



AGENDA

**CITY OF CITRUS HEIGHTS
CITY COUNCIL
REGULAR MEETING OF THURSDAY, APRIL 28, 2016
7:00 PM REGULAR MEETING
Citrus Heights Community Center
6300 Fountain Square Drive, Citrus Heights, CA 95621**

April 28, 2016 - City Council Meeting Agenda Packet

Documents:

[4-28-16 COUNCIL AGENDA PACKET.PDF](#)

CALL REGULAR MEETING TO ORDER

1. Flag Salute
2. Roll Call: Council Members: Frost, Miller, Turner, Slowey, Bruins
3. Video Statement

APPROVAL OF AGENDA

PRESENTATIONS

4. Proclamation Of The City Of Citrus Heights Proclaiming May 2016 "Building Safety Month"
5. Areas 8, 9 And 10 Drainage Master Plan Update

COMMENTS BY COUNCIL MEMBERS AND REGIONAL BOARD UPDATES

PUBLIC COMMENT

Under Government Code Section 54954.3, members of the audience may address the Council on any item of interest to the public and within the Council's purview, or on any Agenda Item before or during the Council's consideration of the Item. If you wish to address the Council during the meeting, please fill out a Speaker Identification Sheet and give it to the City Clerk. When you are called upon to speak, step forward to the podium and state your name for the record. Normally, speakers are limited to five minutes each with 30 minutes being allowed for all comments. Any public comments beyond the initial 30 minutes may be heard at the conclusion of the agenda. The Mayor has the discretion to lengthen or shorten the allotted times.

CONSENT CALENDAR

It is recommended that all consent items be acted on simultaneously unless separate discussion and/or action is requested by a Council Member.

6. Subject: Approval Of Minutes
RECOMMENDATION: Approve the Minutes of the Special and Regular Meetings of March 10, 2016 and March 24, 2016
7. SUBJECT: Quarterly Treasurers Report
STAFF REPORT: S. Daniell
RECOMMENDATION: Staff Recommends that the Council Receive and File the Quarterly Treasurer's Report for the Quarter Ending March 31, 2016

8. SUBJECT: Sunrise Blvd./Sungarden Dr. Signalization Improvement And Sunrise Blvd. Complete Streets Improvement Phase 3. Construction Management & Inspection Services Agreement Approval Of Contract Amendment No. 2

STAFF REPORT: D. Wheaton / S. Hodgkins

RECOMMENDATION: Adopt Resolution No. 2016 - ____; A Resolution of the City Council of the City of Citrus Heights, California, Authorizing the City Manager to Execute Amendment No. 2 to the Construction Management and Inspection Services Agreement with UNICO Engineering for the Sunrise Blvd. / Sungarden Dr. Signalization Improvements and Sunrise Blvd. Complete Streets Improvements Phase 3 Projects

9. SUBJECT: Antelope Road Safe Routes To School Project – Award Of Construction Contract – City PN 20-13-004

STAFF REPORT: D. Wheaton / S. Hodgkins

RECOMMENDATION: Adopt Resolution No. 2016 - ____; A Resolution of the City Council of the City of Citrus Heights, California, Authorizing the City Manager to Execute an Agreement with Sierra National Construction for the Antelope Road Safe Routes to School Project

PUBLIC HEARINGS

10. SUBJECT: Letter Of Public Convenience And Necessity – In & Go Market - 12417 Fair Oaks Boulevard

STAFF REPORT: R. Sherman / A. Bermudez

RECOMMENDATION: Staff Recommends Approval of the Letter of Public Convenience and Necessity that Will Allow for the Issuance of a Type 21 License (off sale Distilled Spirits) at In & Go Market Located at 12417 Fair Oaks Boulevard

REGULAR CALENDAR

11. SUBJECT: Amending Chapter 74, Article IV Of The Citrus Heights Municipal Code To Include Regulation Related To AB 1826 – Organics Recycling

STAFF REPORT: D. Wheaton / M. Poole

RECOMMENDATION: Introduce, Read by Title Only and Waive First Reading Ordinance No. 2016 - ____; An Ordinance of the City Council of the City of Citrus Heights Amending Article IV of Chapter 74 of the City's Municipal Code Related to Business and Multi-Family Recycling

DEPARTMENT REPORTS

12. SUBJECT: Police Department Efforts To Monitor Illegal Massage Parlors

DEPARTMENT: Police Department

CITY MANAGER ITEMS

ITEMS REQUESTED BY COUNCIL MEMBERS / FUTURE AGENDA ITEMS

ADJOURNMENT



Jeannie Bruins, Mayor
Jeff Slowey, Vice Mayor
Sue Frost, Council Member
Steve Miller, Council Member
Mel Turner, Council Member

**CITY OF CITRUS HEIGHTS
CITY COUNCIL
Regular Meeting of Thursday, April 28, 2016
Citrus Heights Community Center
6300 Fountain Square Dr., Citrus Heights, CA
Regular Meeting 7:00 p.m.**

PLEASE NOTE: The Council may take up any agenda item at any time, regardless of the order listed. Action may be taken on any item on the agenda. The City Council has established a procedure for addressing the Council. Speaker Identification Sheets are provided on the table inside the Council Chambers. If you wish to address the Council during the meeting, please complete a Speaker Identification Sheet and give it to the City Clerk. So that everyone who wishes may have an opportunity to speak, there is a five-minute maximum time limit when addressing the Council. Audio/Visual presentation material must be provided to the City Clerk's Office at least 48 hours prior to the meeting.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall located at 7927 Auburn Blvd, Citrus Heights during normal business hours. Email subscriptions of the agenda are available online by signing up with the City's Notify Me service.

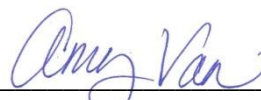
City Council meetings are televised live on Metro Cable 14, the government affairs channel on the Comcast and SureWest Cable Systems and replayed on the following Monday at 9:00 a.m. Meetings are also webcast live at www.citrusheights.net.

The Agenda for this meeting of the City Council for the City of Citrus Heights was posted in the following listed sites before the close of business at 5:00 p.m. on the Friday preceding the meeting.

1. City of Citrus Heights, 7927 Auburn Blvd., Citrus Heights, CA
2. Rusch Park Community Center, 7801 Auburn Boulevard, Citrus Heights, CA
3. Sacramento County Library, Sylvan Oaks Branch, 6700 Auburn Blvd., Citrus Heights, CA

If you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in this meeting, please contact the City Clerk's Office 916-725-2448, 7927 Auburn Blvd., at least 48 hours prior to the meeting. TDD (hearing impaired only) 916-725-6185.

April 22, 2016



Amy Van, City Clerk

Please turn off all cellular phones and pagers while the City Council meeting is in session.

REGULAR MEETING 7:00 PM
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CALL REGULAR MEETING TO ORDER

1. Flag Salute
2. Roll Call: Council Members: Frost, Miller, Turner, Slowey, Bruins
3. Video Statement

APPROVAL OF AGENDA**PRESENTATIONS**

4. Proclamation of the City of Citrus Heights Proclaiming May 2016 “Building Safety Month”
5. Areas 8, 9 and 10 Drainage Master Plan Update

COMMENTS BY COUNCIL MEMBERS AND REGIONAL BOARD UPDATES**PUBLIC COMMENT**

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DEPARTMENT REPORTS

12. **SUBJECT:** Police Department Efforts to Monitor Illegal Massage Parlors
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CITY MANAGER ITEMS

ITEMS REQUESTED BY COUNCIL MEMBERS/ FUTURE AGENDA ITEMS

ADJOURNMENT

**CITY OF CITRUS HEIGHTS
CITY COUNCIL
MINUTES**

Item 6

**Special/Regular Meetings of Thursday, March 10, 2016
Citrus Heights Community Center
6300 Fountain Square Drive, Citrus Heights, CA**

CALL SPECIAL MEETING TO ORDER

The special council meeting was called to order at 5:00 p.m. by Mayor Bruins.

1. Roll Call: Council Members present: Frost, Miller, Turner, Slowey and Bruins
Council Members absent: None
Staff present: Boyd, Moore, Rivera, Ziegler and department directors.

PUBLIC COMMENT

None

CLOSED SESSION

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to California Government Code Section 54956.9(d)(1)
Lart Group, Inc. vs. City of Citrus Heights
Sacramento Superior Court case No. 34-2014-00158878

There was no reportable action from closed session.

STUDY SESSION

3. Discussion Concerning REACH and Neighborhood Associations

Human Resources Analyst Moore stated the purpose of the item is to discuss proposed changes in the way the City interacts with REACH and the Neighborhood Associations through financial and administrative support. She reported that the City Council Quality of Life Committee met and is recommending the City change the way funds are dispersed from the City to REACH and also reduce the amount of funding support provided. The recommended new process would eliminate the City's involvement in everyday decisions regarding budgeting and funding for REACH and the Neighborhood Associations. The recommended process would allow REACH to make independent decisions regarding the use of the City's support. Neighborhood improvement projects and/or programs would require the prior approval of the City Council. The application would first go to the REACH Board for acceptance and approval, and the Board would then recommend the application to the City Council for final approval and funding.

Council questions and comments followed.

Public Comment

Tom Scheeler urged the City to amend the City's Capital Improvement Plan to show some Neighborhood Improvement Funds in that plan. He said the neighborhood associations exist to try to foster a greater cohesiveness, coordination and connection between neighbors.

Dr. Jayna Karpinski-Costa expressed concerns regarding a reduction in Neighborhood Improvement Program funds and administrative funds that support the Neighborhood Associations. She suggested a form of a retreat between REACH, neighborhoods and City Council to discuss the topics.

John Silveira expressed concerns regarding a reduction in Neighborhood Improvement Program funds and administrative funds that support the Neighborhood Associations.

Tim Schaefer expressed concerns regarding a reduction in Neighborhood Improvement Program funds and administration funds that support the Neighborhood Associations. He stated that REACH and Neighborhood Associations are a way to reach to citizens of the community and bring people into the process.

Tonya Wagner said REACH's position is to be a conduit of information from the City to the residents of the City.

Michael Lagomarsino stated REACH has been a conduit of information from the City to the neighborhoods. REACH and the neighborhoods have also struggled over the years to recruit residents to come to meetings and participate.

Brian Jones felt Citrus Heights should be setting the bar high and being the envy of a lot of other local cities.

Council Member Comments followed.

Mayor Bruins suggested that the City Council communicate with the REACH Board, which includes a member of every neighborhood association, and that they come together again in the near future.

Anna Portillo responded to questions from Council Members.

ADJOURNMENT

Mayor Bruins adjourned the special meeting at 6:45 p.m.

CALL REGULAR MEETING TO ORDER

The regular council meeting was called to order at 7:06 p.m. by Mayor Bruins.

1. The flag salute was led by Mayor Bruins.
2. Roll Call: Council Members present: Frost, Miller, Turner, Slowey, and Bruins
Council Members absent: None
Staff present: Boyd, Courtney, Kempenaar, Lagura, Poole, Rivera, Wheaton, Ziegler and department directors.
3. The video statement was read by Human Resources and City Information Director Rivera.

APPROVAL OF AGENDA

Vice Mayor Slowey requested to move Item 13 to be heard following Item 10.

PRESENTATIONS

4. SOAR Presentation to Foothills K-9 Association & Introduction of Citrus Heights Police Department K9 Team

Lt. Chad Courtney introduced the Citrus Heights Police Department K9 Unit – Sergeant Brian Fritsch, Officer Nate Culver and Officer Kyle Shoberg.

Neighborhood Area 10 President Dr. Jayna Karpinski-Costa explained their neighborhood has raised funds to support the Foothills K-9 Association and presented them with a donation of \$300.

5. Proclamation in Recognition of Republic Services Employee Homer Gideon

Mayor Bruins read and presented a proclamation to Republic Services Employee Homer Gideon on the occasion of his retirement.

General Services Director Wheaton thanked Homer Gideon for his work with the City of Citrus Heights.

6. Campus Life Connection Mid-Year Update

Jenny Arnez and Julie Habeeb with Campus Life Connection provided an overview of the program and activities that are taking place at the Sayonara Center.

COMMENTS BY COUNCIL MEMBERS AND REGIONAL BOARD UPDATES

Council Member Miller provided a report from Regional Transit. Along with Council Member Frost, he participated in a Focus Group for the Strategic Planning of Sunrise MarketPlace.

Council Member Turner provided a report from the Sacramento Metropolitan Cable Commission meeting.

Vice Mayor Slowey provided a report from the Sacramento Area Council of Governments Transportation Committee meeting. He commended the Police Department for their thorough investigation and professionalism during the investigation involving Creative Frontiers, as a result of their investigations an arrest was made and recently a plea was entered in the case.

Mayor Bruins and several Council Members attended Regional Transit's Transit Action Awards and accepted an award on behalf of the City for "Agency of the Year". She also provided a report from the Sacramento Regional County Sanitation District and Sacramento Area Sewer District Board meeting. She provided a report from the Citrus Heights Police Activities League.

PUBLIC COMMENT

None

CONSENT CALENDAR

7. **SUBJECT:** Approval of Minutes
RECOMMENDATION: Approve the Minutes of the Regular Meeting of February 25, 2016
8. **SUBJECT:** Approval of Activate Auburn Program Guidelines and Revised Economic Development Support Program Guidelines
STAFF REPORT: R. Sherman / D. Rodriguez
RECOMMENDATION: Staff Recommends that the City Council Adopt the Following Resolutions:
- a. Resolution No. 2016 – 014; A Resolution of the City Council of the City of Citrus Heights, Approving Activate Auburn Program Guidelines
 - b. Resolution No. 2016 – 015 ; A Resolution of the City Council of the City of Citrus Heights, Approving Revised Economic Development Support Fund Guidelines
9. **SUBJECT:** Adoption of Resolution to Authorize the City of Citrus Heights to Apply for CalRecycle Payment Program Funding
STAFF REPORT: D. Wheaton / M. Poole
RECOMMENDATION: Adopt Resolution No. 2016 – 016 ; A Resolution of the City Council of the City of Citrus Heights, California, Authorizing the Submittal of Applications to the Department of Resources Recycling and Recovery (CalRecycle) for all Available Payment Programs and Related Authorizations
10. **SUBJECT:** Adoption of Resolution to Authorize the City of Citrus Heights to Apply for All Available Grants the City is Eligible for Offered by the Department of Resources Recycling and Recovery (CalRecycle)
STAFF REPORT: D. Wheaton / M. Poole
RECOMMENDATION: Adopt Resolution No. 2016 – 017; A Resolution of the City Council of the City of Citrus Heights, California, Authorizing the Submittal of Applications for all CalRecycle Grants for Which the City of Citrus Heights is Eligible

ACTION: On a motion by Vice Mayor Slowey, seconded by Council Member Turner, the City Council approved Consent Calendar Items 7, 8, 9 and 10.

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

REGULAR CALENDAR

13. **SUBJECT:** Residential Solid Waste and Recycling Collection Services – Republic Services Contract Amendment
STAFF REPORT: D. Wheaton / M. Poole
RECOMMENDATION: Adopt Resolution No. 2016 - 019; A Resolution of the City Council of the City of Citrus Heights, California, Approving the 2016 Amended Agreement

with Republic Services, Inc for the Provision of Residential Garbage and Recycling Services
and Authorizing the City Manager to Execute the Amended Agreement

General Services Director Wheaton stated that over the past couple of years General Services has successfully aligned each of the City's core contracts into long-term financially stable contracts. The focus of the negotiations with Republic Services was to maintain financial stability, enhance quality of life, enhance public safety, and improve the overall health of the neighborhoods. Our partners in this endeavor have proven to be reliable, efficient and steadfast partners in believing and achieving the same goals. This proposal maintains low customer rates, avoids the very costly and lengthy procurement process, continues delivering a high level of service without interruption, provides enhanced educational programming and outreach, and ensures compliance with laws related to protecting the environment.

Operations Manager Poole stated staff is recommending adopting a resolution that approves the contract amendment with Republic Services for a ten year extension and authorizing the City Manager to execute the agreement. Staff evaluated current market conditions which are much the same as during the 2010 Request for Statement of Interest process, and there does not appear to be any new providers with local residential experience. She provided an overview of the negotiation process with Republic Services and the recommended amendments that include: 1) customer rate stabilization through 2019 with rates at or below 2010 levels; subsequent adjustments would be capped at 3.5% annually through 2027; 2) enhanced and improved education services with no new costs; and 3) continued special collection services at no additional costs.

Public Comment

Tony Cincotta with Republic Services commented on their commitment to safety, providing excellent customer service, and providing services to residents while keeping rates low.

Council questions and comments followed.

ACTION: On a motion by Vice Mayor Slowey, seconded by Council Member Turner, the City Council adopted Resolution No. 2016 - 019; A Resolution of the City Council of the City of Citrus Heights, California, Approving the 2016 Amended Agreement with Republic Services, Inc for the Provision of Residential Garbage and Recycling Services and Authorizing the City Manager to Execute the Amended Agreement.

