast Network (CBN)
- 33 - 4th Premium (Optional Pay)

Phase III: 50 channels programmed.

All services in Phase II plus the following:

- 34 - Government Channel #2
- 35 - Government Channel #3
- 36 - WOR-9 New York Independent
- 37 - WGN-9 Chicago Independent
- 38 - Nickelodeon
- 39 - USA Network
- 40 - Cinemax
- 41 - Escapade
- 42 - Home Theater Network
- 43 - Pay-Per-View
- 44 - Alpha Numeric #2
- 45 - Satellite Program Network (SPN)
- 46 - Consumer Shopping Guide
- 47 - ARTS
- 48 - Weather Radar
- 49 - Automated Channel
- 50 - The Entertainment Channel

All services identified above are subject to program availability, marketing survey, and technical capability.

SCHEDULE III: INITIAL RATES & CHARGES UPON COMPLETION OF
CONSTRUCTION OF PHASE I EXPANDED SERVICE.

<u>Monthly</u>	<u>First Outlet</u>	<u>Each Add'l Outlet</u>
Basic Service	\$ 9.00	\$ 2.50
FM Service	\$ 2.50	\$ 2.50
Showtime (optional)	\$10.95	\$10.95
HBO (optional)	\$10.95	\$10.95
3rd Pay (optional)	To be determined	To be determined
Converter Charge	None	
Remote Unit	To be determined	To be determined

Installation

Not to exceed 100% of the actual cost estimated annually to include labor, fringe, overhead and materials.

Example: 1983 New Connect = \$43.18
1983 Add Outlet = \$17.80

SCHEDULE IV: PUBLIC/LOCAL ORIGINATION CHANNELS

Phase I: 31 channel (270 MHz) capacity

- o One government controlled channel
- o One character generator for city use in conjunction with government channel
- o One return line from city hall to headend with associated input equipment to allow city to utilize character generator.

Phase II: 37 channel (300 MHz) capacity

- o Equipment and channels in Phase I
- o Civil Emergency Alert system and associated equipment to override all cable television programming.

Phase III: 54 channel (400 MHz) capacity

- o Equipment & channels in Phases I & II
- o Two additional government channels to be used for government access, educational access, local origination access and/or public access.

During all phases, the Viacom cablecasting facilities and staff of Marin will be available for government and public usage. The mobile van, equipment and associated staff will be available to provide and assist in public access and local origination. Production and technical support will be provided by Viacom for all reasonable requests for public access and/or local origination.

In the event that cost or demand for public access or local origination exceeds the desire or capability of Viacom to adequately provide such services using Marin facilities and staff, Viacom of Pinole will purchase and equip its own mobile van.

ACCEPTANCE OF FRANCHISE

Operator's signature to this Agreement shall act as an acceptance of the Franchise and all its attendant obligations and duties pursuant to the City of Pinole--Cable Television Franchise Ordinance.

IN WITNESS WHEREOF, this Agreement is executed by the City of Pinole acting by and through its City Manager, and by Contra Costa County Cable Company, doing business as Viacom Cablevision, a wholly owned subsidiary of Viacom International.

Dated: 1/18/84

APPROVED AS TO FORM AND CONTENT

By: Donald E. Bradley
(Name and Title)
Donald E. Bradley, City Manager

CITY OF PINOLE

By: John W. Goddard
John W. Goddard, Vice-President

CONTRA COSTA COUNTY CABLE CO.
dba VIACOM CABLEVISION

STATEMENT OF INTENT

Whereas the City of Pinole finds that the development of cable TV and communications systems has the potential of having great benefit and impact upon the people of Pinole, the City hereby decrees, subsequent to faithful negotiations with Viacom Cablevision, that Viacom Cablevision is granted a non-exclusive franchise in accordance with the attached franchise agreement and the City of Pinole--Cable Television Franchise Ordinance.

1. The amount of this sight draft, \$_____, represents funds due the City of Pinole as Contra Costa Cable Co., d/b/a Viacom Cablevision of Pinole, has failed to comply (within the limits required for such compliance and after notification of non-compliance) with the provisions of municipal code; chapter 13.18, titled Cable Television and the Franchise Agreement as adopted by ordinance number 444 passed November 15, 1982 and as Contra Costa Cable Co. has not requested a hearing before the Council as provided by said Ordinance.

or

2. The amount of this sight draft, \$_____, represents funds due the City of Pinole as the Council has rendered a public decision after holding a public hearing that Contra Costa Cable Co., d/b/a Viacom Cablevision of Pinole has failed to comply with the provisions of municipal code; chapter 13.18, titled Cable Television and the Franchise Agreement as adopted by ordinance number 444 passed November 15, 1982 and all appeals thereto have here been taken or the time for taking such appeals has passed with no appeal having been made.

BEFORE THE CITY COUNCIL OF THE CITY OF PINOLE
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA
- - - - -

In the Matter of Establishing the)
Pinole Cable TV Access Commission)

RESOLUTION NO. 1941

WHEREAS, the City Council of the City of Pinole recognizes the vital role of Cable Television Public Access in Pinole, and

WHEREAS, the City Council recognizes the need for the day-to-day planning, coordination, and operation of Cable TV Public Access Channel 31, and

WHEREAS, the City Council feels that the involvement of the Pinole residents in the Pinole Cable TV Public Access Channel is important to promote the goals and purposes of Channel 31

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pinole hereby establishes the Pinole Cable TV Access Commission to manage Channel 31 and to administer all rules and regulations and procedures pertaining to the use of the channel. The Commission shall annually evaluate the progress and accomplishments of the access channel for the City Council. The Commission shall be governed by by-laws.

BE IT FURTHER RESOLVED that the said Cable TV Access Commission shall be formally established as of August 6 , 1984 All members shall be appointed by the Mayor of the City of Pinole, three of whom shall serve for an initial term of one year and four of whom shall serve a term of two years. Thereafter, appointments shall be on a two-year rotating term basis to enhance continuity of membership and programs Terms of office shall expire on the first day of December

BE IT FURTHER RESOLVED that the first Commission to be appointed shall, at its first meeting, so classify its members by lot that three shall serve for one year and four shall serve for two years. The first Commission appointments shall

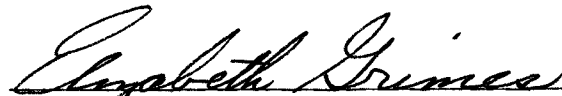
Resolution No.

-2-

be effective from the date of appointment through the subsequent initial term of appointments.

PASSED AND ADOPTED THIS 6th day of August, 1984, by the following vote

AYES	COUNCILMEMBERS	Goularte, McCarty, Nelson, Shaver, Borges
NOES	COUNCILMEMBERS	None
ABSENT	COUNCILMEMBERS	None



ELIZABETH GRIMES

CITY CLERK of the City of Pinole

ORDINANCE NO. 97-112

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PINOLE AMENDING THE PINOLE MUNICIPAL CODE,
BY ADDING A NEW CHAPTER 2.58 ENTITLED
CABLE TELEVISION ACCESS COMMISSION

The City Council of the City of Pinole does hereby ordain that Chapter 2.58, consisting of Sections 2.58.010 through 2.56.090, be enacted as follows:

Chapter 2.58

Cable Television Access Commission

Sections:

- 2.58.010 Title for citation
- 2.58.020 Purpose
- 2.58.030 Membership
- 2.58.040 Appointment to commission
- 2.58.050 Term
- 2.58.060 Powers and duties
- 2.56.070 Removal of members
- 2.56.080 Quorum
- 2.56.090 Officers

2.58.010 Title for citation.

This chapter shall be known as the "Cable Television Access Commission Ordinance".

2.58.020 Purpose.

The purpose of the Chapter shall be to establish a Cable Television Access Commission in the City of Pinole to oversee the operations and recommend policy for community cable access and for the day-to-day operation of the station.

2.58.030 Membership.

The Cable Television Access Commission shall consist of five members who shall be

residents of the City of Pinole.

2.58.040 Appointment.

Members of the Commission shall be appointed by majority vote of the entire City Council.

2.58.050 Term.

Members shall be appointed for a two-year term. Terms shall expire on November 30th.

2.58.060 Powers and duties.

The Cable Television Access Commission shall have the responsibilities as provided in this section and such other powers and duties as the Council may, from time to time, decide:

A. To provide a venue for city-wide planning, operation and coordination for individuals and groups wishing to use the Cable Access Channel.

B. To advise the Pinole City Council on the Channel's operation.

C. To give advice to station staff relative to management of the station.

D. To give advice and provide direction concerning program production for the station.

E. To review, define and recommend an annual budget for station operation.

F. To assure that no censorship or control over program content for the channel exists, except as necessary to comply with Federal Communications Commission regulations concerning obscene material; to prohibit commercial advertising and lotteries from channel usage.

G. To assure that the channel is available to all residents of the City on a non-discriminatory, first-come, first-served basis.

H. To administer all rules, regulations and procedures pertaining to the use and scheduling of the channel and to devise and establish such rules, regulations and procedures as necessary.

I. To prepare and/or review reports to the City Council, as necessary.

J. To review potential station purchases of materials and equipment to ensure compliance with the adopted budget.

K. To investigate additional sources of funding to further community programming, either through grants or donations.

L. To perform other functions related to the station/channel as appropriate.

2.58.070 Removal of Members from Office.

Members of the Cable Television Access Commission serve at the pleasure of the City Council and may be removed from office by a majority vote of the entire Council.

2.58.080 Quorum

For purposes of transacting business, a quorum of the Cable Television Access Commission shall consist of a simple majority of the membership.

2.58.090 Officers

At the annual business meeting conducted in December each year, the members of the Cable Television Access Commission shall select its officers. Conduct of Commission business shall otherwise be governed by By-laws adopted by the Commission and approved by the City Council.

This ordinance shall become effective January 1, 1998 and within fifteen (15) days of passage, the City Clerk shall cause a summary to be published once with the names of the council members voting for and against in a newspaper of general circulation within the City of Pinole.

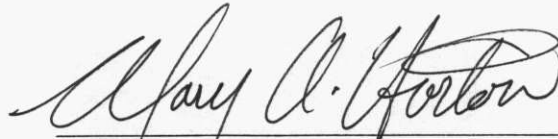
PASSED AND ADOPTED THIS 2nd day of December, 1997, by the following vote, to-wit:

AYES: COUNCILMEMBERS: Boyle, Bradshaw, Alegria, Murray, Horton

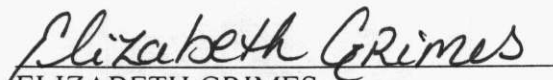
NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:


MAYOR OF THE CITY OF PINOLE

ATTEST:


ELIZABETH GRIMES
City Clerk of the City of Pinole

N/Payne/CATV/catv-ord.com


Deputy City Clerk

Agenda Item: 20A
Date Prepared: 5/13/03
Meeting Date: 6/3/03

COUNCIL MEMO NO. 2003-145

TO: MARC GRISHAM, CITY MANAGER
FROM: LIZ WARMERDAM, ASSISTANT TO THE CITY MANAGER
SUBJECT: RECEIVE REPORT REGARDING THE CABLE TELEVISION BUSINESS PLAN

RECOMMENDATION

That the City Council review and approve the draft Cable Television Business Plan (**Attachment A**)

BACKGROUND

In 1982, the City Council passed City Ordinance 441 that authorized the establishment and granting of non-exclusive franchises to cable providers for the construction, maintenance and operation of cable television systems. In January 1984, the Council granted Contra Costa County Cable Company (doing business as Viacom Cablevision) a non-exclusive franchise to construct, maintain and operate a cable television system in the City of Pinole. The original Franchise Agreement expired in January 1999 and was renewed in April of 2002. As part of the renewal negotiations, AT&T (now Comcast) settled an outstanding obligation for an upstream channel for \$300,000. This money may be used for any Franchise related purposes. Additionally, AT&T provided a one time grant of \$137,500 for capital expenditures associated with the purchase of video production equipment and associated facility modifications to support PEG Access programming.

Before these funds are spent, it was recommended that a Cable Business Plan be developed to provide direction to the Station and help identify and prioritize areas that could benefit from the additional resources provided through the Franchise Agreement.

DISCUSSION

Staff reviewed current operations at the Station to determine how much time was spent on certain functions, to determine if programming matched what citizens said they wanted to see judging from the customer survey distributed during the franchise renewal process, if outside sources of funding including contracts with other agencies, paid for themselves, and to develop a set of recommendations that would help streamline current operations.

The following facts and recommendations were determined and developed and can be found in the Executive Summary of the Business Plan:

- ◆ Pinole's community television station is unique in that it is a City owned and operated Public Access, Education and Governmental (PEG Access) station. Other communities have PEG Access Stations but are operated by their communities' private Cable Television provider.
- ◆ The Station's two Channels (Channel 26 & 28) are on the air 24 hours per day, seven days a week and are broadcast in Pinole, as well as Crockett, Rodeo, Port Costa, the City of Hercules and some portions of El Sobrante.
- ◆ Pinole Television's FY 2002-03 budget is approximately \$278,000. Salaries and benefits comprise 84% of the Station's total budget and the rest is comprised of expenses for equipment, equipment maintenance, software, and other miscellaneous items.
- ◆ The Station receives 35% of its income from the General Fund, 38% from the Redevelopment Agency and roughly 26% through outside contracts and sponsorships.
- ◆ With the exception of the School Board and WestCAT meetings, all outside contracts cover their costs.
- ◆ Last year the City received approximately \$180,000 in annual franchise fees from AT&T (Comcast). This money goes directly to the General Fund and is used to offset Station expenses that are not covered by other sources.
- ◆ As part of the Franchise Agreement with AT&T (now Comcast), the Station also received a combined one-time grant and settlement of \$437,500 for upgrades to the Station.
- ◆ Staff resources are allocated in the following way:
 - ◆ 58% Production;
 - ◆ 10% Master Control;
 - ◆ 9% Maintenance;
 - ◆ 9% Management and Administration;
 - ◆ 6% Public Access;
 - ◆ 6% Editing; and
 - ◆ 2% Scheduling.

THE FOLLOWING IS A LIST OF RECOMMENDATIONS FOR IMPROVEMENTS TO THE STATION

Recommendation 1

The recent grant and settlement resources received from AT&T (now Comcast) should go to ensuring the station's Master Control equipment is up to date and a portion is set aside to be able to remain that way over the next several years.

Recommendation 2

More station resources need to be directed toward providing programming that reflects the community's interest as outlined in the community survey done in 2001. This may mean less staff time spent on productions until a proper balance can be struck between what gets taped and what gets actually aired.

Recommendation 3

A more comprehensive sponsorship program needs to be developed that includes all types of programming (not just athletic events) and provides a list of recurring programs to potential sponsors that can be easily underwritten. A full campaign conducted annually with professional literature and material should be developed that will help provide stable funding over time.

Recommendation 4

Production priority should continue to be:

1. City Council meetings and workshops
2. City Sponsored Events
3. Contract Commitments
4. General Community Events
5. Other Agency's meetings or events

Recommendation 5

The Coordinator should annually review and if necessary, renegotiate outside contracts to ensure that the Station's costs are met plus an additional 12-15% for overhead and expenses.

Recommendation 6

Staff time devoted to Public Access should be given to those users that intend to produce programs that can be realistically aired on television within a certain period of time or are interested in volunteering at the Station.

Recommendation 7

The Coordinator should ensure enough time is devoted to maintaining a solid list of on-call/part-time employees to help operate the Station.

Recommendation 8

A possible way to recover a portion of the Station's costs could be to charge on a sliding scale, user groups for use of City facilities, City equipment and staff time.

Recommendation 9

Memorial Hall should be used as a studio for live and/or taped programming as well as a studio for Public Access Night.

Recommendation 10

Because remote productions are labor intensive, any production that can be done at City Hall, where cameras are fixed in place, should be. Because of the time it takes to edit tape-delayed productions, every effort should be made to produce programming live.

Recommendation 11

Local programming should be supplemented by outside tapes distributed by other individuals or agencies also known as bicycled tapes.

Recommendation 12

Equipment, including computer hardware and software should be ordered and purchased by the Station Coordinator; however, any changes to the current policy should be developed through the IS committee.

FISCAL IMPACT

The Franchise Agreement with AT&T has provided the Station with a one-time windfall of \$437,500 to support PEG Access endeavors. With the normal changes in technology and the impending development of the new Youth/Cable building, this money has been programmed at outlined in Exhibit E of the Business Plan.

ATTACHMENTS

Attachment A: Proposed Business Plan

City of Pinole
CALIFORNIA

Pinole Television Business Plan

June 2003



ATTACHMENT A

I. INTRODUCTION

Pinole Television is an outgrowth of the Franchise Agreement between the City and the first provider of local cable television. The agreement, which still exists, ensures that there is a means of providing and regulating cable television in Pinole on behalf of the citizens and includes the provision of public use television on City controlled channels. In April 2002, the Franchise Agreement was renewed with AT&T and as part of the renewal, the City received a one-time grant and settlement of \$437,500. This infusion of capital has provided the Council and staff with a unique opportunity to reflect on the past performance of the Station and determine where best to focus these and other resources in the future. This document is meant to review the operation of the Station and provide recommendations and considerations for the future.

II. BACKGROUND

Since December 1983, the City of Pinole has been involved in the operation of community based public television. Over the years, the City's commitment has grown with a steady purpose to inform, educate and provide any group, club, organization, or individual of Pinole an open forum to discuss and understand issues and events affecting the community.

Pinole's community television station is unique in that it is a City owned and operated Public Access, Education and Governmental (PEG Access) station. For an explanation of these terms see **Exhibit A**. Other communities have PEG Access Stations but are operated by their communities' private Cable Television provider. Pinole's programming is received by citizens of Pinole that subscribe to cable television and includes live broadcasts of City Council and Redevelopment Agency meetings, college telecourses for credit, live and videotaped coverage of local events, live forums, town meetings, PBS series, and locally, regionally and nationally produced programs.

The station operates two channels, Channel 26 that features government related programming and Channel 28 that includes mostly locally produced and special interest programming. Both Channels are on the air 24 hours per day, seven days a week and are broadcast in Pinole, as well as Crockett, Rodeo, Port Costa and some portions of El Sobrante. As part of the recently updated Cable Television Franchise Agreement, which will be discussed later, the City of Hercules also views some of Pinole's programs.