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

PUBLIC HEARING

11. **SUBJECT:** Auburn Boulevard Plan 2016 Update

STAFF REPORT: R. Sherman / C. Kempenaar

RECOMMENDATION: Adopt Resolution No. 2016 - 018; A Resolution of the City Council of the City of Citrus Heights, California, Adopting Amendments to the Auburn Boulevard Plan – Reinventing the Auburn Boulevard Corridor

Senior Planner Kempenaar explained that the Auburn Boulevard Plan proposes a dynamic and livable Citrus Heights community that attracts people from all over. Currently the vision of the Boulevard Plan isn't being achieved due to several factors include current economic conditions and loss of redevelopment. In order to achieve that vision staff has developed an interim plan of action which focuses on decreasing vacancies and activating the Boulevard to make it more vibrant and exciting. One of the proposed changes is to the Land Use Table making it more consistent across districts. Another change would be to allow automotive uses (repair or sales) on sites where buildings were historically designed/utilized as an automotive use. A change to the parking strategy by including additional measures such as counting on-street parking along side streets, having reductions for transit and allow for reductions for "Active Uses."

Mayor Bruins opened the public hearing at 8:23 p.m.; hearing no speakers she closed the public hearing.

ACTION: On a motion by Council Member Frost, seconded by Vice Mayor Slowey, the City Council adopted Resolution No. 2016 - 018; A Resolution of the City Council of the City of Citrus Heights, California, Adopting Amendments to the Auburn Boulevard Plan – Reinventing the Auburn Boulevard Corridor

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

REGULAR CALENDAR

12. **SUBJECT:** Green Education Foundation Fee Waiver Request

STAFF REPORT: R. Sherman / N. Lagura

RECOMMENDATION: Staff Recommends Should Council Approve the Requested Fee Waiver, that Council Direct Planning Staff Accept Minor Use Permit Application from GEF Without an Application Fee

Associate Planner Lagura stated the City has received a request from the Green Education Foundation a non-profit organization seeking a fee waiver to process a Minor Use Permit for an unmanned donation collection facility at 7847 Lichen Drive. The Zoning Code provides Council the discretion to waive any planning fees.

Council questions and comments followed.

ACTION: On a motion by Vice Mayor Slowey, seconded by Council Member Miller, the City Council denied the request for fee waiver for a Minor Use Permit Application from Green Education Foundation.

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

13. **SUBJECT:** Residential Solid Waste and Recycling Collection Services – Republic Services Contract Amendment

STAFF REPORT: D. Wheaton / M. Poole

RECOMMENDATION: Adopt Resolution No. 2016 - 019; A Resolution of the City Council of the City of Citrus Heights, California, Approving the 2016 Amended Agreement with Republic Services, Inc for the Provision of Residential Garbage and Recycling Services and Authorizing the City Manager to Execute the Amended Agreement

Item 13 was heard earlier on the agenda.

DEPARTMENT REPORTS

None

CITY MANAGER ITEMS

Finance Director Daniell provided a mid-year budget review for Fiscal Year 2015-2016. She highlighted major revenues that are expected to be over budget, which are building permits are projected at \$700,000 that is \$175,000 over budget, and the City received a one-time interest payment from the City's former Redevelopment agency from their general fund loan in the amount of \$266,000. Mayor revenues that are under budget are the Sales and Use Tax which is about \$151,000 under budget. Expenses are estimated to be under budget by \$151,000. Revenues are estimated to be \$242,000 over budget, expenses estimated to be \$151,000 under budget. The estimated net position is \$393,000.

ITEMS REQUESTED BY COUNCIL MEMBERS/FUTURE AGENDA ITEMS

None

ADJOURNMENT

Mayor Bruins adjourned the regular meeting at 8:34 p.m.

Respectfully submitted,

Amy Van, City Clerk

**CITY OF CITRUS HEIGHTS
CITY COUNCIL
MINUTES
Regular Meeting of Thursday, March 24, 2016
Citrus Heights Community Center
6300 Fountain Square Drive, Citrus Heights, CA**

CALL REGULAR MEETING TO ORDER

The regular council meeting was called to order at 7:01 p.m. by Mayor Bruins.

1. The flag salute was led by Scout Troop 228.
2. Roll Call: Council Members present: Frost, Miller, Turner, Slowey, and Bruins
Council Members absent: None
Staff present: Boyd, Christensen, Cooley, Piva, Rivera, Rodriguez, Ziegler and department directors.
3. The video statement was read by Human Resources and City Information Director Rivera.

APPROVAL OF AGENDA

On a motion by Vice Mayor Slowey, seconded by Council Member Miller the City Council approved the agenda.

AYES: Frost, Miller, Turner, Slowey and Bruins
NOES: None
ABSENT: None

PRESENTATIONS

4. Proclamation Given in Honor of the 26th Annual Creek Week in Sacramento County
April 1 – 9, 2016

Mayor Bruins read and presented the proclamation to Scout Troop 228 who accepted on behalf of the Sacramento Area Creeks Council

5. Presentation by Sacramento Yolo Mosquito and Vector Control District

Gary Goodman with the Sacramento Yolo Mosquito and Vector Control District provided an update on the activities to abate mosquitos. He stated management is key to fewer mosquitoes by only irrigating lawn, not the sidewalk and gutter, and he encouraged residents to check their yards once a week and empty any stagnant water from buckets, containers, pet dishes, recycle fountain water and call the District for free mosquito fish.

6. Republic Services Residential Services Program Annual Report

Johnnie Downs with Republic Services provided a 2015 annual update to the City Council. She highlighted the residential services provided to the residents of Citrus Heights. She also provided an overview of the outreach and education programs they held during 2015. She also reported on the amount of material collected in 2015 in Citrus Heights which includes 19,707 tons of trash, 5,911 tons of recycling, and 9,406 tons of green waste.

COMMENTS BY COUNCIL MEMBERS AND REGIONAL BOARD UPDATES

Council Member Miller provided a report from the Regional Transit Board meeting.

Council Member Frost provided a report from the Sacramento Metropolitan Air Quality Management District Board meeting.

Mayor Bruins presented a plaque that was presented to the City from the Firefighters Burn Institute for the City's partnership with the Fill the Boot fundraising event. She also provided a report from the Sacramento Regional County Sanitation District and Sacramento Area Sewer District Board meeting.

PUBLIC COMMENT

Michael Lagomarsino provided a report on the activities of Neighborhood Association Area 3 over the past year.

CONSENT CALENDAR

7. **SUBJECT:** Acceptance for Autumnwood Subdivision Public Improvements
 STAFF REPORT: D. Wheaton / K. Becker / A. Flores
 RECOMMENDATION: Adopt Resolution No. 2016-020 A Resolution of the City Council of the City of Citrus Heights, California, Accepting the Public Improvements as Complete for the Autumnwood Subdivision.

ACTION: On a motion by Vice Mayor Slowey, seconded by Council Member Turner, the City Council approved Consent Calendar Item 7.

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

PUBLIC HEARING

8. **SUBJECT:** Annual Report to U.S. Department of Housing and Urban Development on 2015 Community Development Block Grant Funds (CAPER)
 STAFF REPORT: R. Sherman / K. Cooley / N. Piva
 RECOMMENDATION: Staff Recommends that the City Council:
- a. Hold a public hearing regarding the City's annual "Consolidated Annual Performance and Evaluation Report" (CAPER) for the CDBG Program Year 2015; and
 - b. Direct staff to file the CAPER report with the U.S. Department of Housing and Urban Development.

Housing and Grants Program Technician Piva provided a report on the 2015 Community Development Block Grant (CDBG) funds. She reported that the Consolidated Annual Performance Evaluation Report describes the City's progress toward carrying out the goals outlined in the Consolidated Plan and Action Plan. In 2015, the City received about \$560,000 in CDBG Funds,

15% of that funding was put toward public services. A total of 1,941 low-income persons were served during the year. Staff recommends the City Council direct staff to file the Consolidated Annual Performance and Evaluation Report to the U.S. Department of Housing and Urban Development.

Development Specialist Cooley responded to questions from Council Members.

Mayor Bruins opened the public hearing at 8:12 p.m.; hearing no speakers she closed the public hearing.

ACTION: On a motion by Council Member Turner, seconded by Council Member Miller, the City Council directed staff to file the CAPER report with the U.S. Department of Housing and Urban Development.

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

REGULAR CALENDAR

9. **SUBJECT:** Sunrise MarketPlace Property Based Business Improvement District 2015 Annual Report

STAFF REPORT: R. Sherman / D. Rodriguez

RECOMMENDATION: Adopt Resolution No. 2016-021 A Resolution of the City Council of the City of Citrus Heights, California, Approving the Sunrise MarketPlace 2015 Annual Report

Development Specialist Rodriguez introduced Kathilynn Carpenter with the Sunrise MarketPlace who would present the 2015 Annual Report for the Sunrise MarketPlace Property Based Business Improvement District.

Kathilynn Carpenter provided an overview of the marketing they have conducted through radio, print publications, promotions, and social media. They have purchased new banners for the district. She announced the upcoming Dare to Prepare Day on April 30, 2016 at Sunrise Mall.

Council Member comments followed.

ACTION: On a motion by Council Member Miller, seconded by Council Member Turner, the City Council adopted Resolution No. 2016-021 A Resolution of the City Council of the City of Citrus Heights, California, Approving the Sunrise MarketPlace 2015 Annual Report.

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

10. **SUBJECT:** First Reading: Adding Division 5 “Lost, Stolen, or Unclaimed Property” to Article V of Chapter 2 of the Citrus Heights Municipal Code
STAFF REPORT: C. Boyd / D. Christensen
RECOMMENDATION: Staff Recommends City Council Introduce, Read by Title Only and Waive the First Full Reading of Ordinance No. 2016-002 Adding Chapter 5 “Lost, Stolen, or Unclaimed Property” to Article V of Chapter 2 of the Citrus Heights Municipal Code

Commander Christensen reported that periodically throughout the year the Police Department conducts different kinds of reviews and recently completed a review of the property and evidence procedures. It was discovered that the Police Department was operating under an outdated ordinance from 1997. The recommended changes before Council would allow the Police Chief to designate property that is either lost, stolen or unclaimed that has remained in the Police Department’s custody for at least 90 days and to allocate that property either to a public auction, transfer of that property to another agency or transfer the property to a non-profit organization under certain circumstances.

Council Member questions followed.

ACTION: On a motion by Vice Mayor Slowey, seconded by Council Member Frost, the City Council introduced for a First Reading and read by title only and waived the first full reading of Ordinance No. 2016-002 Adding Chapter 5 “Lost, Stolen, or Unclaimed Property” to Article V of Chapter 2 of the Citrus Heights Municipal Code.

AYES: Frost, Miller, Turner, Slowey and Bruins

NOES: None

ABSENT: None

DEPARTMENT REPORTS

None

CITY MANAGER ITEMS

None

ITEMS REQUESTED BY COUNCIL MEMBERS/FUTURE AGENDA ITEMS

None

ADJOURNMENT

Mayor Bruins adjourned the regular meeting at 8:44 p.m.

Respectfully submitted,

Amy Van, City Clerk



CITY OF CITRUS HEIGHTS

Memorandum

April 28, 2016

TO: Mayor and City Council Members
Henry Tingle, City Manager

FROM: Stefani Daniell, Finance Director

SUBJECT: Quarterly Treasurer's Report

Approved and Forwarded to
City Council

_____ Fin.

_____ Atty.

Henry Tingle, City Manager

Summary and Recommendation

Staff recommends that the Council receive and file the Quarterly Treasurer's Report for the quarter ending March 31, 2016.

Fiscal Impact

No fiscal impact.

Background and Analysis

California Government Code Section 53646(b) states that the "treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, internal auditor, and the legislative body" within 30 days of the quarter's end.

On March 31, 2016, the market value of the City's cash and investments was \$20,408,953.

Conclusion

This report satisfies California Government Code Section 53646(b).

Attachment: (A) Treasurer's Report as of March 31, 2016

**CITY OF CITRUS HEIGHTS
TREASURER'S REPORT
AS OF MARCH 31, 2016**

Description of Security Financial Institution	Rate/Yield to Maturity	Maturity Date	Cash Value	Par Value	% of Total Pool	Premium (Discount)	Purchased Interest*	Original Cost	Market Value
LOCAL AGENCY INVESTMENT FUND									
State of California	0.51%	Immediate	11,199,615.92	11,199,616	54.90%	0	0	11,199,616	11,199,616
FEDERAL GOVERNMENT AGENCIES									
Federal Home Loan Bank Corp	1.03%	01/30/18	1,195,620	1,200,000		(4,380)	348	1,195,968	1,200,103
Federal Home Loan Mortgage	1.09%	03/12/18	1,994,600	2,000,000		(5,400)	114	1,994,714	2,000,172
Federal Home Loan Mortgage	1.21%	05/07/18	1,989,050	2,000,000		(10,950)	1,467	1,990,517	2,000,632
Federal National Mortgage	1.06%	05/21/18	1,994,550	2,000,000		(5,450)		1,994,550	1,999,352
US Treasury Note	1.22%	05/31/19	996,328	1,000,000		(3,672)	4,636	1,000,964	1,006,875
<i>Subtotal</i>	1.12%		8,170,148	8,200,000	40.20%	(29,852)	6,565	8,176,714	8,207,134
MONEY MARKET									
Schwab Cash Reserve	0.01%	Immediate	779	779	0.00%	0	0	779	779
MEDIUM-TERM CORPORATE NOTE									
John Deere Capital	1.61%	03/12/18	985,750	1,000,000		(14,250)	3,467	989,217	1,001,424
	1.61%		985,750	1,000,000	4.90%	(14,250)	3,467	989,217	1,001,424
Grand Total as of March 31, 2016	0.81%		20,356,293	20,400,395	100.00%	(44,102)	10,032	20,366,325	20,408,953

Unrealized Gains/(Losses) **42,628**

* Purchased interest is returned to the City with the first interest payment

In compliance with the California Government Code Section 53646; the Treasurer of the City of Citrus Heights hereby certifies that sufficient investment liquidity and anticipated revenues are available to meet the City's budgeted expenditure requirements for the next six months.

Investments in the report meet the requirements for the City of Citrus Heights' adopted investment policy.

Market prices used in calculating market value were obtained from Charles Schwab.

Respectfully Submitted,

STEFANI DANIELL
FINANCE DIRECTOR/TREASURER



CITY OF CITRUS HEIGHTS

Memorandum

April 28, 2016

TO: Mayor and City Council Members
Henry Tingle, City Manager

FROM: David Wheaton, General Services Director
Stuart Hodgkins, Principal Civil Engineer

SUBJECT: Sunrise Blvd./Sungarden Dr. Signalization Improvement and Sunrise Blvd.
Complete Streets Improvement Phase 3.
Construction Management & Inspection Services Agreement
Approval of Contract Amendment No. 2

Approved and Forwarded to City
Council

_____ Fin.

_____ Atty.

Henry Tingle, City Manager

Summary and Recommendation

On October 23, 2014, City Council authorized an agreement with UNICO Engineering (UNICO) for Construction Management, Inspection and Materials Testing Services for the Sunrise Blvd./Sungarden Dr. Signalization Improvement and Sunrise Blvd. Complete Streets Improvement Phase 3 projects (the Projects).

The Sunrise Blvd./Sungarden Dr. Signalization Improvement Project is completed and accepted and UNICO is currently providing construction management and inspection services on the Sunrise Boulevard Complete Streets Improvement Phase 3 (SBCS3) Project. Work on the SBCS3 Project is now about 80% complete. However, several issues outside the contractor's control have extended the project's completion about four (4) months. The main issues leading to the extended completion were, 1) time needed to obtain State required water quality permit before work could begin, 2) more time than originally anticipated for several of the utilities companies to relocate their facilities, and 3) extra work to address challenges associated with adjacent properties - working around existing utilities and adapting the new storm drain system to existing conditions. As a result of the delays, UNICO requested an increase to their contract budget to ensure uninterrupted construction management and inspection effort need to see the project through to completion, as well as documentation close out to satisfy Cal-Trans and Federal Highway Administration requirements.

Therefore, staff recommends City Council adopt the attached resolution authorizing the City Manager to execute Amendment No. 2 to the agreement with UNICO to cover additional construction management and inspection effort.

Fiscal Impact

The not-to-exceed fee for services under this contract is \$588,792 (\$221,130 for Sunrise/Sungarden and \$367,662 for Sunrise Complete Streets Phase 3). The previously approved Amendment No. 1 increased the budget for the Sunrise/Sungarden project by \$20,920 to \$242,050. This Amendment No. 2 will

**Subject: For Sunrise/Sungarden Signalization and Sunrise Complete Street Phase 3 Projects
Construction Management, & Inspection Services Agreement – Amendment No 2.**

Date: April 28, 2016

Page 2 of 2

increase the budget for the Sunrise Blvd. Complete Streets Improvement Phase 3 Project by \$94,600, to \$462,262. The total amended not-to-exceed fee for services under this total contract will be \$704,312 after approval of Amendment 2. As specified in the City's 2015/16-2019/20 Capital Improvement Program, funding for the additional services proposed under Amendment 2 comes from Measure A Capital, Measure A Maintenance, Gas Tax and Storm Water Utility funds.