Local Ordinance and Franchise Agreements

On October 12, 1982, the City Council of the City of Pinole adopted Ordinance 441 adding to the Pinole Municipal Code, Chapter 13.18, providing for the development of a cable system throughout the City. Pursuant to that ordinance,

a franchise agreement was entered into between the City of Pinole and Contra Costa County Cable Company (dba Viacom Cablevision) which required, among other things, the provision of a public use channel controlled and operated by the City of Pinole. Since that time, the Franchise Agreement has been transferred several times and is currently held by Comcast Cable Corporation.

Pinole TV Access Commission

Shortly after the City adopted the Cable ordinance, the Council established the Cable TV Access Channel Committee (December 1983) to study public programming for the City's station, to make recommendations to the Council on its use and operation, and to develop an operations manual, which is still in use today (**Exhibit B**).

The committee also recommended to the Council the establishment of a Cable Commission. In August 1984, the Cable Commission was formally established to manage the Pinole Public Access Channel which included administering rules and regulations and procedures pertaining to use of the channel, establishing an annual budget that included materials and equipment for the station, and to assure no censorship, except to comply with FCC prohibitions. The Commission was composed of volunteers from Pinole, appointed by the City Council.

From the start, the Commission recognized the need to bring the station out into the community. Its view was that the station should take an "active role" in providing City resources and equipment for community productions including the purchase rather than rental of cable television equipment and the hiring of full time staff. This philosophy formed the foundation of what is today a very active and respected local television station. Eventually, as staff took on more of the day to day operations of the Channel, the Commission's role diminished and in 1997, the Commission dissolved. Although the Commission no longer exists, the foundation and values which it created still exist today.

Other Regulations Governing Public Access

When Congress passed the Cable Communications Policy Act of 1984 (Pub. L. No 98-549, 98 Stat. 2780 (1984), 47 U.S.C. ' 521, et seq.) it sought to assure that cable would provide "the widest possible diversity of information sources and services to the public." (47 U.S.C.' 521(4)) To that end, the 1984 Act specifically authorized local franchising authorities to require cable operators to set aside channels for public educational and governmental (PEG) access (47 U.S.C.' 531) and to require facilities and equipment for access use (47 U.S.C. ' 544(B)(1)). That Act also required that specified amounts of channel capacity be designated for public, educational and government use.

III. CURRENT BUDGET & RESOURCES

Pinole Television's FY 2002-03 budget is approximately \$278,000. Salaries and benefits comprise 84% of the Station's total budget and the rest is comprised of expenses for equipment, equipment maintenance, software, and other miscellaneous items. The Station receives 35% of its income from the General Fund, 38% from the Redevelopment Agency and roughly 26% through outside contracts and sponsorships. Last year the City also received approximately \$180,000 in annual franchise fees from AT&T (Comcast) as payment for the right to provide cable services to Pinole residents. This money goes directly to the General Fund and can be used for any General Fund purpose; however, it used to offset General Fund expenses that are not covered by other sources.

Additionally, as part of the negotiated Franchise Agreement with AT&T (now Comcast), the Station received a combined one-time grant and settlement of \$437,500. Of this amount, \$300,000 is designated for General Cable related expenses and \$137,500 is earmarked specifically for equipment and/or facilities. The intent of these dollars is for upgrades to the Station and is not intended to subsidize annual operating costs.

Table I is a summary of the Stations revenue and expenses for Fiscal Year 2002/03. For a more detailed listing of the cost to operate the Station, see **Exhibit C**.

Table 1
(Summary of the Station's Expenses and Revenue)
(FY '02/03)

Expenses	
Salary and Benefits (full & part time)	\$224,885
Equipment and Maintenance	\$53,435
Total	\$278,320
Revenue	
General Fund	\$98,800
Redevelopment	\$105,760
Contracts and Sponsorships	\$73,760
Total	\$278,320
Other Sources Revenue	
Cable Franchise Revenue (annual)	\$181,735
Franchise Agreement (one-time)	\$437,500

Contracts

The Station takes in roughly \$69,000 annually as a result of outsourcing the production staff to other agencies outside the community such as the City of Benicia, Vallejo, Hercules and Solano College. These commitments contribute to the station's revenue portfolio, they provide a training ground for new full and part time employees and they enhance the professional reputation that the Station enjoys throughout West Contra Costa County. However, they also require substantial staff time that potentially conflict with internal commitments. **Table 2** is a breakdown of the resources allocated to these commitments in relation to the revenue they generate. It is important to note that 127% of the Station's costs to operate these contracts are recovered if the School Board and WestCAT Meetings are not included in the calculations.

Table 2
(Revenue and Expenses of Outside Contracts)
(Includes estimates for FY '03/04)

Activity	Expenses	Income	Profit/Loss	Percent Recoverable Costs
WCCUSD	\$29,232	\$12,710	-\$16,522	43%
WestCAT	\$2,500	\$0.00	-\$2,500	0%
Hercules	\$25,850	\$33,000	\$7,150	128%
Benicia	\$5,598	\$8,000	\$2,402	143%
Solano College	\$6,908	\$7,500	\$592	109%
CC College	\$4,145	\$4,500	\$355	109%
Misc	\$2,351	\$3,800	\$1,449	162%
TOTAL	\$76,595,	\$69,510	\$-6,974	91%

With the exception of the School Board and WestCAT meetings, all of the contracts cover their costs, some better than others. It is recommended that unless there is an acknowledged benefit to the community such as the coverage of the School Board meetings, these contracts should cover their costs plus an additional 12-15% for overhead and expenses that is specifically outlined in the respective contract. As a general rule, the Coordinator should annually review and if necessary, renegotiate these contracts to ensure that the Station's cost are met and that these agencies are being charged fairly for our services.

Sponsorships

Another source of income to the Station is through private sponsorship of targeted programming also known as underwriting. Currently, the Station takes in just under \$5,000 annually through sponsorship, primarily for sporting events.

This is one area that should be enhanced, though as with any relationship building, will require additional staff time. The following are some steps that could be taken to improve this area:

- ◆ Develop promotional material that outlines the different ways in which the Station can legally acknowledge its sponsors and the general benefits to the donors;
- ◆ Develop a pool of local and out of town sponsors for all types of programming (not just athletic events);
- ◆ Distribute a list of known recurring programs that are televised to potential sponsors that can be easily underwritten;
 - Summer Sounds in the Park
 - Farmer's Market
 - Earth Day Celebration
 - Car Show
 - Independence Day Celebration
 - Tree Lighting Ceremony
 - Centennial Events (ie. Oral History Series, Costume Ball)
 - Council Meetings
- ◆ Create educational programs that highlight a business' expertise in return for sponsorship/underwriting.

Part of the program could be to host an yearly sponsorship drive, similar to other public television and radio stations that would provide an stable source of revenue while offering businesses within the community an affordable promotional opportunity.

Internal Community Events

The Station also provides video coverage of various programs within the community, such as WestCat meetings, Pinole/Hercules Little League games, the Exchange Club's Easter Egg Hunt, the Garden Club's Landscape Contest, the Northern California Cruisers Car Show as well as Public Service Announcements (PSAs) that are aired at various times throughout the Station's programming. At this time there is no charge for coverage of these programs or events; however, some of these efforts require substantial staff time, particularly when staff assists in their creation or editing (as opposed to merely covering or airing an event.)

An additional way to recover some of the Station's costs would be to charge these groups, perhaps on a sliding scale for profit and non-profit groups, for use of the city facilities, city equipment including public address systems, and staff time. It is not recommended to charge for airing these programs given the

benefit the community receives and the possibility of discouraging users; however, recouping staff time and costs to maintain city equipment may be appropriate.

IV. OPERATIONS

Internal Productions

Almost 60% of the Station's time and money are spent on producing non-commercial community access programs. This function ranges from the live broadcast of City Council and Redevelopment Agency meetings and community events like Summer Sounds in the Park and the Northern California Cruisers Car Show, to the tape delay broadcast of the Library dedication. These efforts require staffing and equipment on location, either at City Hall or in remote locations like the High School, the Library or downtown. Many of these events are time and labor intensive and to date have been the primary focus of the Station. This is one area in which the Station excels and other than continual equipment maintenance and updates, needs less attention than other functional areas.

Production Priorities

Generally, the priority for productions has been and should continue to be:

1. City Council/Redevelopment Agency meetings and workshops
2. City Sponsored Events
3. Contract Commitments
4. General Community Events
5. Outside Agency meetings or events (WestCAT meetings, School District Board meetings)

The list above is a general guideline for the use of the station's production staff. Contractual obligations may require exceptions, though contract language typically specifies that in the case of conflict, internal City needs take precedence. Other exceptions are, and should continue to be made on a case-by-case basis by the Station Coordinator. Additionally, because remote productions are so labor intensive, any production that can be done at City Hall, where cameras are fixed in place, should be. Similarly, because of the time it takes to edit tape-delayed productions, every effort should be made to produce programming live.

External Productions

As mentioned above, internal productions aired on the Station require substantial time and labor, particularly when filmed off site where equipment must be transported and set up at a remote location and camera operators and a production manager are physically needed. While the public enjoys much of this programming because it is community specific, this type of programming could

be supplemented by outside tapes distributed by other individuals or agencies also known as bicycled tapes. Although the quality of these types of programs vary from an individual's hand-held video camera to the very professional production of the Navy News, external programming can free up staff time to do other functions such as editing internal productions, which will be discussed below. Finally, these programs should have some interest to the Pinole community, as determined by the Station Coordinator.

Program Scheduling

Program Scheduling refers to selecting what a viewer actually sees on a Channel and when they see it. The Station currently spends only 2% of its personnel time performing this function. Schedules are typically developed a week in advance and can vary depending the time of year. For example, football games and Contra Costa College courses are regularly scheduled in the Fall when school is in session. Channel 26 generally airs government related matters such as City Council meetings or the School District's meetings and Channel 28 is typically dedicated to locally originated programming such as the live broadcast of the Northern California Cruiser's Car Show or the Public Access Program Jill of all Trades.

In February of 2001, as a preliminary part of the Franchise Agreement renewal with AT&T, the City distributed a customer survey aimed at assessing the needs and desires of the Pinole community as it relates to Cable Television. When asked, most people thought programs about Pinole residents, organizations, events, schools and government were very important. In order of priority, people were interested in seeing the following:

1. Programs about City services including local public safety information
2. Community festivals and neighborhood events
3. City Government meetings
4. Local business news and information
5. Local arts, history and culture
6. Local health and wellness programs
7. Programs about local organizations and clubs
8. Gardening Programs
9. Courses from area Colleges and Universities
10. Senior citizen activities and concerns
11. Local sports and recreational activities (little league, football, soccer)
12. Board of Education meetings
13. Programs about schools and school activities
14. Student production programs

As mentioned above, only 2% of the Station's staff time is currently spent scheduling programs. Not only is there a substantial difference between the above list and what is currently being programmed, blocks of programming such as telecourses are programmed for 6 hours stretches. Some of this is a result of equipment limitations in Master Control (discussed below) that can be addressed with equipment upgrades; however, additional staff time should also be allocated to scheduling programs that viewers actually want to see.

Master Control

The Master Control function refers to the computer programming of audio-visual equipment that controls the actual timing of each program, the loading and changing out video tapes or digital video disks (DVDs) and inputting information that is viewed on the "bulletin board" referred to as "SCALA." Ten percent of the Station's staffing resources are spent on this function, which is the nucleus of the operation and requires technical experience to accomplish.

Because this function is the backbone of the station, it is recommended that the recent grant and settlement resources received from AT&T (now Comcast) go to ensuring the station's Master Control equipment is up to date and a portion is set aside to be able to remain that way over the next several years. Additionally, all staff should be able to perform the basic functions of Master Control as part of their daily duties.

Editing

Editing, often referred to as "post production," is the function of reviewing and modifying a production so that a quality program can be aired on television. This is one area which needs substantial attention. It is not uncommon for an event within the community to be taped and then sit on the shelf for up to 3 months before it gets edited and aired because of lack of staff time. Not surprisingly, only 6% of the Station's personnel resources are spent on editing.

In the past, the difficulty has stemmed from lack of personnel as well as equipment limitations. Allowing the Station coordinator to purchase equipment necessary to help perform this function (which will be discussed below), having access to the funds from AT&T/Comcast to purchase state of the art editing equipment and prioritizing which programs get edited first, all would help alleviate the situation. Most importantly though, less staff time should be spent on productions until a proper balance can be struck between what gets taped and what gets actually aired.

Public Access

Although not a legal requirement, one of the services Pinole Television offers to the community is staff time and resources one night a week to assist citizens with their own personal productions, as well as teaching individuals or groups how to use the station's cable equipment. This is known as Public Access Night.

Six percent of the Station's overall staffing resources are dedicated to this function (almost 25% of one staff members time). This function can be time consuming, particularly when staff is assisting users with editing. Public Access Night is however, a service on which several citizens have come to rely and on occasion, has uncovered potential volunteers that have helped the Station operate when part time employees have been unavailable.

A consideration may be to implement a policy where priority is given to those users that intend to produce programs that can be realistically aired on television within a certain period of time or are interested in volunteering at the Station. Lowest priority would be given to those individuals who merely wish to learn how to use a camera or see how the Station operates.

Maintenance

Maintenance of equipment occupies 9% of the Station's staffing resources and because much of it is done in-house accounts for less than 3% of the Station's operating costs. While this is one of the Station Coordinator's major strengths, as much of this as possible should be delegated to staff.

Table 3
(Summary of Operations)

Percent of Staff Time	Functional Area
58%	Production
10%	Master Control
9%	Maintenance
9%	Management and Administration
6%	Public Access
6%	Editing
2%	Scheduling

V. MANAGEMENT & STAFFING

The Station currently has a total of 9037 personnel hours available. This includes:

1 full time Coordinator	2080 hours
2 full time Cable Access Technicians (CAT)	4160 hours
5-15 part-time Cable Equipment Operators (CEO)	2797 hours
TOTAL HOURS	9037 hours

Currently, the Coordinator spends

- ◆ 48% - Productions
- ◆ 38% - Management and Administration of the Station
 - securing staffing for various productions
 - personnel issues
 - equipment maintenance and replacement
 - interaction with outside agencies/customers
- ◆ 10% - Internal Equipment Maintenance
- ◆ 2% - Public Access
- ◆ 1% - Master Control
- ◆ 1% - On-Air Production Scheduling

Currently, the Cable Access Technician #1 spends:

- ◆ 45% - Production
- ◆ 25% - Public Access
- ◆ 25% - Editing
- ◆ 5% - Master Control

Currently, the Cable Access Technician #2 spends:

- ◆ 50% - Productions
- ◆ 25% - Master Control
- ◆ 10% - Scheduling
- ◆ 10% - Maintenance
- ◆ 5% - Public Access

Currently, the Cable Equipment Operators spend:

- ◆ 75% - Productions
- ◆ 10% - Maintenance
- ◆ 5% - Public Access
- ◆ 5% - Editing
- ◆ 5% - Master Control

(For a detailed listing of allocation of staff resources see Exhibit D)

As mentioned above, program scheduling and editing are two areas in which the Station needs improvement. Assuming staffing remains the same, it is recommended that that less time be devoted to individual productions and more time spent in these areas. With the infusion of one time capital funding as a result of the current Franchise Agreement with AT&T (Comcast), it is also recommended that new equipment purchases be directed toward these endeavors.

Additionally, Council has indicated some level of interest in developing the area of sponsorships to continue to offset operating costs. This additional focus would require additional staff time, most likely from the Coordinator to accomplish.

The final piece to management and staffing is the use of part time employees. Typically, the Station has approximately 5 part time employees that spend the majority of their time working on productions. These individuals are a key component to the successful operation of the Station because of the unpredictable nature of assignments, the unusual hours that are required, and the limited number of full time employees assigned to the Station. Therefore, it is critical that the Coordinator continue to maintain a solid list of on-call/part-time employees to help operate the station.

VI. EQUIPMENT

The Station's very existence and ability to produce quality programming is heavily dependent on up to date equipment. This is an area that has had some difficulty in the past because of other Department's priorities and as a result, staff has resorted to using their own personal equipment to accomplish tasks. Because of the technical specifications of equipment, timeliness requirements of both hardware and software as well as the high level of the current staffs' technical capability, one possibility would be for all equipment, including computer hardware and software to be ordered and purchased by the Station Coordinator. However, this autonomy should not be at the expense of the

integrity of the Citywide network and therefore, any changes to the current policy should be developed through the IS committee.

Currently, ten percent of the Station's budget is dedicated to equipment including computer hardware and software. With the completion of the Station's new offices on Tennent Avenue, that number will increase over the next several years. **Exhibit E** is a list of equipment that the Station Coordinator has identified that will assist with the recommendations of this business plan and will allow for the outfitting of the new offices in the next 2-3 years.

VII. FACILITIES

For the entire time the Station has been in existence, facilities is one area in particular that staff has done an excellent job with minimal resources. The closet space currently occupied by Master Control in the Public Safety building was staff's original office and the current space at City Hall was originally designed as a utility closet. While staff has done an outstanding job given limited workspace, those limitations have clearly hampered their operations. There are plans for a full suite of offices at the new Community Center next to Memorial Hall on Tennent Avenue, however, that space will not be ready for at least another 2 years.

In the interim, however, the Redevelopment Agency has spent considerable amount of money on the renovation of Memorial Hall to include a state-of-the-art sound system. This facility could be used as an interim studio for live and/or taped programming such as a monthly Mayor/Manager's talk show that the Council and staff have discussed producing for several years. The space could also be used as a studio for Public Access Night. A fixed studio at the Hall would temporarily alleviate some of the spacing issues and could potentially reduce the turn-around time necessary to air taped-delayed programming.

Use of Production Facilities

As discussed in **Section III** above, there are several groups as well as individuals that use the City's facilities for the production of their meeting or events, for example WestCAT, the Chamber of Commerce, the Conservatory of the Arts and several Public Access users. At the time the Station was created, there were no facilities to manage. Today, the Station operates the Council Chambers as a studio facility and if Memorial Hall is developed into a production suite, it too will need to be managed. Additionally, the space directly behind the Council Chambers functions as an editing suite for Public Access users. Typically, these resources are available on a first come first serve basis when there are no other City related functions that require the space, and have no fees associated with

their use because the Station has considered their use part of the Public Access service.

Not only do these events add wear and tear to our facilities, but they also all require the use of at least one staff member to help orchestrate and tape/broadcast the production. While this is a valuable service that is offered to the community, it may be appropriate to consider charging for staff time and perhaps a nominal fee for the use of the facility.