Background and Analysis

Construction on the Sunrise/Sungarden Signalization Project was field accepted in September 2015 and formally accepted by the City Council in January 2016. Construction on the Sunrise Complete Streets Improvement Phase 3 was to begin in May 2015, but a last-minute requirement to obtain a water quality permit delayed the start of work by about 5 weeks. During the early stages of the work, PG&E had difficulty locating and eventually relocating several gas services and a main line resulting in additional inefficiencies for our contractor. Additionally, extra work stemming from varying field conditions and challenges associated with transitioning to adjacent properties have further extended the work. The contractor continued to work during this period, however, work on critical path items and their overall schedule was impacted.

Ultimately, completion of the project has been extended by approximately 5 months and UNICO, our construction management and inspection consultant, requested an adjustment to their budget to ensure the necessary services through completion of construction and project closeout.

Staff has negotiated with UNICO to refine their proposal and believes the agreed-upon scope and fee are reasonable relative to the level of effort required. Staff is requesting approval of Amendment No. 2 to the agreement, ensuring UNICO has the resources needed to properly manage the project and inspect the work to ensure that the workmanship and materials are in accordance with the plans and specifications. This is critical in preparing the final project closeout documentation for this (Federally) funded project.

Conclusion

Staff recommends City Council adopt the attached resolution authorizing the City Manager to execute Amendment No. 2 to the agreement with UNICO Engineering for Construction Management, Inspection and Materials Testing Services for the Sunrise Blvd. Complete Streets Improvement Phase 3 Project.

Attachment: (1) Resolution
(2) Proposal

RESOLUTION NO. 2016- ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CITRUS HEIGHTS, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES AGREEMENT WITH UNICO ENGINEERING FOR THE SUNRISE BLVD./SUNGARDEN DR. SIGNALIZATION IMPROVEMENTS AND SUNRISE BLVD. COMPLETE STREETS IMPROVEMENTS PHASE 3 PROJECTS

WHEREAS, on October 23, 2014, the City Council of the City of Citrus Heights, California, executed an agreement with UNICO Engineering (UNICO) to provide Construction Management, Inspection and Materials Testing Services for the Sunrise Boulevard/Sungarden Drive Signalization Improvements and Sunrise Boulevard Complete Streets Improvement Phase 3 projects; and

WHEREAS the Sunrise Boulevard/Sungarden Drive Signalization Improvements Project is complete; and

WHEREAS construction on Sunrise Boulevard Complete Streets Improvement Phase 3 project (SBCS3) has been extended by approximately five (5) months due to permitting, utilities and unforeseeable condition related delays; and

WHEREAS, the City wishes to amend UNICO's agreement to ensure uninterrupted construction oversight, inspection and materials testing through completion of the project; and

WHEREAS, the additional services in the amount of \$94,600 will be funded Measure A Capital, Measure A Maintenance, Gas Tax and Storm Water Utility funds.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Citrus Heights that the City Manager is hereby authorized to execute Contract Amendment No. 2 with UNICO Engineering, in the amount not-to-exceed \$94,600, for additional construction management, inspection and materials testing services for the Sunrise Blvd. Complete Streets Improvement Phase 3 Project.

The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Citrus Heights, California, this 28th day of April, 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Jeannie Bruins, Mayor

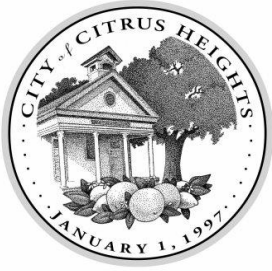
ATTEST:

Amy Van, City Clerk



City of Citrus Heights
Cost Proposal - Addendum 2
Sunrise Boulevard Complete Streets Improvement Project Phase 3

		UNICO				DOKKEN	H & K								
		Carl Sloan Resident Engineer	Cesar Montes de Oca SWPPP Services	Roque Villareal Civil Inspector	Clerical Support	Joe Ostdiek Electrical Inspector	Materials Tester Flat Rate								
Task #	Task Description	Direct Labor Rate	\$ 57.70	\$ 57.70	\$ 61.18	\$ 25.00	\$ 51.00	\$ 103.00	BASE Rate \$400/Mnth	TOTALS				Addendum 2	
		Overhead Rate	110%				160%	0%							
		Fee	10%				10%	0%							
		HOURS						Months							
1	SWPPP Services									Direct Labor Cost	Indirect Labor	Fee	Total	Budget Inc.	Rev. Budget
	1.1 SWPPP Preparation and Processing		20		20					\$ 1,654	\$ 1,819.40	\$ 347.34	\$ 3,821		
	1.2 SWPPP Inspections		160							\$ 9,232	\$ 14,771	\$ 2,400.32	\$ 26,404		
										Task 1 - Subtotal			\$ 30,224	\$ 4,600	\$ 34,824
2	Resident Engineer / Construction Manager									\$ -					
	2.1 Resident Engineer Services	840			40					\$ 49,468	\$ 54,414.80	\$ 10,388	\$ 114,271		
										Task 2 - Subtotal			\$ 114,271	\$ 30,000	\$ 144,271
3	Construction Inspection														
	3.1 Civil Inspection			850						\$ 52,003	\$ 57,203.30	\$ 10,920.63	\$ 120,127		
	3.2 Electrical Inspection					100				\$ 5,100	\$ 8,160.00	\$ 1,326.00	\$ 14,586		
										Task 3 - Subtotal			\$ 134,713	\$ 55,000	\$ 189,713
4	Materials Testing														
	4.1 Site Work (Earthwork, asphalt paving)						140			\$ 14,420	\$ 15,862	\$ 3,028.20	\$ 33,310		
	4.2 Structural (concrete, steel, wood)						22			\$ 2,266	\$ 2,493	\$ 475.86	\$ 5,234		
										Task 4 - Subtotal			\$ 33,310	\$ -	\$ 33,310
5	Project Management														
	5.1 Project Management, Agency Coordination, Contract Management	80								\$ 4,616	\$ 5,078	\$ 969.36	\$ 10,663		
										Task 5 - Subtotal			\$ 10,663	\$ -	\$ 10,663
6	Clerical Support														
	6.1 Binder Preparations, Filing, Printing and Scanning	30			200					\$ 6,731	\$ 7,404	\$ 1,413.51	\$ 15,549		
										Task 6 - Subtotal			\$ 15,549	\$ -	\$ 15,549
7	Constructability Review														
	7.1 Quantity Review	40								\$ 2,308	\$ 2,539	\$ 484.68	\$ 5,331		
	7.2 Contract Document Review for Contractual Consistency		20							\$ 1,154	\$ 1,269	\$ 242.34	\$ 2,666		
	7.3 Contract Document Review for Construction Process and Errors		20							\$ 1,154	\$ 1,269	\$ 242.34	\$ 2,666		
										Task 6 - Subtotal			\$ 10,663	\$ -	\$ 10,663
	Other Direct Cost														
	Printing Expenses									\$ 500			\$ 500		
	Mileage									\$ 4,000			\$ 4,000		
	Travel Time (Materials Testing)									\$ 4,388			\$ 4,388		
	Materials Testing Oversight									\$ 4,000			\$ 4,000		
	Laboratory Fees									\$ 5,381			\$ 5,381		
										Other Cost - Subtotal			\$ 18,269	\$ -	\$ 18,269
8	Addendum 2 - Office Rental														
	8.1 July 2015-March 2015														
										Task 8 - Subtotal			\$ -	\$ 5,000	\$ 5,000
Total Hours		990	220	850	260	100	162								
										TOTAL		\$ 367,662	\$ 94,600	\$ 462,262	



CITY OF CITRUS HEIGHTS

Memorandum

April 28, 2016

TO: Mayor and City Council Members
Henry Tingle, City Manager

FROM: David Wheaton, General Services Director
Stuart Hodgkins, Principal Civil Engineer

SUBJECT: **Antelope Road Safe Routes to School Project**
Award of Construction Contract
City PN 20-13-004

Approved and Forwarded to City Council

_____ Fin.

_____ Atty.

Henry Tingle, City Manager

Summary and Recommendation

On April 14, 2016, the City opened bids for the Antelope Road Safe Routes to School Project (Project). After evaluating the bids (listed below), staff has determined that Sierra National Construction (SNC) submitted the lowest responsive and responsible bid.

	<u>Total Bid</u>
Sierra National Construction	\$ 638,465.00
Central Valley Engineering & Asphalt	\$ 709,340.00
Martin General Engineering	\$ 719,313.50
Martin Brothers Construction	\$ 944,854.00

Therefore, staff recommends City Council approve the attached Resolution, authorizing the City Manager to execute an agreement with SNC in the amount of \$638,465.00 for the Antelope Road Safe Routes to School Project.

Fiscal Impact

The Contractor's Bid for the project is \$638,465.00. However, this bid is based upon estimated quantities, which may vary due to actual field conditions. Ultimately, the Contractor is paid for actual work completed based upon the unit price bid, which may require the approval of a change order. Change orders for amounts less than 15% of the total contract price shall require prior written approval of the City Manager. Change orders for amounts equal to or greater than 15% of the total contract price shall require prior written approval of the City Council. Funding from State Safe Routes to School Grant, Measure A Capital, and Gas Tax, is programmed in the 2016-2020 Capital Improvement Program to fund construction, inspection and construction management for the Project. Additionally, Storm Water funds will be programed for the 2016/2017 budget to the fund drainage relate improvements.

Background and Analysis

In June 2012, the City was awarded a Safe Routes to School grant to address safety concerns on Antelope Road for children walking or biking to and from Mesa Verde High School and Carriage Elementary School. This Project continues the City's efforts which began in 2012 with Antelope Road Accessibility & Safety Improvements Project, which constructed sidewalk along the south side of Antelope between Auburn Boulevard and Lauppe Lane and pedestrian upgrades to the Antelope/Lauppe traffic signal. The Project will construct infill of the remaining missing segments of curb & gutter, sidewalk and street safety lighting along the north side of Antelope Road between Auburn Boulevard and I-80.

On March 23, 2016, the plans and specifications for this Project were approved and advertised for bids. On April 14, 2016, four (4) bids were received and after a thorough analysis, staff has determined that Sierra National Construction's bid of \$ 638,465.00 was the lowest responsive and responsible bid.

Conclusion

Staff recommends City Council approve the attached Resolution, authorizing the City Manager to execute an agreement with Sierra National Construction for the Antelope Road Safe Routes to School Project.

Attachments: Resolution

RESOLUTION NO. 2016- ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CITRUS HEIGHTS, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO
EXECUTE AN AGREEMENT WITH SIERRA NATIONAL CONSTRUCTION FOR THE
ANTELOPE ROAD SAFE ROUTES TO SCHOOL PROJECT**

WHEREAS, the City Council of the City of Citrus Heights, California, wishes to proceed with construction on the Antelope Road Safe Routes to School Project; and

WHEREAS, the Project will improve pedestrian and bicycle travel to and from area schools safer; and

WHEREAS, bids for the Project were opened and read aloud on April 14, 2016, and Sierra National Construction was determined to be the lowest responsive, responsible bidder; and

WHEREAS, adequate State Safe Routes to School Grant, Measure A Capital, Gas Tax, and Drainage Funds have been budgeted to fund the project.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Citrus Heights hereby authorizes the City Manager to execute an agreement with Sierra National Construction for the Antelope Road Safe Routes to School Project, and that a copy of the Agreement is available and on file in the City Clerk's office and is incorporated herein by reference and made a part of this Resolution.

The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Citrus Heights, California, this 28th day of April, 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Jeannie Bruins, MAYOR

ATTEST:

Amy Van, City Clerk



CITY OF CITRUS HEIGHTS

Memorandum

April 28, 2016

TO: Mayor and City Council Members
Henry Tingle, City Manager

FROM: Rhonda Sherman, Community & Economic
Development Director
Alison Bermudez, Associate Planner

SUBJECT: Letter of Public Convenience and Necessity
In & Go Market – 12417 Fair Oaks Boulevard

Approved and Forwarded to
City Council

Fin.

Atty.

Henry Tingle, City Manager

Summary and Recommendation

The Letter of Public Convenience and Necessity (PCN) offers the City Council the ability to approve or deny alcohol license applications when the location area is considered high crime or the number of existing licenses within a census tract exceeds the standards established by the Department of Alcoholic Beverage Control (ABC). The current request is to allow the upgrade of an existing alcohol license from a Type 21 (off-sale beer and wine) to a Type 20 (off-sale distilled spirits) at an existing store located at 12417 Fair Oaks Boulevard, the southwest corner of Fair Oaks Boulevard and Greenback Lane.

Staff recommends approval, for the following reason:

In & Go Market is an existing store that has been selling beer and wine since 2014. In & Go has been operating in a manner that has not been a burden to police services and the upgrade of the alcohol license to allow the addition of distilled spirits is not expected to increase crime. The area is not considered over-concentrated as only one other alcohol license exists within the census tract.

The following motion is recommended:

Motion: Move to approve the Letter of Public Convenience and Necessity that will allow for the issuance of a Type 21 license (off-sale distilled spirits) at In & Go Market located at 12417 Fair Oaks Boulevard.

Fiscal Impact

None

Background and Analysis

The California Department of Alcoholic Beverage Control (ABC) requires an applicant to obtain a Letter of Public Convenience and Necessity (PCN) from the affected jurisdiction (the City of Citrus Heights) because the area is either deemed “high crime” or “over concentrated”

by ABC standards. A location is considered high crime if the site is located in an area (crime reporting district) that has a 20 percent or greater number of reported crimes than the average number of reported crimes from all crime reporting districts (citywide). Over concentration is based on the number of existing licenses within each census tract with a maximum number assigned per tract. In the case of In & Go Market, the applicant is required to obtain the PCN from the City Council because the crime reporting district where the store is located is considered high crime by ABC's standards. In & Go Market is located in census tract 81.39. Only one license is in existence within census tract 81.39 and two licenses are allowed, therefore, the area is not deemed over concentrated.

Chapter 6 of the Citrus Heights Municipal Code regulates the issuance of "letters of public convenience." In essence, the Chapter outlines a process by which a variety of Departments and Agencies review applications for "letters of public convenience." Department review is related to current and past problems at the location, including criminal activity, building code violations, business license renewal, zoning approval, health violations, zoning enforcement and complaints to the ABC. Each department reviews the application and can recommend denial of the application based on problems with the site. The City Council is not obligated to approve the license request even if the business has not violated any department's provisions. While Chapter 6 contains standards for reviewing Departments to recommend denial of an application of this type, it does not contain any standards for approving such applications and determining that the "public convenience and necessity" are met. There are no criteria for spacing of these uses or other limitations found within the Code. The Council has the full discretion to approve, or deny the "Letter of Public Convenience" request. The Council does not have the authority to condition the approval of a Letter of Public Convenience (PCN), according to the ABC. The Council must either approve or deny the PCN.

Crime Reporting

As discussed earlier, an area is considered high crime by ABC standards if the location is in an area (crime reporting district) that has a 20 percent or greater number of reported crimes than the average number from the city wide total. Since this project is located in an area that is made up of a large amount of commercial properties it is expected that the crime data would be considered high. The Police Department has reviewed the calls for service in and around this location and they did not find any noticeable trends that would suggest that the issuance of the PCN for the existing store would cause an increase in crime.

Current Request

In & Go Market is an existing store located at the southwest corner of Greenback Lane and Fair Oaks Boulevard. This store has been in operation for a number of years and in 2014, the City Council approved a Letter of Public Convenience and Necessity (PCN) that permitted the addition of beer and wine to the store's product mix. The store also offers a variety of goods including snacks, drinks, pet food, dairy products, and other household sundries. The request is to seek approval of a Letter of Public Convenience and Necessity (PCN) that would allow the store to upgrade their existing liquor license from a Type 21 (beer & wine) to a Type 20 (distilled spirits).

As shown in the floor plan (Planning Commission Report Attachment 3), the distilled spirits will be stocked behind the sales counter, providing a secure display area. The store will operate between the hours of 6:00 a.m. to 11 p.m. Sunday through Thursday and 6:00 am to Midnight

Friday and Saturday. The store operates with a security plan that includes video surveillance inside and outside with live monitors at the cashier counter. The applicant retains the recordings for a minimum of seven days and will allow police access to the recordings as necessary.

Planning Commission Hearing April 13, 2016

In & Go Market was originally issued a Use Permit in 2014 that permitted the sale of beer and wine. On April 13, 2016, the applicant was approved for an amendment to the Use Permit that allowed the addition of distilled spirits to the product mix in conjunction with the store's expansion into an adjoining space. A copy of the staff report and documentation provided to the Planning Commission is provided as Exhibit B.

It should be noted that that with the addition of distilled spirits, it is expected that In & Go's alcohol sales will exceed 20% of the store's total sales changing the stores classification from a "convenience store" to an "off-sale establishment" (liquor store). Off-sale alcohol establishments are not permitted within 500 feet of a "sensitive use" (schools, parks, hospitals, clinics, etc.). Within the shopping center is a medical facility known as "Urgent Care Now" which would be considered a "sensitive use" and prohibit In & Go Market from upgrading their alcohol license. After research and discussions with the City Attorney, it was determined that In & Go Market would be exempt from the separation requirement between the market and Urgent Care Now based upon Zoning Code Section 106.42.020.C that provides an exception to the distance separation requirements between existing alcohol establishments and sensitive uses.