VIII. FUTURE CONSIDERATIONS

Over the last 20 years, Pinole Television has grown from an idea into a semi-autonomous professionally run Station that is enjoyed by Pinole and its surrounding communities. The staff's attitude at the Station has always been that every challenge should be met head on and seen as an opportunity rather than a liability.

The infusion of resources from the Cable Franchise Agreement, signed in April 2002, has provided the Council and staff with a unique opportunity to reflect on the past performance of the Station and to determine where best to focus these and other resources in the future.

In general, the basic operation of the Station is solid. Its focus has been on productions and the operation of Master Control. These components are the heart of any Station operation and should continue to be for the foreseeable future. Given the Station's ability to perform these functions well, the challenge will be to move outside the core competency and focus on areas that are not as polished, such as editing and scheduling.

The Station's ability to edit and schedule could be improved with the addition of new staff dedicated to these functions, though at the time this document is written, the impact of the State's financial situation is such that additional staff is unlikely. Therefore, the Station should shift a portion of its current energy and resources from almost exclusively productions to improving its editing and scheduling capability. This is not to say that productions should not be the priority of the station, on the contrary, focusing on editing and scheduling will ensure that the quality productions for which the Station is known, will actually get aired and enjoyed by the community in a timely manner.

Finally, with the anticipated move of the Station's offices next to Memorial Hall, funds to equip the facility will need to be closely monitored and perhaps augmented to ensure the offices are properly outfitted with state of the art equipment.

EXHIBIT A

DEFINITIONS

Public Access

Public access consists of video programming and other electronic information produced, directed, and engineered by community volunteers. In the case of public access, the programming is developed or acquired by nonprofit community groups, neighborhood organizations, social service agencies, and individual citizens. It focuses on many aspects of community life, ranging from the services and activities of community organizations to the opinions and beliefs of individuals in the community.

Education

Educational access is developed or acquired by school or college employees, students, and school volunteers. It typically focuses on distance learning, school activities, and information that the school/college wants to get out to the community or share among schools. Most of Channel 26 and 28 Educational programming comes from either Contra Costa Community College or West Contra Costa Unified School District.

Government

Government access is created or acquired by local government employees, elected officials, and volunteers. It typically focuses on information about services provided by local, State, and regional governments, issues faced by local governments, and public meeting coverage. Government access is also used for other purposes, such as providing training to City employees or exchanging information between City agencies and other institutions.

The content of the material carried on PEG access is determined by the individuals, groups, or organizations that produce it. PEG access is typically noncommercial in that there are no commercial advertising spots and there are typically no so-called "infomercials" run on PEG access. Access channels do carry PBS-style credit for underwriters.

Both the Cable Acts of 1984 and 1992 permit local governments to include and enforce requirements for PEG access equipment, facilities, services, and support in a franchise. The Acts explain the purposes of access well:

"Public access channels are often the video equivalent of the speaker's soap box or the electronic parallel to the printed leaflet. They provide groups and individuals who generally have not had access to the electronic media with the opportunity to become sources of information in the electronic marketplace of ideas."

These federal laws also permit local government to require institutional networks that can be used by local community institutions.

The goal is to create a sort of "electronic park" where everyone can be a provider as well as a recipient of information, and where everyone can participate in public debate electronically. Cable companies often argue that access channels do not get ratings the way an ESPN gets ratings. That misses the point of the PEG channels. In some ways, PEG channels are meant to allow an electronic dialogue and exchange of information. There may be a limited number of people interested in any particular dialogue, but the availability of the channels means that there is an opportunity for voices to be heard. As a result, a very typical pattern for a well supported access channel is that relatively few people will be watching at any particular time, but that over a period of time, a large number of people will tune in to the channel. For example, access channels expand the ability of community residents to be more active participants in government and educational meetings by cablecasting City Council and school board meetings. One would not be surprised if the viewership level of any one particular meeting would be low when compared to many other television channels. But the fact that the program is carried means that, as particular issues become part of the agenda, viewers with an interest in that issue can view the public debate and participate in it. Over time, many subscribers will watch. Further, the availability of the channel means that those who could not participate "live" may be able to participate by watching a rebroadcast of a particular event. It also means that programmers can target programming to reach particular segments of the community that need help. For example, one of the problems confronted by social service agencies is outreach: a shelter for battered women may wish to produce an access program about their services, and finds this to be a more efficient way to reach the public than available alternatives. From a community's standpoint, the issue is not "will this attract the same number of viewers that watch HBO," but is instead "will this allow members of the community to work together more effectively."

EXHIBIT B

Pinole Community Access Television Manual

What is Pinole Community Access Television?

The current franchise agreement with Comcast Cable Corporation provides that 2 channels be made available to the City of Pinole and its residents for local community access programming. Cable Channels 26 and 28 have been designated as those channels.

The Station's Channels will be available to groups, clubs, organizations, and individuals, as well as the City itself, to provide an opportunity to communicate with friends and neighbors in Pinole by means of televised programming.

The Pinole City Council in order to promote and encourage the widest use possible of the Pinole Community Access Channel, has adopted the rules and procedures contained in this manual. These rules and procedures cover both written notices to be placed on a Community Television Billboard, as well as actual television programs to be telecast on the channel.

Section 1. INTRODUCTION TO COMMUNITY ACCESS CHANNEL

1.1 General.

Subject to these rules and regulations, any individual, group or entity serving the viewing area covered by Pinole TV that is a qualified applicant within the meaning of Section 2.1, will be permitted to submit a videotaped program or written message for showing on Pinole TV and/or will be permitted to use the community access equipment described in Section 4 for the purpose of producing a community access channel program.

1.2 Community Access Channel Coordinator.

The Channel Coordinator will have authority over the community access channel operation.

1.3 General Procedures.

Any individual, group, or entity desiring to produce a program or to submit a pre-recorded program for cablecasting on the community access channel shall contact the Coordinator or his/her designee. The Coordinator or his/her designee will explain all rules and regulations concerning Pinole's community access channel operations and will assist and supervise all prospective users in accordance with these rules and regulations.

Section 2. APPLICATION PROCEDURE

2.1 Qualified Applicant.

Application to submit a pre-recorded program or a written announcement for telecasting or to use community equipment to produce a show for telecasting will be accepted from responsible persons who are at least 18 years of age. It is not the intent to restrict the use of access or facilities to persons 18 years or older, but in all cases where satisfactory proof of minimum age cannot be made, an adult citizen must make formal application for the user and must accompany and supervise the user at all times while using community equipment or facilities. In the case of groups or entities, applications shall be signed by a principal or officer of the group or entity. In cases where persons other than the person signing the application will be using the community equipment or be present at any community production facilities, applications, as required by Section 2.3, shall be signed by all such persons. The Coordinator reserves the right to request the submission of information along with any application demonstrating such applicant's legal and financial responsibility, and the Coordinator reserves the right to decline programs or refuse the use of the community access equipment to any applicant who, in the Coordinator's opinion, is not financially and/or legally responsible.

2.2 Program Applications.

In Cases where an individual, group, or entity submits a pre-recorded, fully-produced videotape and does not desire to use community production equipment, applicants shall apply for telecast time on Pinole TV by completing Form TV1 in its entirety and submitting it to the Coordinator.

2.3 Time for Filing Applications.

All applications for the telecasting of pre-recorded videotapes shall be in writing and shall conform to Form TV1. All Such written applications must be submitted to the Coordinator at least two weeks, and not more than four weeks, in advance of the date and time of applicant's desired telecast.

2.4 Application for Use of Community Equipment.

In cases where an individual, group, or entity desires to use community equipment for production of a program to be telecast on Pinole TV, applicants shall complete and sign both Form TV1 and Form TV2. No person will be permitted to use community equipment or facilities without first completing and signing Form TV2. The prospective user must satisfy that he/she has had adequate training or experience in the use of the equipment.

2.5 Time for Filing Applications Under Section 2.4.

All applications for use of community production equipment or facilities must be made in writing in accordance with Sections 2.2 and 2.4. All such applications must be submitted to the Coordinator at least two weeks, and no more than four weeks, in advance of the date and time of the desired use.

2.6 Application for Written Notice to be Telecast.

In cases where a group or entity desires to place a written message on Pinole TV's community bulletin board, Form TV3 must be completed and submitted to the Coordinator. All general rules applicable to other uses of Pinole TV shall be applicable to the placement of written messages.

2.7 Time for Filing Applications Under Section 2.6.

All applications for telecasting written bulletin board messages must be submitted in accordance with Section 2.6 at least one week in advance and not more than four weeks in advance. Solely at its option, the Coordinator may waive these time limitations if, in its judgment, significant public benefit would result. Ordinarily the message will be pulled as soon after the event date as practicable. If there is no specific event date, the announcement will run for approximately 7 days.

2.8 Obtaining Application Forms.

All necessary application forms can be obtained at the Pinole City Hall, 2131 Pear Street, Pinole. All applications will be available for public inspection at the City Hall.

2.9 Misconduct of Applicants.

The applications of any persons who have previously used the community access channel or community equipment and who violated any of the rules and regulations set forth herein, may be rejected.

Section 3. PROGRAM CONTENT

3.1 General Policy.

Generally, community access programs may concern any topic or subject of a non-commercial nature and the widest possible selection of topics and subjects is encouraged. Topics and subjects must have some direct relationship or interest to the residents of Pinole. In addition, all applications for the time on Pinole TV will be rejected if any of the restrictions in Section 3.2(a) – (f) are violated.

3.2 Content Restrictions.

Applications for time on Pinole TV shall not be rejected because of the content of the program except as provided in subsections (a) – (f) as follows:

- (a) The program shall contain no obscene or indecent matter;
- (b) The program shall contain no libelous or slanderous matter;
- (c) The program shall contain no matter, the use of which is subject to copyright, except where the applicant demonstrates compliance with applicable laws;
- (d) There shall be no commercial matter included in a program telecast on Pinole TV. "Commercial matter" shall include (i) any advertising material designed to promote the sale of any products or services, including advertising by or on behalf of candidates for public office; (ii) any audio or visual reference to any business enterprise, service or product for which any economic consideration was received by anyone in exchange for the display, announcement and/or reference to such business, enterprise, product or service; or (iii) any material used or designed for use to solicit funds, support or other property of value, directly or indirectly, for any business, enterprise, person, foundation, and/or organization regardless of whether for commercial or charitable purposes, or for any political party or candidate for office;
- (e) There shall be no advertisement of or information concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise or scheme, whether said list contains any part or all of such prizes;
- (f) Except as provided in this Section, no program shall include matter constituting a credit or acknowledgement to any person, business, enterprise or foundation during any community access channel telecast for which economic consideration has been made. However, it is recognized that grants and/or other types of support may be made by individuals, groups, or entities for the purpose of underwriting the cost of creation or productions of programs. In such instances, a standard, nondescript "patron's acknowledgement" may be placed at the end of the subject presentation (e.g., "This program was made possible by a contribution(s) from the following individuals/firms/groups." In cases where such a patron's acknowledgement is to be included, both the applicant(s) and patron(s) shall complete and sign Form TV4, entitled "Patron's Acknowledgement" Consent and Disclosure Agreement, prior to telecasting any such program. The purpose of Form TV4 is to ensure that any person, business,

foundation, corporation or other entity which may be granting monies to the producer's of community access channel programming for the purpose of underwriting the production and/or creation of such a program is cognizant of the inherent limitations involved in accommodating the patron's on-air acknowledgement including the frequency and specific wording of such acknowledgements.

Section 4. USER SUPPLIED PROGRAMS

4.1 General.

It is anticipated that some individuals, groups, or entities will have available pre-recorded, videotaped programs not produced by utilizing community equipment which they have to telecast on Pinole TV. As provided in Section 2.2, an individual, group, or entity submitting such a pre-recorded program shall complete Form TV1 and submit the application along with the program to the Coordinator. In addition to compliance with all other sections, rules and regulations hereof, the Coordinator reserves the right to review the entire program to determine whether it complies with minimum technical standards, including proper format and the program content restrictions set forth in Section 3.

Section 5. AVAILABILITY OF CHANNEL AND PROGRAM SCHEDULING

5.1 Availability of Community Service Channel and Scheduling Priority.

- (a) The Pinole community access channel shall be available for telecasting to any person, group, organization or other entity in Pinole on a first-come, nondiscriminatory basis upon the filing of an appropriate application therefore, in accordance with these rules and regulations hereof, and consistent with the availability of the community access channel at the time and for the duration requested. Requests from persons, agencies and organizations outside the Pinole community will be handled as time permits.
- (b) No person, group, organization or other entity shall be permitted to submit programs for telecasting on Pinole TV which, in the aggregate, would require telecasting time in excess of two hours per seven day period. Time subject to Coordinator approval.
- (c) Generally, all qualified programs will be scheduled for telecasting on a non-discriminatory, first come, first served basis. However, in order to maximize audience potential, the Coordinator shall endeavor to schedule programs with a view to developing a regular program format. All disputes arising over the allocation of community telecasting time shall be resolved by the Coordinator in a manner

which shall maximize the diversity of expression on the community channel.

5.2 Scheduling of Written Bulletin Board Notices.

Generally, official messages of the City of Pinole will take priority. Other messages will then normally be placed on a first-come, first-served basis. Volume of usage may require that the Coordinator deviate from this, and in such a case, allocation of space will be as equitable as possible.

Section 6. PUBLIC INSPECTION

6.1 General.

- (a) The Coordinator will maintain a complete record of the names and mailing addresses of all persons, groups, organizations or entities requesting community access channel time. Such records will be maintained in the Station's files and will be available for public inspections upon a reasonable request therefor, during normal Pinole City Hall business hours.
- (b) Persons requesting the names and mailing addresses of applicants for, and/or users of, the community access channel shall do so in writing and shall identify themselves by name and address and shall state the purpose for obtaining such information in order to assure administrative control over such records.
- (c) The community access channel will not be made available to any user who refuses to have his identity maintained in the records and available for public inspection upon reasonable request therefor as required by this section.
- (d) All records required herein, including requests for use of the community access channel, shall be maintained for a minimum period of two years.

Section 7. MISCELLANEOUS PROVISIONS

7.1 Non-Liability.

These rules and regulations shall not constitute or create any enforceable right against or obligation or liability of the City of Pinole or of any of its agents, whether paid or volunteer, and the City of Pinole reserves the right to change or modify its community access channel operation (Pinole TV) or otherwise discontinue the operation, in its absolute discretion. No liability or claims shall arise as a result of any failure or refusals of procedures nor otherwise as a result of the failure or refusal to telecast any message submitted for broadcast. Further it is clearly understood that no liability shall arise as a result of any error in a message, typographical or otherwise, to the City of Pinole or any of its agents. It is further understood that the Comcast Cable Corporation is not a liable party to any of these arrangements except insofar as the City of Pinole may determine that there has been a breach of the Franchise Agreement, and in such event, the City of Pinole shall have sole responsibility and authority to determine what action, if any, will be taken. It being further understood that all applicants agree to hold the City of Pinole, all its agents, whether paid or volunteer, and the Comcast Corporation harmless from any and all loss, liability, damage or other injury (including the reasonable costs of litigation or the defense of any claim) the City of Pinole and/or Comcast Corporation may suffer as a result of claims, demands, costs or judgment against the City of Pinole and/or Comcast Corporation arising out of or in connection with Applicant's use of Pinole TV community access channel, including, but not limited to, the failure to comply with any applicable local, state or federal laws, rules, regulations or other requirements; any claim for libel, slander or the invasion of privacy; any claim or infringement of common law or statutory copyright; any claim for the unauthorized use of any trademark, trade name or service mark; any claim for breach of contractual or other obligations owing to third parties the City of Pinole and/or Comcast Corporation and for any other claim.

Section 8. DISCLAIMERS

The following announcements may appear periodically on the community access channel and are subject solely to the discretion of the Coordinator.

"No advertising material designed to promote the sale of commercial products or services, no lottery information, nor any obscene or indecent material may be telecast on this channel by channel users."

"The program about to be telecast over this community access channel may offend some viewers, and may not be appropriate for children."

"The viewer may find the technical quality of some portions of the following program unsatisfactory. Despite these technical deficiencies, the Community

Access Channel Coordinator felt that the content of the program has merit which overrides the deficient technical quality.”

Form TV1
Application for Telecast on Pinole TV
Pinole Community Access Channel

Name of Applicant: _____

If under age 18, name of parent/legal guardian: _____

Address of Applicant: _____

Home Telephone: _____ Business Telephone: _____

Name of group, organization, or other entity on whose behalf application is made, if any: _____

Applicant's relationship to this group, organization or other entity: _____

Description of Program: _____

Length of Program: _____

Format: VHS (or) S-VHS (or) DVD

Telecast time requested (Give date and time):

1st Choice:

2nd Choice:

3rd Choice:

Applicant hereby applies to Pinole Community Television for use of Pinole TV on the following terms and conditions:

1. Applicant is submitting with this application a pre-recorded program which Applicant desires to have telecast on Pinole TV.
2. Applicant represents that he has read the Pinole Community Access Television Manual, its rules and regulations, and hereby agrees to abide by the terms and conditions contained therein.
3. Applicant represents that he is aware of the restrictions on "Program Content" set forth in Section 3 of the Community Access Channel Manual and represents that the program does not violate any of those restrictions.
4. Applicant represents that he has made all appropriate arrangements with, and has obtained, without limitation, all necessary licenses and/or clearances from broadcast stations, sponsors, music licensing

organizations, performers' representatives, copyright holders and any and all other persons (natural or otherwise) as are necessary to lawfully transmit program material over the cable television system.