Public Outreach

The Citrus Heights Police Department reviewed the application and based upon operational procedures and the security plan outlined in the application, the Police Department has no objection (Planning Commission Report Attachment 4).

Recommendation and Motion

Based upon the information discussed in this report, staff recommends approval of the Letter of Public Convenience and Necessity.

Motion: Move to approve the Letter of Public Convenience and Necessity that will allow for the issuance of a Type 21 license (off-sale distilled spirits) at In & Go Market located at 12417 Fair Oaks Boulevard.

Exhibit A: Conditions of Approval – Use Permit UPMOD-15-08

Exhibit B: Planning Commission Report with Attachments and Exhibit

Attachments:

1. Vicinity Map/Shopping Center
2. Photos of the Store's Exterior and the Shopping Center
3. Floor Plan
4. Police Department Memo

Exhibit:

A: Letter of justification, security and operational plan



CITY OF CITRUS HEIGHTS
Planning Department
6237 Fountain Square Drive
Citrus Heights, CA 95621
(916) 725-2448



DATE: April 14, 2016

TO: Amy Sidhu
835 Fieldstone Ct
Folsom, CA 95630

FROM: Planning Department

FILE #: **UPMOD-15-08**

On **APRIL 13, 2016**, the *Planning Commission* **APPROVED** a **USE PERMIT MODIFICATION** to expand into an adjoining tenant space and allow the addition of distilled spirits at an existing store located at **12417 Fair Oaks Boulevard** based upon the findings listed in the staff report and the conditions listed below.

Please note that a subsequent action is required by the City Council to approve a Letter of Public Convenience & Necessity in order for this Use Permit to be executed. The City Council will be considering the project on May 12, 2016.

EXPIRATION DATE

You have two (2) years from the date of the Planning Commission approval in which to effectuate the permits, or else the USE PERMIT MODIFICATION approval become null and void.

The expiration date of this request is **April 13, 2018**.

EXTENSION OF PERMIT

You may request that a permit be extended for a period up to a maximum of one (1) year. An application for an extension shall be submitted to the Planning Department prior to the expiration date indicated above. No notice will be sent to you prior to the date of permit expiration.

YOU WILL BE RESPONSIBLE FOR REQUESTING ANY EXTENSION.

APPEAL PROCEDURE

Any person dissatisfied with an act or determination of the Planning Commission relating to provisions of the Code may appeal the action by filing a written notice and payment of the appropriate appeal fee with the Secretary of the Planning Commission not later than ten (10) calendar days after the day on which the determination was made.

Any party may protest the imposition of any fees, dedications, reservations, or other exactions imposed on a development project, as defined in Government Code Section 66000 by submitting the requisite materials in the manner identified in Government Code Section 66020. A protest filed pursuant to GC Section 66020 shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of

the imposition of the fees, dedications, reservations, or other exactions to be imposed on a development project.

CONDITIONS OF APPROVAL FOR USE PERMIT MODIFICATION (FILE # UPMOD-15-08)

1. The following conditions of approval shall apply to the operation located at 12417 Fair Oaks Boulevard and these conditions supersede the conditions of approval in UP-14-03.
2. The applicant shall comply with all State Regulations, City of Citrus Heights Codes and Regulations, including but not limited to the Citrus Heights Municipal Code and Zoning Code, Building Code; Fire Code and Sacramento County Environmental Health Department standards. The applicant must obtain approval from the Building Department expansion into the adjoining space. The Building Department review will include assessment of the accessibility to the site and may require site alterations.
3. The Use Permit Modification shall become void if not exercised within one year from date of approval unless a time extension has been granted. The Use Permit shall be deemed "exercised" when the applicant has actually commenced the use on the site in compliance with the conditions of approval. (Planning)
4. The Use Permit is deemed to run with the land and remains valid through change of ownership. The Use Permit will expire if the approved use is ceased for a time greater than six months. (Planning)
5. The applicant shall maintain a minimum of two bicycle racks in an appropriate location near the primary entrance. (Planning)
6. The business shall operate in accordance with Exhibit A, including the hours of operation of 6:00 a.m. to 11:00 p.m. Sunday through Thursday and 6:00 a.m. to Midnight on Friday and Saturday. (Planning)
7. The business may not display any banners and/or portable signs without proper permits through the Planning Division. At no time shall any signs be installed or displayed off-site. (Planning)
8. The applicant shall ensure all exterior lights are operational and in good working order. Any non-working lights or lights that become unoperational shall be repaired or replaced in a timely manner and shall comply with Zoning Code Section 106.35. (Planning)
9. The noise levels generated by the operation of such establishment shall not exceed 60 dBA on adjoining properties zoned for residential purposes and 65 dBA for commercially zoned property. (Planning)
10. A public telephone listing is required. (Planning)
11. It shall be the responsibility of the applicant to provide all employees with the knowledge and skills that will enable them to comply with their responsibilities under law. The knowledge and skills deemed necessary for responsible alcoholic beverage service shall include the following topics and skills development:
 - a) State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws.
 - b) The effects of alcohol on the body, and behavior, including how the effects of alcohol affect the ability to operate a motor vehicle.

- c) Methods for dealing with intoxicated customers and recognizing underage customers. (Planning)
12. The business shall provide litter and trash receptacles at convenient locations inside and outside the premises. The site shall be keep free of litter and the applicant shall be responsible for the removal of litter from adjacent property and streets that results from this project. (Planning)
13. No more than 25 percent of the combined total window area may be covered with signage, advertising, etc. as described in the signage regulations section of the Zoning Code. (Planning)
14. Along with building security with building security systems and employee training, the following minimum measures shall be implemented as a measure to resist crime attempts:
- a) Store shall have an interior layout that provides visibility for the cashier e.g. low display counters, two-way mirrors, or other methods that would provide visibility including corners or hidden areas;
 - b) The cashier station shall be designed to be visible from the parking area. Windows or doors shall not be blocked with posters or signs. Counters shall be maintained free from excess displays to enhance the visibility of the cashier station;
 - c) A timed drop safe shall be provided adjacent to the cashier station. Premises shall be posted accordingly;
 - d) The installation of height tape next to exit;
 - e) A prominently displayed video camera for identifying criminals. The video camera should include a device that records 24 hours of video directly on to a DVD/DVR recorder; and
 - f) The owner shall maintain a library of the recorded digital video for a minimum of 7 days.
 - g) Alternative methods must be approved by the Chief of Police. (Planning)
15. Any violations of the conditions of approval could result in the revocation or modification of the Use Permit and/or the imposition of fines and penalties as allowed under Code. (Planning)
16. The applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Permit challenging the validity of the Agreement or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein.

CC: John Sutton
2795 E. Bidwell St. Ste. # 100-269
Folsom, CA 95630



**CITY OF CITRUS HEIGHTS
PLANNING DIVISION STAFF REPORT
PLANNING COMMISSION MEETING**

April 13, 2016

Prepared by: Alison Bermudez, Associate Planner

REQUEST:

The applicant is requesting approval of a Use Permit Modification to change the operation of an existing convenience store by increasing the store's square footage and adding distilled spirits to the product mix.

File Name and & Numbers: In & Go Market – File # UPMOD-15-08

Project Address & APN: 12417 Fair Oaks Blvd – APN# 233-0440-027-0000

Applicant: In & Go Market c/o Amy Sidhu 835 Fieldstone Ct, Folsom, CA 95630

Property Owner: Le Jo, Inc., 1820 Professional Drive Suite 1, Sacramento, CA 95825

SUMMARY RECOMMENDATION:

The Planning Division recommends that the Planning Commission:

- A. Approve a Use Permit Modification to expand the tenant space and allow the addition of distilled spirits at an existing store located at 12417 Fair Oaks Blvd, subject to the Findings and Conditions of Approval contained in the staff report.

BACKGROUND:

The Planning Commission reviewed this project at their February 24, 2016, hearing. Following staff's presentation, the Commission questioned whether the nearby medical facility known as "Urgent Care Now" would be considered a "sensitive use" and prohibit In & Go Market from upgrading their alcohol license since the Zoning Code requires a 500 foot separation between alcohol establishments and "sensitive uses" (schools, parks, hospitals, clinics, etc.). To allow staff time to do further research on the medical facility, a continuance was granted to this meeting. After research, the City Attorney and Planning staff determined that this project is exempt from the separation requirement since In & Go Market was in business prior to the opening of the nearby medical facility.

In & Go Market is a 1,336 square foot convenience store that has been in operation since 2006. The applicant has owned and operated the store for more than two years. From 2006 to 2014, the store sold a variety of convenience items including drinks, snacks, pet food, dairy products, and other household sundries (no alcohol was sold). In 2014, the applicant was approved for a Use Permit and a Letter of Public Convenience and Necessity (PCN) by the City that allowed the store to add beer and wine to the product mix.

The current project is to increase the size of the store by 710 square feet and expand the product offerings to include imported distilled spirits, craft beers, and a variety of sophisticated beverages. Expanding the store offerings will reclassify the store from a "convenience store" to an "off-sale liquor establishment" and requires an amendment to the previously approved Use Permit.

The project setting is summarized below:

Location:	12417 Fair Oaks Blvd – southwest corner of Greenback and Fair Oaks Blvd
Tenant Space Size:	Approximately 2,046 square feet (including a proposed expansion of 710 square feet).
REACH Neighborhood:	11 – Birdcage Heights Neighborhood Association who had no objections to the project.

The shopping center includes a variety of service providers including hair and nail salons, optometrist, massage therapist, urgent care, and an insurance office.

ZONING AND LAND USES:

LOCATION	ZONING	GENERAL PLAN LAND USE	ACTUAL USE OF PROPERTY
On-Site	Limited Commercial	General Commercial	Retail Center
North	Shopping Center	General Commercial	Retail Center
South	Business Professional	General Commercial	Office Building
East (Unincorporated Sacramento County)	Limited Commercial	Commercial Office	Retail/Condominium Homes
West	Limited Commercial	General Commercial	Retail Center

PROJECT DESCRIPTION

In & Go Market currently is an existing convenience store located at the southwest corner of Greenback and Fair Oaks Boulevard. The applicant is requesting a modification to a previously approved Use Permit that would allow a 710 square foot expansion and the addition of distilled spirits to the product mix.

As described in Exhibit A, the existing convenience store proposes to add distilled spirits that would reclassify the store from a “convenience store”¹ to an “off-sale alcohol establishment”². The expanded product lines would include specialty wines and liquors along with a broad selection of craft beers.

The store operating hours would remain the same, 7:00 am to 11:00 pm Sunday through Thursday and 8:00 am to Midnight, Friday and Saturday.

¹ **Convenience Store.** A neighborhood serving retail store of 3,500 square feet or less in gross floor area, which carries a range of merchandise oriented to daily convenience shopping needs.

² **Off-Sale Liquor Establishments.** An off-sale liquor establishment shall mean any establishment which is applying for or has obtained a liquor license from the California Department of Alcoholic Beverage Control (ABC) including, but not limited to, type 20 (off-sale beer and wine) and type 21 (off-sale general) for selling alcoholic beverages in an unopened container for the consumption off the premises. This definition does not include food markets, supermarkets, drugstores or any other retail establishment in which off-sale of alcoholic beverages constitute less than 20 percent of total sales.

Use Permit Modification– *Analysis of Request*

The Citrus Heights Zoning Code requires a Use Permit for off-sale liquor establishments. Approval of a Use Permit requires that findings be made by the Planning Commission in order to recommend approval for a Use Permit. The required findings for the Use Permit are listed below in ***bold italics*** and are followed by an evaluation of the applicant's request in relation to the required findings.

- ***Off-sale alcohol establishments are allowed within the Limited Commercial (LC) zoning district and complies with all other applicable provisions of the Zoning Code and Municipal Code;***
- ***The proposed use is consistent with the General Plan;***

The project site is located within the Fair Oaks Plaza Shopping Center and is zoned LC (Limited Commercial). Off-sale alcohol establishments are allowed by Use Permit within the LC zoning district. The proposed project is in conformance with the General Plan designation (General Commercial), in that this designation provides for a variety of service uses and other compatible uses.

The operation of an off-sale liquor establishment is regulated by various sections of the Zoning Code including Section 106.42.020 that does not allow an off-sale alcohol establishment to be located within 500-feet of a "sensitive" use. Sensitive uses include places such as schools, parks, and health care facilities. Operating within the shopping center is a health care facility known as "Urgent Care Now". After research and discussions with the City Attorney, it was determined that In & Go Market would be exempt from the separation requirement between the market and Urgent Care Now based upon Zoning Code Section 106.42.020.C that provides an exception to the distance separation requirements between existing alcohol establishments and sensitive uses.

- ***The design, location, size, and operating characteristics of the retail store is compatible with the existing and future land uses in the vicinity;***

Since the inclusion of beer and wine into the store's product mix in 2014, the store has not caused an increase in calls for service or other policing issues within the center or nearby surroundings. Therefore staff does not believe that allowing the addition of distilled spirits to the product mix will not be detrimental to public health, safety, comfort or general welfare provided the applicant complies with all applicable conditions.

The building area for the proposed location appears to be in good condition and the applicant does not propose any exterior modifications.

Based upon the above information and the provided conditions of approval, staff supports this required finding.

- ***The site is physically suitable for a retail store including density and intensity of the use, including access, utilities, and the absence of physical constraints; and***

The existing center is fully serviced by completed infrastructure including roads, sidewalks, and utilities and the applicant proposes no exterior changes to the building. The center has existing

parking light standards that provide illumination for the center. Based upon the above information, staff supports this required finding.

- ***Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the store is located.***

Staff worked in conjunction with the Police Department on the proposed project. The Police Department reviewed the proposal including the store's interior layout, security plan, and the location's surroundings. Calls for service within the shopping center were analyzed and the Police Department found that calls appear to be routine in nature and did not appear excessive.

Within the surrounding area of the location, alcohol is sold at the CVS Pharmacy, which is located outside the city limits at 8101 Greenback Lane. Beyond the CVS, the nearest off-sale alcohol is BevMo, which is located near the corner of Greenback Lane and Sunrise Blvd, nearly one-half mile away.

Based upon this review, staff does not believe that the proposed business will pose a strain to police services or anticipate any incidents that may be injurious to the use and enjoyment of other property within the vicinity. The addition of the store will not impede the normal and orderly development of surrounding properties, which is already fully developed.

OTHER REQUIRED APPROVALS

In & Go Market has filed an application with the Department of Alcoholic Beverage Control to obtain an off-sale liquor license (Type 21) for distilled spirits. ABC has notified the applicant that a Letter of Public Convenience and Necessity (PCN) must be approved prior to the issuance of the alcohol license. The City Council is the approving authority on PCNs and they have the ability to approve or deny the PCN. If either the State or the City denies the submitted application, the applicant will not be able to move forward with the project as approval from both agencies is required. The City Council is expected to review the project at their hearing on May 12, 2016.

PUBLIC OUTREACH

The notice of application was sent to the Birdcage Heights Neighborhood Association (NA #11). As of the writing of this report, no objection was received.

A public hearing notice for the February 24, 2016, hearing was published in a general circulating newspaper and mailed to property owners within 500 feet of the project boundaries. At the February 24th hearing the project was continued to today's meeting and renoticing of the project was not required.

ENVIRONMENTAL DETERMINATION

This project is Categorically Exempt from the requirements of the California Environmental Quality Act under Section 15301 – Existing Facilities.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt the following motion:

1. Approve the Use Permit modification to allow the operational change from a convenience store to an off-sale liquor establishment located at 12417 Fair Oaks Blvd, subject to the Findings and Conditions of Approval contained in the staff report.

FINDINGS FOR APPROVAL OF USE PERMIT MODIFICATION (FILE # UPMOD-15-08)

- *Off-sale alcohol establishments are allowed within the Limited Commercial (LC) zoning district and complies with all other applicable provisions of the Zoning Code and Municipal Code;*
- *The proposed use is consistent with the General Plan;*
- *The design, location, size, and operating characteristics of the retail store is compatible with the existing and future land uses in the vicinity;*
- *The site is physically suitable for a retail store including density and intensity of the use, including access, utilities, and the absence of physical constraints; and*
- *Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the store is located.*

CONDITIONS OF APPROVAL FOR USE PERMIT MODIFICATION (FILE # UPMOD-15-08)

1. The following conditions of approval shall apply to the operation located at 12417 Fair Oaks Boulevard and these conditions supersede the conditions of approval in UP-14-03.
2. The applicant shall comply with all State Regulations, City of Citrus Heights Codes and Regulations, including but not limited to the Citrus Heights Municipal Code and Zoning Code, Building Code; Fire Code and Sacramento County Environmental Health Department standards. The applicant must obtain approval from the Building Department expansion into the adjoining space. The Building Department review will include assessment of the accessibility to the site and may require site alterations.
3. The Use Permit Modification shall become void if not exercised within one year from date of approval unless a time extension has been granted. The Use Permit shall be deemed “exercised” when the applicant has actually commenced the use on the site in compliance with the conditions of approval. (Planning)
4. The Use Permit is deemed to run with the land and remains valid through change of ownership. The Use Permit will expire if the approved use is ceased for a time greater than six months. (Planning)
5. The applicant shall maintain a minimum of two bicycle racks in an appropriate location near the primary entrance. (Planning)

6. The business shall operate in accordance with Exhibit A, including the hours of operation of 6:00 a.m. to 11:00 p.m. Sunday through Thursday and 6:00 a.m. to Midnight on Friday and Saturday. (Planning)
7. The business may not display any banners and/or portable signs without proper permits through the Planning Division. At no time shall any signs be installed or displayed off-site. (Planning)
8. The applicant shall ensure all exterior lights are operational and in good working order. Any non-working lights or lights that become unoperational shall be repaired or replaced in a timely manner and shall comply with Zoning Code Section 106.35. (Planning)
9. The noise levels generated by the operation of such establishment shall not exceed 60 dBA on adjoining properties zoned for residential purposes and 65 dBA for commercially zoned property. (Planning)
10. A public telephone listing is required. (Planning)
11. It shall be the responsibility of the applicant to provide all employees with the knowledge and skills that will enable them to comply with their responsibilities under law. The knowledge and skills deemed necessary for responsible alcoholic beverage service shall include the following topics and skills development:
 - a) State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws.
 - b) The effects of alcohol on the body, and behavior, including how the effects of alcohol affect the ability to operate a motor vehicle.
 - c) Methods for dealing with intoxicated customers and recognizing underage customers. (Planning)
12. The business shall provide litter and trash receptacles at convenient locations inside and outside the premises. The site shall be kept free of litter and the applicant shall be responsible for the removal of litter from adjacent property and streets that results from this project. (Planning)
13. No more than 25 percent of the combined total window area may be covered with signage, advertising, etc. as described in the signage regulations section of the Zoning Code. (Planning)
14. Along with building security with building security systems and employee training, the following minimum measures shall be implemented as a measure to resist crime attempts:
 - a) Store shall have an interior layout that provides visibility for the cashier e.g. low display counters, two-way mirrors, or other methods that would provide visibility including corners or hidden areas;

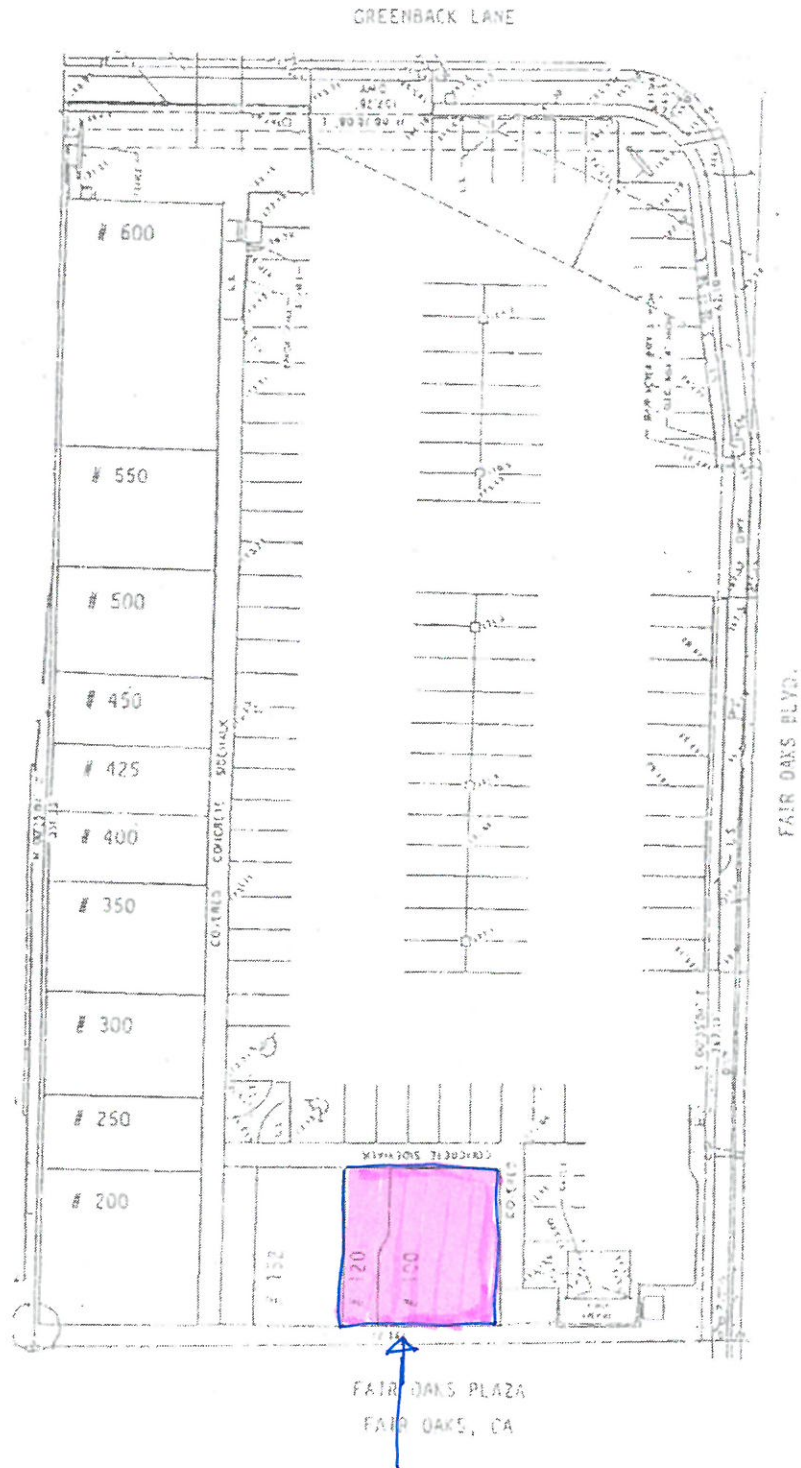
- b) The cashier station shall be designed to be visible from the parking area. Windows or doors shall not be blocked with posters or signs. Counters shall be maintained free from excess displays to enhance the visibility of the cashier station;
 - c) A timed drop safe shall be provided adjacent to the cashier station. Premises shall be posted accordingly;
 - d) The installation of height tape next to exit;
 - e) A prominently displayed video camera for identifying criminals. The video camera should include a device that records 24 hours of video directly on to a DVD/DVR recorder; and
 - f) The owner shall maintain a library of the recorded digital video for a minimum of 7 days.
 - g) Alternative methods must be approved by the Chief of Police. (Planning)
15. Any violations of the conditions of approval could result in the revocation or modification of the Use Permit and/or the imposition of fines and penalties as allowed under Code. (Planning)
16. The applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Permit challenging the validity of the Agreement or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein.

Attachments:

- 1. Vicinity Map
- 2. Photos of Store's Exterior and Shopping Center
- 3. Floor Plan
- 4. Police Department Memo

Exhibits:

- A: Letter of justification, security plan, operational plan



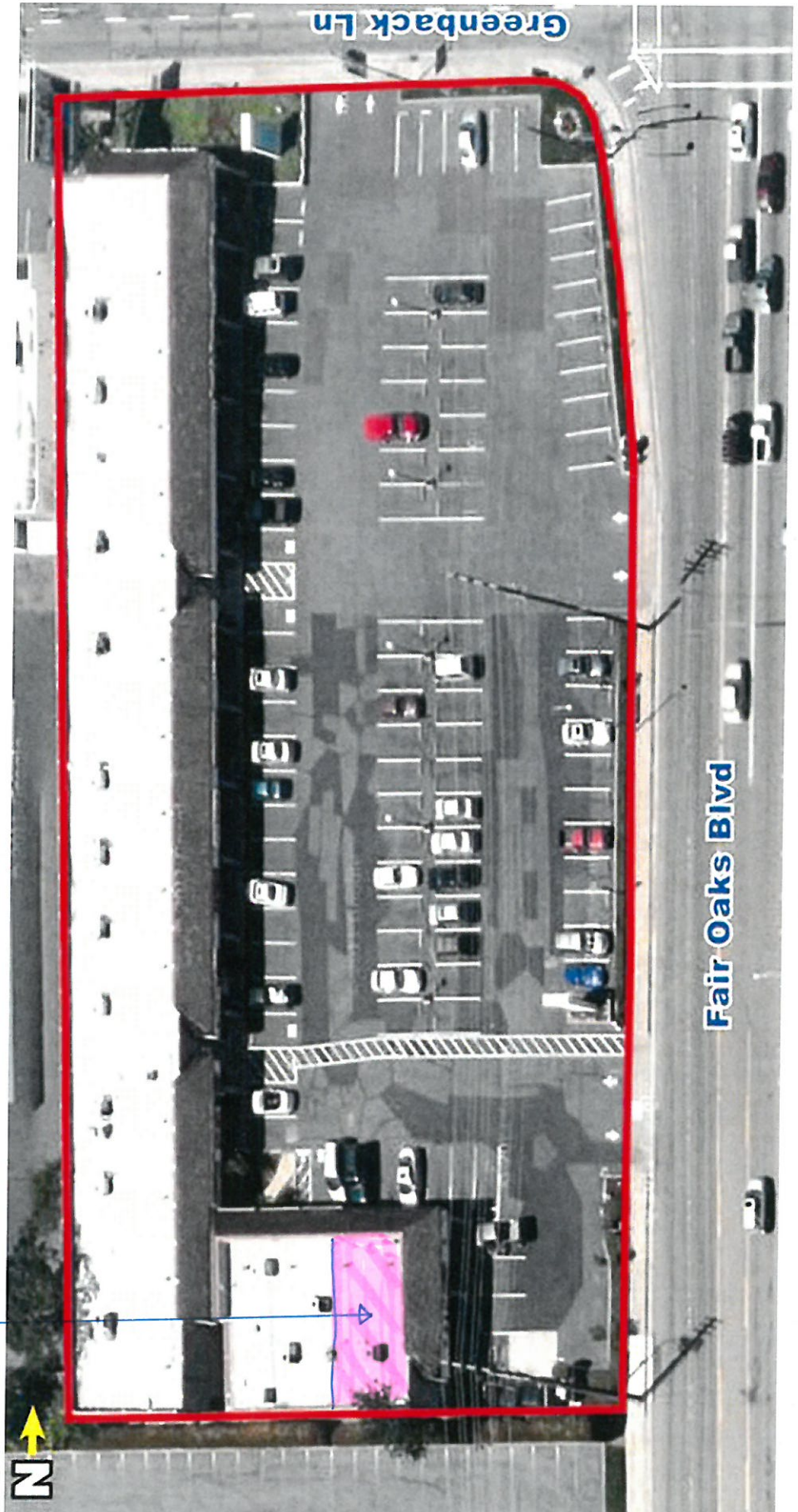
In 260 Market

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BY: [Signature]



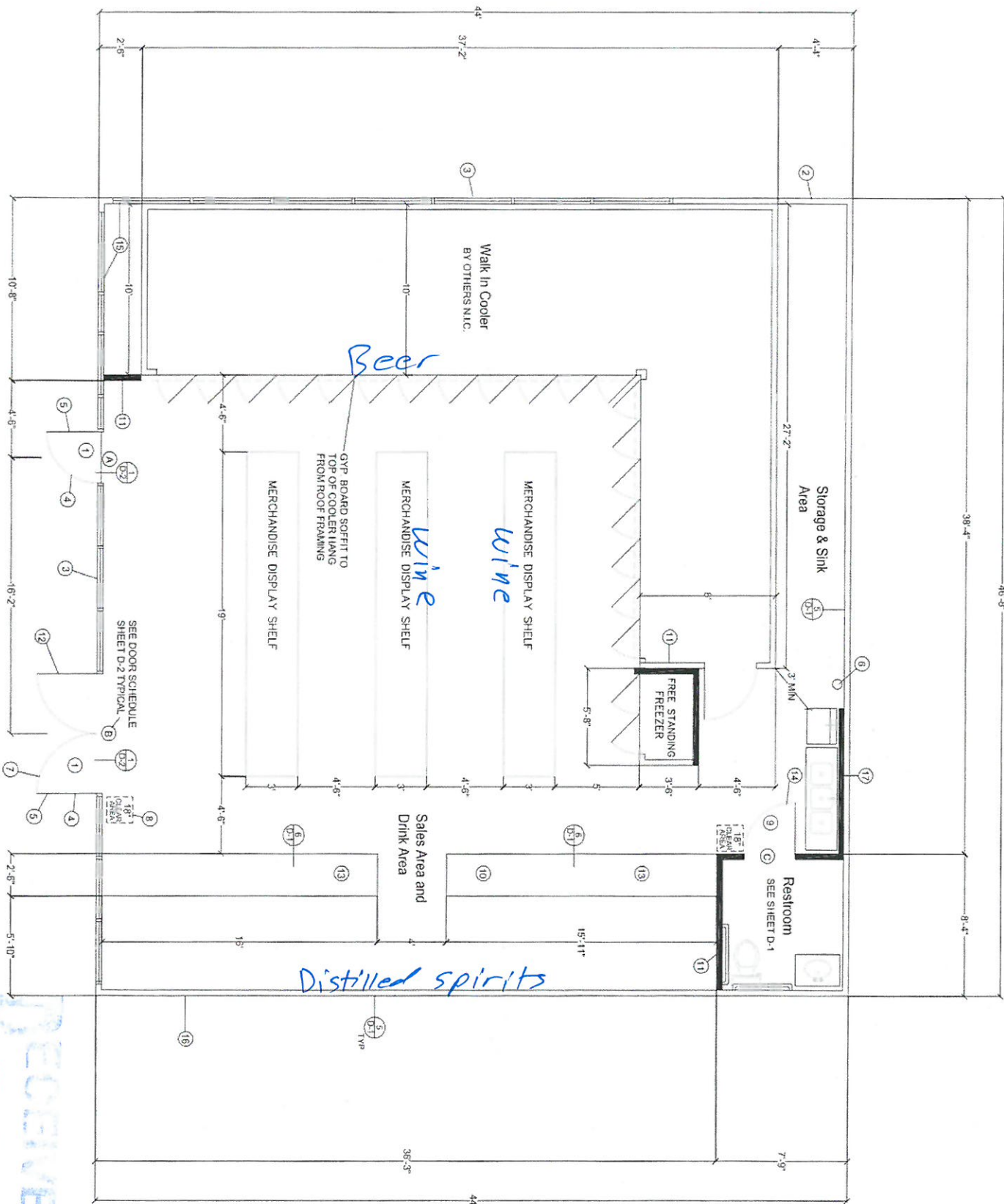


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In 2 Go Market

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PROPOSED FLOOR PLAN



CITRUS HEIGHTS POLICE DEPARTMENT



MEMORANDUM

DATE: 12/21/15

TO: City of Citrus Heights Planning Division

FROM: Citrus Heights Problem Oriented Policing Unit

SUBJECT: In & Go Market; 12417 Fair Oaks Blvd.

The Citrus Heights Police Department has conducted a review of the proposed full alcohol license for In & Go Market at 12417 Fair Oaks Blvd. The review process included a site inspection, a review of surrounding businesses that currently have alcohol licenses, a CPTED evaluation, a review of the proposed security plan, and an analysis of calls for service for 12417 Fair Oaks Blvd.

The inspection process included a review of businesses within the same census tract. One other establishment at Madison and Sunrise, in the same census tract, was located with retail off sale license. There is a CVS Pharmacy that sells alcohol located across the street from this proposed location but is located in a different census tract and in Sacramento County jurisdiction. The next closest alcohol retail outlets are the Sprouts Grocery Store and the BevMo that are located near the intersection of Greenback Lane and Sunrise Boulevard, nearly one-half mile away.

The proposed layout of the In & Go Market appears satisfactory regarding the environmental design and lighting. The store will be well lit with bright lights near the entrance and exits of the store. The parking lot will have lighting in numerous and strategic areas to ensure security during night time hours. Shrubbery and vegetation does not appear to be an issue with this location.

The owner of the store is planning on internal building and layout changes within the next several weeks. The proposed changes include removing a section of walling in order to accommodate additional space for liquor and alcohol sales. This proposed section will be located behind a newly constructed counter immediately adjacent to where the existing one currently sits.

The proposed security plan submitted by In & Go Market appears to be on standard with general security plans and practices of other similar establishments who sell alcohol. The plan includes keeping alcohol displayed in cases away from the front doors of the business, and cameras monitoring the aisles where alcohol will be displayed. There will be additional surveillance cameras around the exterior of the business. Additionally, employees will receive training in current alcohol licensing laws.

An analysis was conducted of calls for service to 12417 Fair Oaks Blvd. There did not appear to be any noticeable trends or above average number of calls to the location when compared to other similar business in Citrus Heights. At this time, the Citrus Heights Police Department does not object to the addition of distilled spirits for In & Go Market located at 12417 Fair Oaks Blvd.

Lt. Jason Russo
Citrus Heights Police Department
Problem Oriented Policing Unit

Request for Conditional Use Permit and
Letter of Public Convenience or Necessity
In & Go Market – 12417 Fair Oaks Blvd. #100 Citrus Heights

Amarjeet (Amy) Sidhu, owner of In & Go Market Inc., respectfully requests a Use Permit and Letter of Public Convenience to upgrade her current beer and wine license to include distilled spirits.