5. If the telecast contains copyrighted material, attach title of copyrighted works, names of authors and/or composers and documentation showing clearance from the copyrighted owner and/or licensing agent.
6. Applicant hereby agrees to hold the City of Pinole, all its agents, whether paid or volunteer, and the COMCAST Corporation harmless from any and all loss, liability, damage or other injury (including the reasonable costs of litigation or the defense of any claim) the City of Pinole and/or COMCAST Corporation may suffer as a result of claims, demands, costs or judgment against the City of Pinole and/or COMCAST Corporation arising out of or in connection with Applicant's use of Pinole TV community access channel, including, but not limited to, the failure to comply with any applicable local, state or federal laws, rules, regulations or other requirements; any claim for libel, slander or the invasion of privacy; any claim of infringement of common law or statutory copyright; any claim for the unauthorized use of any trademark, trade name or service mark; any claim for breach of contractual or other obligations owing to third parties the City of Pinole and/or COMCAST Corporation and for any other claim.
7. Applicant hereby waives any claim or right against the City of Pinole and/or COMCAST Corporation resulting from the loss, destruction or damage to any videotape submitted by Applicant or resulting from the failure or refusal to telecast the videotape or telecast it at the scheduled time. Further, Applicant hereby releases the City of Pinole and COMCAST Corporation from all such claims. Applicant hereby represents that the videotape submitted by him has no economic value other than the value of the video tape on which it is recorded.
8. Applicant further understands that the Applicant's NAME and MAILING ADDRESS WILL BE MAINTAINED at the Pinole City Hall and may be made available to members of the public, including governmental agencies, upon reasonable request therefor. Applicant hereby consents to the release of the Applicant's name and mailing address to any members of the public, including any governmental agency.

(Applicant's Signature)

(Date)

(Channel Coordinator's Signature)

(Date)

Form TV2
Application for Pinole TV Community Equipment
Pinole Community Access Channel

Name of Applicant: _____

If under age 18, name of parent/legal guardian: _____

Address of Applicant: _____

Home Telephone: _____ Business Telephone: _____

Name of group, organization, or other entity on whose behalf application is made, if any: _____

Applicant's relationship to this group, organization or other entity: _____

Use of Community Equipment/Facilities is requested on (give date, time, length of anticipated use): _____

1st Choice: _____

2nd Choice: _____

3rd Choice: _____

Description of Program: _____

Applicant hereby applies to Pinole Community Television for use of Community Equipment/Facilities on the following terms and conditions:

1. Applicant hereby requests the use of Community Equipment/Facilities for the purpose of producing a program to be telecast on Pinole TV. The Applicant also submits herewith an application for telecast time (FormTV1) and agrees to abide by the terms and conditions contained in both applications.
2. Applicant represents that he has read the Pinole Community Access Television Manual, its rules and regulations, and hereby agrees to abide by the terms and conditions contained therein.
3. Applicant will not be charged for use of the equipment. Applicant further agrees that he/she accepts full responsibility for proper use of the equipment and agrees to pay in full for any damage resulting from improper use or negligence.

4. Applicant represents that he/she has made all appropriate arrangements with, and has obtained, without limitation, all necessary licenses and/or clearances from broadcast stations, sponsors, music licensing organizations, performers' representatives, copyright holders and any and all other persons (natural or otherwise) as are necessary to lawfully transmit program material over Pinole TV.
5. If the telecast contains copyrighted material, attach title of copyrighted works, names of authors and/or composers and documentation showing clearance from the copyrighted owner and/or licensing agent.
6. Applicant hereby agrees to hold the City of Pinole, all its agents, whether paid or volunteer, and the COMCAST corporation harmless from any and all loss, liability, damage or other injury (including the reasonable costs of litigation or the defense of any claim) the City of Pinole and/or COMCAST Corporation may suffer as a result of claims, demands, costs or judgment against the City of Pinole and/or COMCAST Corporation arising out of or in connection with Applicant's use of Pinole TV's community equipment/facilities, including but not limited to, the failure to comply with any applicable local, state, or federal laws, rules, regulations or other requirements; any claim for libel, slander or the invasion of privacy; any claim of infringement of common law or statutory copyright; any claim for the unauthorized use of any trademark, trade name or service mark; any claim for breach of contractual or other obligations owing to third parties by the City of Pinole and/or COMCAST Corporation and for any other claim.
7. In consideration for permission to use Pinole's community equipment/facilities, Applicant on his own behalf, and for his heirs, successors and legal representatives, does hereby specifically and generally release and forever discharge the City of Pinole, its agents, employees, and officials from any and all claims, actions, demands or causes of action on account of Applicant's death or injury which may occur from any cause while using the City of Pinole's community television equipment/facilities, including, but not limited to, any claims, demands or causes of action of the type referred to in California Civil Code Section 1542, which provides:

"A general release does not extend to claims which the creditor does not know to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

8. Applicant further understands that the Applicant's NAME and MAILING ADDRESS WILL BE MAINTAINED at the Pinole City Hall and may be made available to members of the public, including governmental agencies, upon reasonable request therefor. Applicant hereby consents to the release of Applicant's name and mailing address to any members of the public, including any governmental agency.

(Applicant's Signature)

(Date)

(Channel Coordinator's Signature)

(Date)

Form TV3
Application for Written Message on Pinole TV
Pinole Community Access Channel

Name of Applicant: _____

If under age 18, name of parent/legal guardian: _____

Address of Applicant: _____

Home Telephone: _____ Business Telephone: _____

Name of group, organization, or other entity on whose behalf application is made, if any: _____

Applicant's relationship to this group, organization or other entity: _____

Applicant hereby applies to Pinole Community Television for broadcast of a written message on Pinole TV on the following terms and conditions:

1. Applicant is submitting with this application a completed Message Form which Applicant desires to have telecast on Pinole TV.
2. Applicant represents that he/she has read the Pinole Community Access Television Manual, its rules and regulations, and hereby agrees to abide by the terms and conditions contained therein.
3. Applicant represents that s/he is aware of the restrictions on Program Content" set forth in Section 3 of the Community Access Channel manual and represents that the message does not violate any of those restrictions.
4. Applicant hereby agrees to hold the City of Pinole, all its agents, whether paid or volunteer, and the COMCAST Corporation harmless from any and all loss, liability, damage or other injury (including the reasonable costs of litigation or the defense of any claim) the City of Pinole and/or COMCAST Corporation may suffer as a result of claims, demands, costs or judgement against the City of Pinole and/or COMCAST Corporation arising out of or in connection with Applicant's use of Pinole TV community access channel, including, but not limited to, the failure to comply with any applicable local, state or federal laws, rules, regulations or other requirements; any claim for libel, slander or the invasion of privacy; any claim of infringement of common law or statutory copyright; any claim for the unauthorized use of any trademark, trade name or service mark; any claim for breach of contractual or other obligations owing to third parties the City of Pinole and/or COMCAST Corporation and for any other claim.

5. Applicant hereby further waives any claim or right against the City of Pinole and/or COMCAST Corporation resulting from the failure or refusal to broadcast the written message.
6. Applicant further understands that the Applicant's NAME and MAILING ADDRESS WILL BE MAINTAINED at the Pinole City Hall and may be made available to members of the public, including governmental agencies, upon reasonable request therefor. Applicant hereby consents to the release of Applicant's name and mailing address to any members of the public including any governmental agency.

(Applicant's Signature)

(Date)

(Channel Coordinator's Signature)

(Date)

**Form TV4
Pinole Community Access Channel
"Patron's Acknowledgement"
Consent and Disclosure Agreement**

Name of Underwriter: _____

The above named Underwriter agrees that the on-air acknowledgement it shall receive for consideration given to the producer of the Community Access Channel telecast entitled (or described as): _____

Shall read exactly as follows:

"The preceding program was made possible by a grant (donation) from _____."

Any graphic display shall consist of precisely the wording above and shall not be displayed longer than fifteen (15) seconds.

It is further agreed and acknowledged by all parties herein that any monies received by the producer(s) in this regard are expressly for the purpose of underwriting production expenses and are not to be construed as consideration for any on-air announcements or acknowledgements which may be telecast over Pinole TV as part of the program described herein.

Underwriter hereby acknowledges that it has read and is fully aware of the existing rules and regulations on file at the Pinole City Hall with respect to Patron's Acknowledgements and hereby holds the City of Pinole and COMCAST Corporation harmless with respect to any claims which may arise as a result of such acknowledgements.

Producer hereby acknowledges that he/she is solely responsible for any action or claim which may arise as a result of having received monies or other consideration for the "Patron's Acknowledgement" as described herein.

Underwriter/Title: _____

Address: _____

Telephone: _____

Date: _____

Producer: _____

Address: _____

Telephone: _____

Date: _____

S:\Exhibit C (TV Manual).doc

EXHIBIT C

TOTAL OPERATING COSTS

INTERNAL OPERATIONS

(estimates)

	No. Events	# FT Staff	FT Hours	FT Costs	# of PT	PT Hours	PT Costs	Coord. Hours	Coord. Costs	Edit Time	Editing Costs	TOTAL HOURS	TOTAL COST
ament			374	\$ 9,724		40	\$ 560	112	\$ 4,494	110	\$ 2,560	636	\$ 17,338
Origination			692	\$ 17,992	0	1061	\$ 14,854	367	\$ 14,790	505	\$ 10,800	2625	\$ 58,436
Public Access			77	\$ 2,002		24		10	\$ 403	125	\$ 3,250	236	\$ 5,991
Public Service Announcements			14	\$ 364		6	\$ 86	5	\$ 181	150	\$ 2,430	175	\$ 3,061
Station Management			1147	\$ 29,833		560	\$ 8,008	1040	\$ 41,913	10	\$ 260	2757	\$ 80,013
Master Control												668	
Equipment Maintenance												838	
Mgt & Admin												832	
On-Air Programming												208	
TOTAL			2304	\$ 59,915	0	1691	\$ 23,508	1533	\$ 61,781	900	\$ 19,300	6428	\$164,839

6,428

Internal hours

EXTERNAL OPERATIONS

(estimates)