The applicant has owned In & Go Market for a little more than two years and she and her husband have owned several ABC licensed convenience markets in Sacramento and El Dorado Counties for many years with a clean history and no ABC or city ordinance violations.

They are part of the Citrus Heights Chamber of Commerce and have won “Best Convenience Store” in Citrus Heights by the Chamber of Commerce in 2012 and were issued a plaque (see attached).

They have owned one licensed market in Camino, CA (El Dorado County) for 15 years now with no ABC violations and they also own a check cashing business in Citrus Heights. Applicants have an established history of responsible ownership of small markets and continue in that practice with two active businesses here in Citrus Heights (please see attached).

In & Go Market is located in an existing commercial shopping center built in 1982 with over 17, 300 sq. ft. of retail and office space and built on a 1.57 acre lot of land. In & Go Market is approximately 2,046 square feet and will offer an exclusive array of high-end and imported distilled spirits, wines and craft beers. Currently the business is operating more as a convenience market but will focus on offering a wider and more sophisticated level of distilled spirits and other alcoholic beverages that the average convenience market does not provide to its customers.

The owners are also looking to expand the premises to include the vacant adjacent suite, so aside from the high-end alcohol the business will still be able to provide its patrons and the neighboring residents a variety of products ranging from pet food, car oil and accessories to charcoal, paper towels, children’s toys, snack foods, hot coffee and pre-

paid phone cards, pre-packaged burritos and sandwiches, laundry items, gelatos, hats and gloves, dairy products, canned foods, an ATM machine, Lottery, etc. – all tailored to the needs and convenience of the Citrus Heights community. Proposed alcohol sales are expected to be between 30-50% of gross sales and will be an integral part of the business. There are approximately 20 coolers of which alcohol encompasses 8 coolers. Wine will be sold in 750ml. containers. Distilled spirits will be only stored behind the clerk's counter and will be available upon request.

In & Go Market will be owner-operated with 2-3 employees. The owners' commitment to responsible retailing is of the utmost importance. Owners and employees have been trained to ABC standards in selling age-restricted items such as alcohol and tobacco, knowing symptoms of possible intoxication in case they need to deny a sale to a patron. All patrons under the age of 30 years of age will be asked for valid legal identification and have the ID checked via an ID scanner verifying legal age prior to any sale of alcohol. All owners and employees will sign ABC mandatory Clerk Affidavits informing them of alcohol related-laws and violations / penalties.

The owners are committed to doing their part in maintaining as much of a "Green" business as possible. A bicycle parking facility will be added for patrons who choose to ride their bikes as opposed to driving their cars. All cardboard and other materials will be recycled. The windows of the premises are tinted all around keeping the business cooler in the summer and adding to a reduction in the need to use the air conditioning unit. New energy efficient coolers and appliances have been added.

Security:

The owners and employees will be vigilant about patrolling the exterior area and parking lot for litter, loitering and anything else. There are (11) eleven closed circuit video surveillance cameras monitoring the cash register area, inside of the premises and the exterior as well to create comprehensive coverage. Live monitors are located by the clerk's counter and in full view for employees and patrons so that they can clearly see their activities are being monitored. Video surveillance cameras will record interior and exterior activity and maintain said

recordings for 7 days and be available to the Citrus Heights Police Department for viewing.

The store has a cash drop box in the storage room for quick deposits of store funds so the cash register never has an excessive amount of money.

If there are any issues, owners and employees will telephone police if necessary. Any litter near the business will be removed daily from the area, parking lot and adjacent properties. There are no outside telephones to be used by patrons, minimizing loitering, etc. and the outside premises is properly lighted in order to view all areas of the building and parking lot. The outside already has posted signs indicating "No Loitering" is allowed in addition to signs pertaining to the Alcohol Laws. There will be no video/arcade games maintained upon the premises. All dumpsters are secured and enclosed. Again, the store is owner-operated and the owner will be available at anytime to assist the police department in any manner. The interior of the store is protected with a sliding iron gate that secures the front windows and entrances from break in.

The store windows will be clear of signs and advertisements, thus allowing a clear and unobstructed view of the interior and cash register area for police officers and anyone else.

Letter of Public Convenience or Necessity

In & Go Market is listed in Census Tract 81.39. According to the Department of ABC data, two off-sale licenses are allowed in this census tract and there are currently two active licenses – one of which is the In & Go Market beer and wine license. If the applied-for type 21 license is approved, the owners will cancel the type 20 beer and wine license, thus not adding any new license to the census tract and not causing an over concentration of alcohol licenses.

The one license inside this census tract is located 1.60 miles away near Madison Ave./Sunrise Blvd. (Shell Gas at 7901 Madison Ave.) The nearest ABC licensed store east of the premises is located 1.58 miles away at 8696 Greenback Ln. (Quick Stop). North of the premises is CVS,

which is in a different census tract and is located in Sacramento County, which does not help generate taxes for Citrus Heights. After CVS there are no other stores for several miles. West of the premises 0.71 mile away, the closest ABC stores are BevMo, Walgreens and Sprouts located by Sunrise and Greenback Ln.

According to the Department of ABC, the crime statistics that the City of Citrus Heights Police Department sends them indicates that this particular reporting district is considered a high crime area; this is what triggers the need for the Letter of Public Convenience. It should be noted the premises is located in a busy and large retail and commercial part of Citrus Heights.

There are no schools, playgrounds, parks, churches, child care centers or other "sensitive" or consideration points within the vicinity of the market. The proposed addition of distilled spirits to an already existing beer and wine retail market would not adversely affect the peace or general welfare of the surrounding neighborhood. In fact, it will enhance the convenience for the patrons so they will not have to travel further for their shopping needs; this will allow them to have a one stop shopping experience to select from a variety of unique liquors, European wines and specialty micro brews along with fresh brewed coffee, pet food for the cat, cereal for tomorrow's breakfast as well as a multitude of other food and beverage items. The store provides an easy in and out shopping experience that nearby residents or busy patrons on the go can appreciate.

The owners understand the city's concerns about residents crossing Fair Oaks Blvd. to come to the store but the owners say most of the store's customers that walk come from the apartment complexes behind the store and on the same side of Fair Oaks Blvd. They say the families that live across Fair Oaks Blvd. in the apartments tend to drive and not walk.

The hours of operation will be 7am to 11pm Sunday through Thursday and 7am to 12am midnight on Friday and Saturday.

On November 10, 2015, I reached out to the Birdcage Heights Neighborhood Association via email and explained that the applicants would be applying for a CUP and ABC alcohol license at said premises

and asked for their thoughts and comments regarding upgrading the alcohol license. To date, I have not received a reply.

The owners would like to offer fair and equitable access to nearby residents and the community as a whole who would like the large selection of exclusive alcoholic beverages while shopping for other items.

In addition, the applicants will comply with all City of Citrus Heights Codes and Regulations as well as the laws and regulations of the Department of ABC.

Because In & Go Market is shifting its product line and operations to a more refined store with high-end liquors, wines and beers, the owners will be requesting single sales of craft and micro beers.

In & Go Market is a good neighbor and community partner and wishes to continue its positive relationship with the Citrus Heights community and business partnership in the area. Thank you for your consideration of this application for both the Conditional Use Permit and Letter of Public Convenience for an alcohol license upgrade.

Building Renovation

The landlord will be renovating the exterior of the store and will be adding a new In & Go Market sign and will also be upgrading the facade of the Fair Oaks Plaza shopping center, thus the exterior will look "like new" according to the landlord.

Please feel free to contact our consultant, John Sutton, with any questions, comments or meetings.

John Sutton
916-337-3028

Sincerely,

Amy Sidhu - In & Go Market Inc.



Congratulations
In & Go Market
Voted
"Best Convenience Store"



Citrus Heights

MEMBER



R E G I O N A L

CHAMBER

of commerce

BY:

NOV 12 2015

RECEIVED



California Department of Alcoholic
Beverage Control
License Query System Summary
as of 11/4/2015

RECEIVED
NOV 12 2015
BY:

License Information	
License Number: 557829	
Primary Owner: IN & GO MARKET INC	
ABC Office of Application: 23 - SACRAMENTO	
Business Name	
Doing Business As: IN & GO MARKET	
Business Address	
Address: 12417 FAIR OAKS BLVD STE 100 Census Tract: 0081.39	
City: CITRUS HEIGHTS County: SACRAMENTO	
State: CA Zip Code: 95628	
Licensee Information	
Licensee: IN & GO MARKET INC	
Company Information	
OFFICER: SIDHU, AMARJEET KAUR (PRESIDENT/SECRETARY)	
OFFICER: SIDHU, AMARJEET KAUR (TREASURER)	
STOCKHOLDER: SIDHU, AMARJEET KAUR	
License Types	
1) License Type: 20 - OFF-SALE BEER AND WINE	
License Type Status: ACTIVE	
Status Date: 28-JUL-2015	Term: 12 Month(s)
Original Issue Date: 27-JUL-2015	Expiration Date: 30-SEP-2015
Master: Y	Duplicate: 0 Fee Code: P40
License Type was Transferred On: 27-JUL-2015 FROM: 20-557391	
License Type was Transferred On: TO: 20-562007	
2) License Type: 21 - OFF-SALE GENERAL	
License Type Status: PENDING	
Status Date: 02-NOV-2015	Term: 12 Month(s)
Original Issue Date:	Expiration Date:
Master: Y	Duplicate: 0 Fee Code: P40
License Type was Transferred On: FROM:	
Current Disciplinary Action	
... No Active Disciplinary Action found ...	



California Department of Alcoholic Beverage Control *License Query System Summary* *as of 11/9/2015*

RECEIVED
NOV 12 2015
BY: JG

Current owners of this store for 15 years

License Information
License Number: 434689
Primary Owner: CAMINO FOOD CENTER INCORPORATED
ABC Office of Application: 23 - SACRAMENTO
Business Name
Doing Business As: CAMINO FOOD CENTER
Business Address
Address: 4124 CARSON RD Census Tract: 0313.01
City: CAMINO County: EL DORADO
State: CA Zip Code: 95709
Licensee Information
Licensee: CAMINO FOOD CENTER INCORPORATED
Company Information
OFFICER: SIDHU, KULJIT SINGH (PRESIDENT)
OFFICER: SIDHU, AMARJEET KAUR (SECRETARY/ASST SEC)
License Types
1) License Type: 21 - OFF-SALE GENERAL
License Type Status: ACTIVE
Status Date: 09-MAR-2006 Term: 12 Month(s)
Original Issue Date: 09-MAR-2006 Expiration Date: 30-NOV-2015
Master: Y Duplicate: 0 Fee Code: P0
Condition: CODE 8 - SELF-INCORPORATION - HISTORICAL VALUE
License Type was Transferred On: 09-MAR-2006 FROM: 21-362300
Current Disciplinary Action
... No Active Disciplinary Action found ...
Disciplinary History
... No Disciplinary History found ...
Hold Information
... No Active Holds found ...
Escrow
... No Escrow found ...



California Department of Alcoholic
Beverage Control
License Query System Summary
as of 11/9/2015

Prior Owners of this store



License Information	
License Number: 417680	
Primary Owner: SIDHU, AMARJEET KAUR	
ABC Office of Application: 23 - SACRAMENTO	
Business Name	
Doing Business As: PONY EXPRESS MARKET	
Business Address	
Address: 6151 PONY EXPRESS TRL Census Tract: 0313.02	
City: POLLOCK PINES County: EL DORADO	
State: CA Zip Code: 95726	
Licensee Information	
Licensee: SIDHU, AMARJEET KAUR	
Licensee: SIDHU, KULJIT SINGH	
License Types	
1) License Type: 21 - OFF-SALE GENERAL	
License Type Status: CANCELED	
Status Date: 05-APR-2005	Term: 12 Month(s)
Original Issue Date: 05-APR-2005	Expiration Date: 31-MAR-2011
Master: Y	Duplicate: 0 Fee Code: P0
Current Disciplinary Action	
... No Active Disciplinary Action found ...	
Disciplinary History	
... No Disciplinary History found ...	
Hold Information	
... No Active Holds found ...	
Escrow	
... No Escrow found ...	

--- End of Report ---

For a definition of codes, view our [glossary](#).



CITY OF CITRUS HEIGHTS

Memorandum

April 28, 2016

TO: Mayor and City Council Members
Henry Tingle, City Manager

FROM: David Wheaton, General Services Director
Mary Poole, Operations Manager

SUBJECT: Amendment to Chapter 74, Article IV of the Citrus Heights Municipal Code to Include Regulation Related to AB 1826- Organics Recycling

Approved and Forwarded to City Council

_____ Fin.

_____ Atty.

Henry Tingle, City Manager

Summary and Recommendation

The proposed Amendment to Ordinance 2008-17 requires Citrus Heights businesses and multifamily properties to comply with Assembly Bill 1826, (AB 1826) adopted in October, 2014, creating the Statewide Mandatory Organics Recycling law (MORe). MORe will be phased in over the course of several years, with affected businesses required to arrange for organic waste recycling services by April 1, 2016.

Local jurisdictions are required to implement programs to support business and multifamily compliance with organics recycling requirements, starting January 1, 2016. To that end, the City has participated in and supported regional education and outreach programs, updated its commercial franchise agreements to reflect AB 1826 requirements for the haulers, and is now recommending adoption of the attached Amendment to the City's Business and Multi-family Recycling Ordinance.

Staff recommends the City Council introduce, read by title only and waive the first reading of Ordinance No. 2016-_____ Amending Chapter 74, Article IV of the Citrus Heights Municipal Code Related to Business and Multi-Family Recycling.

Fiscal Impact

Impacts include staff time, resources and materials necessary to provide AB 1826 required education, outreach, and compliance monitoring for businesses and organics recycling collection service providers.

Background and Analysis:

In October 2014, the State of California adopted Assembly Bill No. 1826 (AB 1826) requiring covered businesses to recycle their organic waste on and after April 1, 2016, depending on the amount of waste generated per week.

Subject: Ordinance No. 2016-_____, Amending Chapter 74, Article IV of the Citrus Heights Municipal Code Related to Business and Multi-Family Recycling

Date: April 28, 2016

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Starting April 1, 2016, AB 1826 requires each business generating eight (8) cubic yards or more of organic waste per week to arrange for organics recycling collection services. Threshold levels for businesses covered under AB 1826 (covered generators), will decrease over time as follows: four (4) cubic yards per week organic material generated triggers covered generator status on January 1, 2017; and four (4) cubic yards of commercial solid waste triggers covered generator status on January 1, 2019. Should CalRecycle determine statewide organics disposal goals of fifty percent (50%) reductions are unmet after its 2020 reviews are completed, thresholds for covered generator status will be reduced to two (2) or more cubic yards of solid waste generation per week.

Local governments have a significant role to support compliance with AB 1826. As of January 1, 2016, local governments were required to have organics recycling programs in place. The mandate requires cities and counties to conduct outreach and education to inform businesses how to recycle organic waste in the jurisdiction, as well as monitor businesses to identify those not recycling. Additionally, AB 1826 requires local jurisdictions to notify non-compliant covered generators and work toward regulatory compliance.

The City continues to support regional education and outreach efforts to be in compliance with AB 1826 requirements. In addition, the City's commercial franchise agreements have been updated to reflect the AB 1826 requirements that went into effect on April 1, 2016. The next step toward supporting local compliance is adopting an update to the City's Municipal Code, amending Article IV Chapter 74 Related to Business and Multifamily Recycling to include compliance provisions for AB 1826.

Staff Recommendation:

Staff recommends the City Council introduce, read by title only and waive the first reading of Ordinance No. 2016-_____Amending Chapter 74, Article IV of the Citrus Heights Municipal Code Related to Business and Multi-Family Recycling.

Attachment: (1) Ordinance No. 2016-

ORDINANCE NO. 2016-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CITRUS HEIGHTS
AMENDING ARTICLE IV OF CHAPTER 74 OF THE CITY'S MUNICIPAL CODE
RELATED TO BUSINESS AND MULTI-FAMILY RECYCLING**

WHEREAS, the California Integrated Waste Management Act of 1989 (AB 939) requires all jurisdictions within California to divert a minimum of 50% of municipal solid waste generated annually from landfill disposal through source reduction, recycling and composting programs; and

WHEREAS, the City of Citrus Heights is committed to AB 939 compliance through a combination of efficient, customer friendly and progressive waste reduction and recycling programs; and

WHEREAS, Assembly Bill 341 (AB 341) was adopted in 2011 to amend Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, to add Sections 40004, 41734.5, and 41780.01 to, to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and to add and repeal Section 41780.02 of, the Public Resources Code, relating to solid waste; and

WHEREAS, Assembly Bill 1826 (AB 1826) was enacted in 2014 to add Chapter 12.9 to Part 3 of Division 30 of the Public Resources Code, relating to solid waste; and

WHEREAS, AB 1826 provides for mandatory commercial and multifamily organics recycling to be phased in starting April 1, 2016; and

WHEREAS, the intent of the Business and Multi-Family Recycling Ordinance (the "Ordinance") is to increase the City's waste diversion rate in order to achieve and maintain AB 939, AB 341 and AB 1826 compliance; and

WHEREAS, this Amendment to the Ordinance contains provisions to promote and maintain commercial recycling and organics recycling compliance consistent with requirements of AB 939, AB 341 and AB 1826, and it is the intent of City staff to work closely with the services providers and covered generators in implementing this Ordinance.

**THE CITY COUNCIL OF THE CITY OF CITRUS HEIGHTS DOES ORDAIN AS
FOLLOWS:**

Section 1. Renaming and Amendment.

Chapter 74, Article IV "Business and Multi-Family Recycling," of the Citrus Heights Municipal Code is hereby renamed "Business and Multi-Family Recycling and Organics Recycling" and is amended to read as shown in the attached Exhibit A.

Section 2. Severability

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 3. Effective Date

Within fifteen (15) days after adoption, a Summary of this Ordinance shall be published once in the Sacramento Bee, a newspaper of general circulation printed and published in Sacramento County and circulated in the City of Citrus Heights, in accordance with Government Code section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its inception.

ADOPTED, THIS 28th day of April, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jeannie Bruins, Mayor

ATTEST:

Amy Van, City Clerk

EXHIBIT A

ARTICLE IV. - BUSINESS AND MULTI-FAMILY RECYCLING AND ORGANICS RECYCLING

Sec. 74-126. - Purpose and declarations.

- (a) It is the intent and purpose of this article to promote recycling and organics recycling by:
- (1) Requiring businesses and multi-family residential properties in the City of Citrus Heights to keep recyclable materials and organic recyclable materials separate from all other solid waste for recycling and organics recycling;
 - (2) Requiring businesses and multi-family residential properties to provide signs and labeled containers for the storage and collection of recyclable materials and organic recyclable materials; and
 - (3) Requiring businesses and multi-family residential properties to either self-haul or enter into a written service agreement for the collection and subsequent delivery of recyclable materials and/or organic recyclable materials to a recycling facility.
- (b) It is further the purpose of this article to provide a mechanism to require the implementation of recycling programs and organics recycling programs for businesses and multi-family residential properties within the city to thereby enable the city to meet and maintain the 50 percent waste diversion requirements set forth in the Public Resources Code § 41780(a)(2).

Sec. 74-127. - Definitions.

Authorization means the process of approving a recycler for collection and removal of recyclable materials from businesses and multi-family residential properties by the general services director and/or his or her designee.

Authorized recycler means any person or business entity who lawfully collects, accepts, transports or otherwise processes recyclable materials from businesses and multi-family properties for financial gain or profit, and has been certified and approved by the general services director and/or his or her designee.

Business means:

- (1) A commercial entity, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, or corporation that is organized for financial gain or profit, including but not limited to, offices, retail stores, markets, manufacturing facilities, warehouse and distribution facilities, restaurants, motels and hotels, theaters, medical offices, and gas stations and automotive facilities; and
- (2) Not-for profit organizations, including but not limited to, churches, hospitals, and social service organizations.

Certificate of operation means the license that an authorized recycler must obtain from the city before it may collect recyclable materials within the city boundaries.

City means the City of Citrus Heights, California.

Collection means the act of collecting and removing solid waste or recyclable materials or organic recyclable materials at the place of generation.

Commercial hauler or hauler means any person who collects, hauls, or transports commercial solid waste for a fee by use of any means, including but not limited to, a dumpster truck, roll-off truck, a side-load, front-load, or rear-load garbage truck, or a trailer.

Commercial solid waste means all solid waste as defined below and generated by commercial and industrial sources and multi-family residential properties, and that is collected by a franchised waste hauler.

Covered generator means all businesses and multi-family residential properties defined as covered generators in section 74-128 of this article. A covered generator may include a business or multi-family residential property owner or generator, and is dependent on whomever executes a contract(s) for solid waste removal and recycling collection services.

Customer means a business or multi-family residential property owner or generator who contracts for solid waste removal services and enters into a service agreement with a franchised waste hauler or an authorized recycler for recycling services and/or organics recycling services. Where several businesses or multi-family residential properties share garbage containers and service, "customer" refers only to the party whom enters into a contract for solid waste collection services.

Designated green materials or green materials means materials that are required to be separated by covered generators from solid waste and designated recyclable materials prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products. Green materials include, but are not limited to: yard trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces and other types of organic yard waste. Green materials excludes food scraps and paper contaminated with food scraps.

Designated organic recyclable materials or organic recyclable materials means materials that are required to be separated by covered generators from solid waste and designated recyclable materials prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products. Organic recyclable materials include, but are not limited to: yard trimmings and food scraps such as green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces, other types of organic yard waste, vegetable waste, fruit waste, dairy waste, meat waste, fish waste, and paper contaminated with food scraps. The term "organic recyclable materials" solely means "designated green materials" when referencing multifamily residential property requirements.

Designated recyclable materials or recyclable materials means materials, as designated by the general services director and/or his or her designee, that are required to be separated by covered generators from solid waste prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products.

Franchise agreement means a commercial solid waste collection franchise agreement issued to a commercial hauler by the City of Citrus Heights.

Franchised waste hauler means a commercial waste hauler or hauler holding a franchise agreement issued by the city pursuant to section 74-166 of this Code. A franchised waste hauler may also collect, haul, or transport recyclable materials.

General services director means the General Services Director of the City of Citrus Heights, California.

Generator means each business or multi-family residential property that generates one or more designated recyclable materials or one or more designated organic recyclable materials as a result of its business activities or multi-family residential property activities.

Implementation period means the period of time between the effective date of this article and December 31, 2009.

Multi-family residential property means five or more residential dwelling units located on a single parcel of land, and any mobile home park, located within the city.

National contracts means contracts between waste management companies and multi-sited waste generating companies that operate throughout the country.

Organics recycling means the process of collecting, sorting and treating organic recyclable materials and/or designated green materials that would have otherwise become solid waste and returning them to a safe, nuisance-free compost product by treating the materials to a controlled biological decomposition.

Owner means the person who owns a business or multi-family residential property. An owner may also be a generator.

Person means an individual, firm, limited liability company, association, partnership, industry, public or private corporation, or any other entity whatsoever.

Recycling means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place. Recycling does not include transformation as defined in Public Resources Code § 40201. The term recycling may be used to include source separated materials.

Recycling facility means those facilities or operations that receive, process, and transfer to market recyclable materials or organic recyclable materials that have been source separated from the solid waste stream.

Recyclable materials container means any box, tub, cart, or other container placed inside each individual multi-family residential unit and in maintenance or work areas on the premises of covered generators that is made of metal, hard plastic or other similar material and is suitable for the collection of designated recyclable materials and designated organic recyclable materials pursuant to this article. Recycling materials containers must be approved by the city.

Recycling plan means the plan to be presented to all covered generators by their franchised waste hauler to document understanding of the requirements of this article and record the selected compliance option for each designated recyclable material and/or each designated organic recyclable material.

Removal means the act of removing solid wastes, recyclable material or organic recyclable material from the place of waste generation.

Self-haul, when used in reference to designated generated by a covered generator, means a covered generator, or employee designated by the covered generator, who collects, transports and hauls recyclable materials or organic recyclable materials from the business or multi-family residential property, in a vehicle owned by either an employee or the entity, to a recycling facility rather than hiring a franchised waste hauler or an franchised waste hauler to perform this function.

Self-hauling form means the form provided by the general services director, and/or his or her designee, on which a business or multi-family residential property, owner or generator, certifies that all self-hauling activities will be completed in accordance with the provisions of this article or any other applicable law or regulation.

Service agreement means a written agreement between a franchised waste hauler or franchised waste hauler and a covered generator concerning the collection of designated recyclable materials and/or designated organic recyclable materials.

Solid waste means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes. Solid waste does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with § 25800) of Division 20 of the Health & Safety Code or medical waste. Solid waste does not include recyclable materials or organic recyclable materials set out for separate collection for the purposes of recycling or organics recycling, and that are not landfilled.

Source separate or source separated means the process of removing recyclable materials or organic recyclable materials from solid waste for the purpose of recycling and/or organics recycling.

Subcontract is a contract assigning some of the obligations of a contract to a third party.

Sec. 74-128. Threshold for covered generators

- (a) Recycling requirements – Each business or multi-family residential property owner or generator that generates four or more cubic yards of commercial solid waste per week or a multi-family residential property of five or more dwelling units is a covered generator and shall obtain and maintain recycling collection services as specified in this article.
- (b) Business organics recycling requirements – Covered generators that are businesses and meet or exceed the following thresholds shall obtain and maintain organics recycling collection services by the date listed:

 - 1. April 1, 2016: Eight cubic yards or more of organic recyclable materials per week.
 - 2. January 1, 2017: Four cubic yards or more of organic recyclable materials per week.
 - 3. January 1, 2019: Four cubic yards or more of solid waste per week.

- (c) Multi-family residential property organics recycling requirements – Multi-family residential properties are not required to separate food scraps for organics recycling. Covered generators that are multi-family residential properties and meet or exceed the following thresholds shall obtain and maintain organics recycling collection services by the date listed:

 - 1. April 1, 2016: Eight cubic yards or more of green materials per week.
 - 2. January 1, 2017: Four cubic yards or more of green materials per week.
 - 3. January 1, 2019: Four cubic yards or more of solid waste per week.

Sec. 74-129. - Requirements for covered generators.

- (a) Each covered generator shall be responsible for ensuring and demonstrating its compliance with the following requirements:
 - (1) Source separate designated recyclable and/or designated organic recyclable and/or designated green materials from solid waste;
 - (2) Provide for a basic level of recycling service and/or organics recycling service that includes, at a minimum, the collection of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials; and
 - (3) Enter into a written service agreement with a franchised waste hauler or authorized recycler for the collection of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials; or
 - (4) Complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with the provisions of this article or any other applicable law or regulation. A copy of such form shall be made available to the general services director, and/or his or her designee, upon request.

- (b) Each covered generator shall provide recyclable materials containers for designated recyclable materials and/or designated organic recyclable materials and/or designated green materials in multi-family residential rental units and in maintenance and work areas where recyclable materials and organic recyclable materials and/or green materials may be collected and/or stored.
- (c) Each covered generator shall prominently post and maintain one or more signs where designated recyclable materials and/or designated organic recyclable materials and/or designated green materials are collected and/or stored that set forth what materials are required to be source separated, in addition to collection procedures for such materials.
- (d) Each covered generator shall notify and instruct employees and tenants, in writing, of applicable source separation requirements, including a list of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials that are required to be source separated for recycling. A copy of such instructions shall be provided to the general services director, and/or his or her designee, upon request.
- (e) Each covered generator shall ensure that designated recyclable materials and/or designated organic recyclable materials and/or designated green materials generated at their site will be taken only to a recycling facility, and not to a landfill for disposal, by complying with all requirements under this article.
- (f) The recycling plan, service agreement, and self-haul form, or other documents pertaining to this article, shall be available for inspection by the general services director, and/or his or her designee, at the principal location of the covered generator during normal business hours.
- (g) Nothing in this article shall abridge the right of any covered generator, or any other person, to sell or exchange at fair market value its own recyclable materials or organic recyclable materials or green materials which are source separated for reuse and recycling.
- (h) No franchised waste hauler or authorized recycler shall be held liable for the failure of its customers to comply with such regulations.
- (i) No covered generator shall be liable for the failure of their franchised waste hauler or authorized recycler to deliver designated recyclable materials or designated organic recyclable materials or designated green materials to a recycling or processing facility.

Sec. 74-130. - Special requirements.

In addition to any and all requirements that apply to the recycling and/or organics recycling of designated recyclable materials and/or designated organic recyclable materials throughout the city listed above, collection service received or provided in the city shall be subject to the following additional special requirements:

- (1) No recycling, automatic lift containers or bins within the collection area of the city shall be placed or located in such a manner that blocks or impedes passage through an alley or through any doorway of any building adjoining an alley, notwithstanding that such building may be abandoned or otherwise out of use.
- (2) Compliance with the above special requirements shall be the sole responsibility of the covered generator.

Sec. 74-131. - Designation of recyclable materials.

- (a) Designated recyclable materials and/or designated organic recyclable materials shall be source separated from solid waste before collection, removal, transportation or disposal pursuant to this article. The general services director, and/or his or her designee, shall specify designated recyclable materials and designated organic recyclable materials that must be source separated by all covered generators pursuant to section 74-129. The specifications for designated recyclable materials shall consider materials market conditions and the availability of a cost-effective system for recycling such materials.
- (b) Furthermore, all covered generators are encouraged to recycle additional materials, whether or not they have been specified as designated recyclable materials.

Sec. 74-132. - Ownership of recyclable materials.

- (a) All designated recyclable materials and designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins shall be considered owned by and be the responsibility of either the franchised waste hauler or authorized recycler. Without permission of either the franchised waste hauler or authorized recycler, no person shall collect designated recyclable materials or designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins for recyclable materials or organic recyclable materials by customers.
- (b) Except as authorized by section 74-138 (self-hauling) below, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or to otherwise organize, direct or sponsor the collection, removal or transportation of designated recyclable materials or designated organic recyclable materials who is not either a franchised waste hauler or an authorized recycler.

Sec. 74-133. - Requirements for franchised waste haulers.

- (a) Commercial waste haulers shall be "franchised" pursuant to the provisions of chapter 74 of this Code, and such "franchise agreement" shall be in full force and effect.
- (b) Franchised waste haulers shall offer collection service and automatic lift containers, bins or roll-off bins for designated recyclable materials and designated organic recyclable materials sufficient to accommodate the quantity and types of designated recyclable materials and designated organic recyclable materials to all its solid waste customers.
- (c) Franchised waste haulers shall equip and provide automatic lift containers, bins and roll off bins for designated recyclable materials with locks and/or other suitable features to prevent theft of recyclable materials.
- (d) Franchised waste haulers may subcontract for collection of designated recyclable materials and designated organic recyclable materials, so long as the subcontractor holds a current franchise agreement or is an authorized recycler.
- (e) Franchised waste haulers shall conduct all activities in accordance with all applicable state and local laws and best management practices. Vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
- (f) Franchised waste haulers shall not take a customer's designated recyclable materials or designated organic recyclable materials to a landfill or other disposal site, but to a recycling facility.
- (g) Franchised waste haulers, upon request, shall provide the general services director, and/or his or her designee, with a copy of a service agreement, recycling plan or other document

(e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials and/or designated organic recyclable materials are being taken to a recycling facility. The service agreement, recycling plan or other documents shall be available for inspection by the general services director, and/or his or her designee, at the franchised waste haulers' place of business during normal business hours.

- (h) City staff may audit all franchised waste haulers' records.

Sec. 74-134. - Requirements for service agreements.

- (a) Franchised waste haulers and authorized recyclers shall execute a written service agreement with all covered generators, as required in section 74-129 of this article, before the franchised waste hauler or authorized recycler begins to collect solid waste and/or designated recyclable materials and/or designated organic recyclable materials.
- (b) Service agreements shall incorporate, but are not limited to, the following terms and conditions:
 - (1) Be clearly labeled as a service agreement;
 - (2) Describe the solid waste and/or recycling collection services and/or organics recycling collection services to be provided by the franchised waste hauler or authorized recycler, and the cost for providing such services to the customer;
 - (3) Clearly state the initial term and renewal terms;
 - (4) Allow for any term that is mutually agreed to by the customer and the franchised waste hauler, but recognizing that the hauler's franchise or recyclers authorization granted by the city must remain in full force and effect throughout the term of the agreement;
 - (5) May contain automatic renewal for successive periods of no longer than one year, unless either party gives written notice of termination by certified or registered mail at least 60 days prior to termination date of the current agreement;
 - (6) May be amended as mutually agreed upon by the customer and the franchised waste hauler or authorized recycler;
 - (7) Customers are to receive a written notice of price increases not less than 30 days prior to the effective date of such price increase;
 - (8) Franchised waste haulers and authorized recyclers shall respond to customer inquiries regarding the service agreement within 30 days;
 - (9) Include language stating that collection containers will be removed from the property of a customer within 30 days of final termination of services to the customer;
 - (10) Not require customers to pay over three months' liquidated damages during the renewal term and over six months' liquidated damages during the initial term of the service agreement;
 - (11) Not require a customer to give a franchised waste hauler the exclusive right to provide recycling collection services or organics recycling collection services as a condition of a service agreement, unless the customer affirmatively indicates that is its desire;
 - (12) Not require customers to give notice of any offer by a competitor or require customers to give franchised waste haulers the right to respond to such an offer;
 - (13) Franchise agreements must be in full force and effect for the service agreement to be effective.

- (c) The requirements for service agreements contained in this section shall be incorporated into all new service agreements upon enactment of this article. Existing service agreements between a franchised waste hauler and a customer executed before the effective date of this article shall remain in force for the remainder of the existing contract and shall be governed by the terms and conditions specified in the existing service agreement, provided that such existing service agreements shall comply, to the extent allowable by law, with the new recycling and organics recycling programs established by this article.
- (d) National contracts or agreements are exempt from the requirements of contract length and renewal terms.

Sec. 74-135. - Requirements for recycling plans.