	\$ 40.30 (includes 13% salary increase No.)	# FT	FT Hours	FT Costs	# of PT	PT Hours	PT Costs	Coord. Hours	Coord. Costs	Edit Time	Editing Costs	TOTAL HOURS	TOTAL
WCCUSD Board Meetings	30	1	360	\$ 9,378	3	900	\$ 12,600	180	\$ 7,254			1440	\$29,232
WestCAT			60	\$ 1,563		24	\$ 343	15	\$ 605				\$2,511
Hercules			272	\$ 7,072		688	\$ 9,632	220.5	\$ 8,886	10	\$260	1191	\$25,850
Benicia			37	\$ 208		282	\$ 2,960	20	\$ 806	0	\$0	339	\$5,598
Solono College			100	\$ 2,605	4	160	\$ 2,288	50	\$ 2,015			310	\$6,908
Contra Costa College Sports			60	\$ 1,563		96	\$ 1,373	30	\$ 1,209			186	\$ 4,144.82
Misc			66	\$ 1,719	2	16	\$ 229	10	\$ 403	0		92	\$ 2,351.11
TOTAL			895	\$ 22,546	9	2142	\$ 29,082	510.5	\$ 20,573	10 0	\$ 260	3558	\$76,595

3558

external hours

TOTAL OPERATING COSTS

\$ 241,434

OTHER COSTS

Overtime	\$10,000
Communications	\$2,500
Equip Maint	\$5,600
Memberships	\$85
Office Expenses	\$400
Equipment Rental	\$300
Special Departmental	\$14,000
Travel & Training	\$3,400
Utilities	\$500
Equipment	\$16,850
Subtotal	\$53,435

TOTAL COSTS (includes estimates for FY '03/04)

\$294,869

Total hours

9,986

EXHIBIT C

EXHIBIT D

ALLOCATION OF STAFF RESOURCES

Allocation of Hours by Personnel

Coordinator	Percent Time	Annual Hrs	Hours Spent
Production	48%	2080	998.4
Management & Admin	38%	2080	790.4
Public Access	2%	2080	41.6
Editing	0	2080	0
Master Control	1%	2080	20.8
Scheduling	1%	2080	20.8
Maintenance	10%	2080	208
TOTAL	100%		2080

CAT 1 (Stewart)	Percent Time	Annual Hrs	Hours Spent
Production	45%	2080	936
Management & Admin	0	2080	0
Public Access	25%	2080	520
Editing	25%	2080	520
Master Control	5%	2080	104
Scheduling	0	2080	0
Maintenance	0	2080	0
TOTAL	100%		2080

CAT 1 (Ed's Replace)	Percent Time	Annual Hrs	Hours Spent
Production	50%	2080	1040
Management & Admin	0	2080	0
Public Access	5%	2080	104
Editing	0	2080	0
Master Control	25%	2080	520
Scheduling	10%	2080	208
Maintenance	10%	2080	208
TOTAL	100%		2080

Part timers	Percent Time	Annual Hrs	Hours Spent
Production	75%	2,797	2098
Management & Admin	0	2,797	0
Public Access	5%	2,797	140
Editing	5%	2,797	140
Master Control	5%	2,797	140
Scheduling		2,797	0
Maintenance	10%	2,797	280
TOTAL	100%		2797

1.333

PT Salaries	Rate	# of Hrs
\$40,000	\$14.30	2797

Allocation of Hours by Activity

Productions	# of Hours Spent	Hrs Avail	% of Total Time Available
Coordinator	998.4		
CAT1 (Stewart)	936		
CAT1 (Ed)	1040		
Partimer	2098		
TOTAL HOURS	5072	9037	56%

Mngmt & Admin	# of Hours Spent	Hrs Avail	% of Total Time Available
Coordinator	790.4		
CAT1 (Stewart)	0		
CAT1 (Ed)	0		
Partimer	0		
TOTAL HOURS	790.4	9037	9%

Public Access	# of Hours Spent	Hrs Avail	% of Total Time Available
Coordinator	41.6		
CAT1 (Stewart)	520		
CAT1 (Ed)	104		
Partimer	140		
TOTAL HOURS	805.46014	9037	9%

Editing	# of Hours Spent	Hrs Avail	% of Total Time Available
Coordinator	0		
CAT1 (Stewart)	520		
CAT1 (Ed)	0		
Partimer	140		
TOTAL HOURS	659.86014	9037	7%

Master Control	# of Hours Spent	Hrs Avail	% of Total Time Available
Coordinator	20.8		
CAT1 (Stewart)	104		
CAT1 (Ed)	520		
Partimer	140		
TOTAL HOURS	785	9037	9%

Scheduling	# of Hours Spent	Hrs Avail	% of Total Time Available
Coordinator	20.8		
CAT1 (Stewart)	0		
CAT1 (Ed)	208		
Partimer	0		
TOTAL HOURS	228.8	9037	3%

Maintenance	# of Hours Spent	Hrs Avail	% of Total Time Available
Coordinator	208		
CAT1 (Stewart)	0		
CAT1 (Ed)	208		
Partimer	280		
TOTAL HOURS	696	9037	8%

9037

100%

Activity	Amount of Time
Production	56%
Master Control	9%
Management & Admin	9%
Public Access	9%
Maintenance	8%
Editing	7%
Scheduling	3%
	100%

EXHIBIT E

EQUIPMENT REQUEST PLAN

	Price	Qty.	Amount	2003	2004	2005	2006	2007	2008
Improve Remote Production									
Pan tilt large cam sys head & ped only	\$ 12,000	2	\$ 24,000	\$ 24,000	-	-	-	-	-
Pan tilt camera system controller	\$ 4,500	1	\$ 4,500	\$ 4,500	-	-	-	-	-
Jib	\$ 10,000	1	\$ 10,000	\$ 10,000	-	-	-	-	-
Wireless Intercom	\$ 8,000	1	\$ 8,000	\$ 8,000	-	-	-	-	-
Tripods	\$ 5,000	4	\$ 20,000	-	20,000	-	-	-	-
Monitors	\$ 8,000	1	\$ 8,000	\$ 4,000	-	-	-	-	-
SubTotal			\$ 74,500	\$ 50,500	\$ 20,000	\$ 4,000	\$ -	\$ -	\$ -
Upgrade Master Control									
Master Control hard disk & DVD	\$ 6,000	1	\$ 6,000	\$ 6,000	-	-	-	-	-
Master Control play back upgrades	\$ -	1	\$ -	\$ -	-	-	-	-	-
Master Control play back upgrades	\$ -	1	\$ -	\$ -	-	-	-	-	-
Master Control play back upgrades	\$ -	1	\$ -	\$ -	-	-	-	-	-
Master Control play back upgrades	\$ -	1	\$ -	\$ -	-	-	-	-	-
Master Control Automation replacement	\$ 45,000	1	\$ 45,000	\$ -	-	-	-	-	-
ROUTER	\$ 30,000	1	\$ 30,000	\$ 30,000	30,000	-	-	-	-
dubbing systems	\$ 5,000	1	\$ 5,000	\$ 5,000	5,000	-	-	-	-
SubTotal			\$ 86,000	\$ 6,000	\$ 35,000	\$ -	\$ -	\$ -	\$ -

	Price	Qty.	Amount	2003	2004	2005	2006	2007	2008
Improve Editing Capability									
edit stations build up monitors & decks	\$ 8,000	3	\$ 24,000	\$ -	\$ 24,000	\$ -	\$ -	\$ -	\$ -
cameras B-roll only	\$ 7,000	2	\$ 14,000	\$ -	\$ -	\$ -	\$ 14,000	\$ -	\$ -
tripods	\$ 5,000	2	\$ 10,000	\$ -	\$ -	\$ -	\$ 10,000	\$ -	\$ -
SubTotal			\$ 48,000	\$ -	\$ 24,000	\$ -	\$ 24,000	\$ -	\$ -
Improve Programming									
<i>Equip New Building</i>									
Tri-ax / fiber camera cabling system	\$ 15,000	4	\$ 60,000	\$ -	\$ 60,000	\$ -	\$ -	\$ -	\$ -
Production control for new studio	\$ 60,000	1	\$ 60,000	\$ -	\$ -	\$ 60,000	\$ -	\$ -	\$ -
Production light systems	\$ 1,500	2	\$ 3,000	\$ 3,000	\$ -	\$ -	\$ -	\$ -	\$ -
New Cameras (Studio Configuration)	\$ 15,000	4	\$ 60,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fiber optic systems	\$ 20,000	1	\$ 20,000	\$ -	\$ 20,000	\$ -	\$ -	\$ -	\$ -
Studio lights	\$ 10,000	1	\$ 10,000	\$ -	\$ -	\$ 10,000	\$ -	\$ -	\$ -
Replay System	\$ 10,000	1	\$ 10,000	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -
(Installation Costs)	\$ 20,000	1	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Teleprompter system	\$ 8,000	1	\$ 8,000	\$ 8,000	\$ -	\$ -	\$ -	\$ -	\$ -
Install satellite capabilities	\$ 6,000	1	\$ 6,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SubTotal			\$ 257,000	\$ 21,000	\$ 80,000	\$ 70,000	\$ -	\$ -	\$ -
Grand Total			\$ 465,500	\$ 77,500	\$ 159,000	\$ 74,000	\$ 24,000		