- (a) The general services director, and/or his or her designee, shall provide a recycling plan template to each franchised waste hauler in order to document compliance with this article for each covered generator.
- (b) Franchised waste haulers shall present, complete, and sign a recycling plan for each covered generator located in the city.
- (c) Franchised waste haulers shall maintain a copy of each completed recycling plan, and submit to the general services director, and/or his or her designee, for audit purposes within five days of receipt of a written request.
- (d) Franchised waste haulers shall complete and file recycling plans for 100 percent of their customers that must comply with and are subject to the recycling requirements of this chapter by the date at which those customers must first comply with the requirements.
- (e) Franchised waste haulers shall complete and file recycling plans for 100 percent of their customers that must comply with and are subject to the organics recycling requirements of this chapter by the date at which those customers must first comply with the requirements, or by another deadline established by the public works director.
- (f) Franchised waste haulers that fail to comply with the requirements of this section shall be subject to penalties specified in this article.

Sec. 74-136. - Requirements for authorized recyclers.

- (a) No person shall provide service as a franchised waste hauler or authorized recycler within the city without having obtained a certificate of operation and becoming an "authorized recycler." All authorized recyclers shall file a certificate of operation application form approved by the general services director, and/or his or her designee, providing the information and documentation that is requested by the general services director, and/or his or her designee, including, but not limited to, the following:
 - (1) The name, address and telephone number of the applicant;
 - (2) A description of the vehicles that the applicant will use to collect recyclable materials and/or organic recyclable materials, including the make, model, and serial number or vehicle identification number (VIN) of each vehicle; and
 - (3) Authorized recyclers shall indemnify, defend with counsel selected by the city, and hold harmless the city and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, causes of action and the payment of all attorneys fees and other related costs and expenses arising out of any

personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of authorized recycler or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work to the maximum as allowed by applicable law.

- (4) Authorized recyclers shall defend, indemnify and hold harmless the city, including, but not limited to, elected officials, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from, the authorized recycler's activities pursuant to this article to the maximum as allowed by applicable law. Authorized recyclers shall defend with counsel selected by the city.
 - (5) Without limiting the authorized hauler's indemnification, the authorized hauler shall maintain in force at all times during the term of this authorization certificate and any extensions or modifications thereto, insurance as specified in the addendum of the certificate of operation agreement. It is the responsibility of the authorized recycler to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in the addendum of the certificate of operation agreement.
 - (6) A written statement certifying that the applicant has reviewed and will comply with all of the requirements in the certificate of operation and this article.
-
- (b) If the general services director, and/or his or her designee, determines that the applicant complies with the terms of this article, the general services director, and/or his or her designee, shall grant a certificate of operation. The general services director, and/or his or her designee, shall deny an application for a certificate of operation if the general services director, and/or his or her designee, determines that the applicant does not comply with the terms of this article.
 - (c) The certificate of operation shall remain in effect for a period of five years.
 - (d) The general services director, and/or his or her designee, may revoke a certificate of operation if the general services director, and/or his or her designee, determines after providing 30 days' written notice and an opportunity for a hearing, that an authorized recycler has violated the provisions in the certificate of operation or any applicable law.
 - (e) Authorized recyclers shall offer collection service and automatic lift containers, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials sufficient to accommodate the quantity and types of recyclable materials and organic recyclable materials to all its customers.
 - (f) Authorized recyclers may subcontract for collection of designated recyclable materials and/or designated organic recyclable materials so long the subcontractor is a franchised waste hauler or authorized recycler.
 - (g) Authorized recyclers shall conduct all activities in accordance with all applicable laws, the City's Municipal Code and best management practices. An authorized recycler's vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
 - (h) An authorized recycler's automatic lift containers, bins or roll-off bins for recyclable materials and/or organic recyclable materials shall be clearly identified with the name, or recognizable corporate or company logo, and phone number of the authorized recycler that is legible from a distance of 50 feet.

- (i) Authorized recyclers shall equip and provide to all recycling, automatic lift containers, bins or roll-off bins for designated recyclable materials locks and/or other suitable features to prevent scavenging of recyclable materials and/or organic recyclable materials.
- (j) Authorized recyclers shall deliver a customer's recyclable materials and/or organic recyclable materials to a recycling facility, and not to a landfill or other site for disposal.
- (k) Authorized recyclers, upon request, shall provide the general services director, and/or his or her designee, with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials are being delivered to a recycling facility. The service agreement or other document shall be available for inspection by the general services director, and/or his or her designee, at the franchised waste haulers' place of business during normal business hours.
- (l) The general services director, and/or his or her designee, may audit all authorized recyclers' recycling records.

Sec. 74-137 - Requirements for multi-family residential properties.

- (a) Multi-family residential tenants shall be responsible for compliance with the requirement to source-separate designated recyclable materials and/or designated green materials from solid waste pursuant to subsection 74-129(a)(1).
- (b) No multi-family residential property owner who is a covered generator pursuant this article shall be cited for noncompliance with this article as a result of the failure of his or her rental property tenants to source separate designated recyclable materials or designated green materials from solid waste pursuant to subsection 74-129 (a)(1).
- (c) Multi-family residential property owners who are covered generators pursuant this article shall be responsible for compliance with subsections 74-129(a)(2)(3) and (4), as well as subsections 74-129(b)(c)(d)(e) and (f).
- (d) Every multi-family residential unit shall have a recyclable materials container provided by either the multi-family residential property owner who is a covered generator pursuant to this article, or by the multi-family residential tenant as part of their rental agreement.

Sec. 74-138. - Requirements for self-hauling.

- (a) A covered generator may haul or transport designated recyclable materials and/or designated organic recyclable materials generated and collected at its business or multi-family residential property to a recycling facility, rather than hiring a franchised waste hauler or authorized recycler, only if an owner, generator or employee of the entity completes this activity by utilizing a vehicle owned by either an employee or the entity.
- (b) A covered generator that hauls or transports designated recyclable materials and/or designated organic recyclable materials generated and collected at its business or multi-family residential property to a recycling facility without the utilization of a franchised waste hauler or authorized recycler must complete and retain on-site a self-hauling form that certifies that all self-hauling activities will be completed in accordance with the provisions of all applicable laws or regulations. The self-hauling form shall be made available to the general services director, and/or his or her designee, upon request. At a minimum, the covered generator shall provide the following information on the self-hauling form:

- (1) The name, address and telephone number of the covered generator that is signing the self-hauling form;
 - (2) A list of the types of recyclable materials and/or organic recyclable materials being self-hauled;
 - (3) For each type of recyclable material and/or organic recyclable material, the amount that is being taken from the business and multi-family residential property to a recycling facility quarterly;
 - (4) The name and address of the recycling facility(s).
- (c) The self-hauling form shall contain a written statement signed by the business or multi-family residential property, owner or generator, certifying that the owner or generator is in compliance with the requirements of this article.
 - (d) The general services director, and/or his or her designee, may restrict or prohibit self-hauling by a person if the general services director, and/or his or her designee, determines, after providing 30-day written notice and an opportunity for a hearing, that the person's self-hauling activities violate the provisions of this article or any other applicable law or regulation.

Sec. 74-139. - Appeal upon denial of certificate of operation or self-haul certificate.

- (a) Within 30 days of written notification of denial, or within 60 days of general services director's and/or his or her designee's failure to act on the certificate, applicant has the right to meet with the general services director, and/or his or her designee, to review the items cited in the written notice and provide any additional evidence to support an approval. Within 15 days of such meeting, the general services director, and/or his or her designee, will make a final, written determination of the application based on the reviews of additional evidence, together with the original application. The General Services Director, and/or his or her designee, will send a copy of all final, written determinations, including reasons for denial, if any, to both applicant and the city manager.
- (b) Applicant may, within ten days after receiving the final denial from the general services director, and/or his or her designee's, request a public hearing before the city council by submitting to the city clerk a written petition for an appeal hearing. If a public hearing is requested, the city clerk shall set the matter for hearing at the next possible regularly scheduled city council meeting or any later date as agreed upon by the applicant and city clerk. At such hearing, applicant may present evidence in writing and through testimony of its employees and others relevant to the application. During such hearing, the city council may demand from the applicant such additional information as the city council may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing, and the applicant shall have the burden of proof to show facts demonstrating that the applicant does, in fact, meet the requirements of this article. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The city council will provide applicant with a written explanation of its determination on the application within 30 days of such hearing. The city council's decision is final.

Sec. 74-140. - Reporting.

- (a) Franchised waste haulers shall provide the following reports to the city, no later than the last day of the month for the preceding reporting period. Reporting shall occur on a quarterly basis, or as requested by the general services director and/or his or her designee. Reports shall include, at a minimum, the following information:
- (1) The total number of covered generators in the city that are in compliance with this article and for which a completed recycling plan is on-file;
 - (2) The total number of covered generators that are customers of the franchised waste hauler in the city;
 - (3) The total number of covered generators that have completed a recycling plan but remain in violation of this article for any reason;
 - (4) The total weekly cubic yardage of solid waste collection service and designated recyclable materials and/or designated organic recyclable materials collection service provided to covered generators during the reporting period.

Due dates for reporting are:

Reporting Period	Due Date
January 1—March 31	April 30
April 1—June 30	July 31
July 1—September 30	October 31
October 1—December 31	February 1

- (b) If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent and the franchised waste hauler shall pay to the city a delinquent report charge in the amount of \$50.00 per day. If the report remains delinquent for more than 15 days, the franchised waste hauler shall pay to the city a delinquent report charge in the amount of \$100.00 per day.
- (c) Franchised waste haulers' failure to file the reports required by this article shall constitute cause for termination or suspension the hauler's franchise pursuant to Chapter 74 of the City Municipal Code.
- (d) Self-haulers shall prepare quarterly reports to be kept on site identifying, at a minimum, the following:
- (1) The recyclable materials and/or organic recyclable materials tonnage collected and removed within the city region during the previous quarter.
 - (2) The location of the recycling facility(s) to which the recyclable materials and/or organic recyclable materials were taken during the previous quarter.
- (e) The general services director, and/or his or her designee, shall provide and establish guidelines, forms and other appropriate material to assist franchised waste haulers, authorized recyclers and self-haulers in preparing the reports required by this article.

Sec. 74-141. - Exemptions from recycling standards.

- (a) Notwithstanding any other provision herein, a business or multi-family property, owner or generator, shall be exempt from the recycling requirements of this article if the owner or generator subscribes to less than four (4) cubic yards of solid waste collection service per week.
- (b) Notwithstanding any other provision herein, a covered generator shall not be required to source separate recyclable materials and/or organic recyclable materials if the business or multi-family residential property, owner or generator, demonstrates to the general services director and/or his or her designee that there is no collection service or other system available for recycling such material.
- (c) Notwithstanding any other provision herein, a covered generator shall be exempt from the recycling and/or organics recycling requirements in section 74-129 if all of the generators on the owner's business or multi-family property are exempt from or not required to comply with the provisions of section 74-129, or if designated recyclable materials are not being generated by any activities occurring on the covered generator's property.
- (d) Covered generators may be exempted by the general services director, and/or his or her designee, if it is determined through a site visit requested by the covered generator: 1) that there is not adequate storage space for automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable and/or designated organic recyclable materials on site and that it is infeasible for the covered generator to share automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials with another covered generator on an adjoining property; or 2) that compliance with this article results in a violation of the city's zoning code, including city zoning regulations for minimum parking spaces. If the general services director, and/or his or her designee, determines that it is feasible for recycling containers to be placed on site or shared with an adjoining generator, the covered generator will be responsible for compliance with this article.
- (e) An application for an exemption shall be submitted to the general services director, and/or his or her designee, on a form prescribed by the general services director, and/or his or her designee. After reviewing the request, the general services director, and/or his or her designee, shall either approve or disapprove the exemption request.
- (f) The following persons shall automatically be exempt from the requirements of this article:
 - (1) The United States, State of California, a city, the county, a special district or other local public agency, or any employee or member of the Armed Forces thereof, when collecting or transporting designated recyclable materials produced by operation of the public entity under a system of recyclable materials' collection and transportation operated and maintained by the public agency within the city region as specified herein and in Chapter 6.20 of this Code.
 - (2) Municipal corporations and other governmental agencies using their own vehicles and employees engaged in the collection, transportation or disposal of designated recyclable materials within the city.

Sec. 74-142. - City rules and regulations.

- (a) The general services director, and/or his or her designee, is authorized to make and enforce administrative rules and regulations governing recycling and organics recycling at businesses and multi-family residential properties, and all related activities including recycling and commercial solid waste generation, storage, recovery, accumulation, collection, removal, transportation and disposal; the manner in which commercial solid waste and recycling and organics recycling services are provided; types of commercial solid waste and recycling containers and vehicles used for the operation and maintenance of sanitary methods of commercial solid waste and recycling and organics recycling disposal; reporting requirements for franchised waste haulers, authorized recyclers and self-haulers; and for the effective administration of this article. All such rules and regulations shall be consistent with the provisions of the City Municipal Code and shall be effective on the thirtieth day following the filing of any such rules and regulations with the city clerk.
- (b) The city council may, and is hereby empowered to, grant to a qualified applicant a non-exclusive franchise to engage in the business of collecting, transporting or disposing of commercial solid waste or recyclable materials or organic recyclable materials kept, accumulated or generated in the city region.
- (c) The city council may, directly or by delegating such authority by ordinance or resolution, grant franchises based on compliance with this article. Any grant of a franchise by the city council may be subject to such terms, conditions, rules, regulations, restrictions, and limitations, as the city council deems necessary to protect the public health, safety, or welfare.
- (d) The city council hereby empowers and grants to the public works director, and/or his or her designee, the authority to enter into commercial non-exclusive collection service agreements (commercial non-exclusive franchises) with franchised waste haulers, to make administrative and non-substantive changes to certificates of operation forms, to specify designated recyclable materials and designated organic recyclable materials, and make administrative rules and regulations governing covered generators.
- (e) The city council hereby empowers and grants to the general services director, and/or his or her designee, the authority to administer, implement and enforce this article and administrative rules and regulations governing business and multi-family residential property recycling and organics recycling thereafter.
- (f) It shall be unlawful and constitute a violation of this article for any person to violate or otherwise fail to comply with any rule or regulation issued pursuant to this article.

Sec. 74-143. - Rights reserved to city.

In addition to all other rights reserved to the City, the following shall apply:

- (1) There is hereby reserved to the city every right and power, and the exercise thereof, which is reserved or authorized by any provision of any lawful Code, title or resolution of the city, whether enacted before or after the effective date of this article.
- (2) Neither the granting of any franchise or authorization, nor any provision of any franchise or authorization, shall constitute a waiver of or a bar to exercise of any governmental right or power of the city.
- (3) The grantee receiving any type of franchise agreement, license or certificate to collect recyclable materials shall have no recourse whatsoever against the city, its officers, employees or agents, or any of the city member entities, their officers, employees, or

agents for any loss, cost, expense or damage arising out of any provision or requirement of this article, or of any franchised waste hauler or franchised waste hauler's certificate of operation issued under this article or because of the enforcement of this article.

- (4) There is hereby expressly reserved to the city the power and authority to amend any section of this article so as to require additional or greater standards on the part of the franchised waste hauler, commercial hauler or covered generator.

Sec. 74-144. - Administration and costs.

- (a) The administration of this article is the duty of the general services director, and/or his or her designee. The general services director, and/or his or her designee, is authorized and directed by the city council to administer this article.
- (b) Commercial franchise fees may be used to fund solid waste administration, implementation and enforcement costs.

Sec. 74-145. - Unlawful acts.

- (a) It shall be unlawful to combine designated recyclable materials and organic recyclable materials with other solid waste. Failure of covered generators to source separate designated recyclable materials or organic recyclable materials for recycling or organics recycling is a violation of this article.
- (b) It shall be unlawful for franchised waste haulers or authorized recyclers to commingle materials in solid waste bins or carts with materials in recycling bins or carts in one collection vehicle.
- (c) It shall be the responsibility of the covered generator whose solid waste was not removed because it contained designated recyclable materials to properly separate designated recyclable materials from the uncollected solid waste for proper recycling. Allowing such unseparated solid waste to accumulate will be considered a violation of this article.

Sec. 74-146. - Implementation and enforcement.

The implementation and enforcement of article IV is the duty of the general services director, and/or his or her designee, of the city's general services department. The general services director, and/or his or her designee, is authorized and directed by the city council to implement and enforce this article.

Sec. 74-147. - Posting of notices.

- (a) The general services director, and/or his or her designee, may post notices on automatic lift containers, bins and roll-off bins that are used for solid waste collection and the collection of designated recyclable materials, and the collection of designated organic recyclable materials within the city if the owner of the automatic lift containers, bins and roll-off bins is in violation of this article, including, but not limited to, any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the General Services Director, and/or his or her designee, is authorized to enforce or implement pursuant to this article.

- (b) A notice shall remain on automatic lift containers, bins and roll-off bins that are used for solid waste collection within the city so long as the owner of the automatic lift containers, bins and roll-off bins is in violation of this article. The notice shall be posted on the automatic lift container, bin, and/or roll-off bin so as to be clearly visible to the general public and include all of the following information:
 - (1) The date the notice was posted on the container.
 - (2) The address or location of the property, including the identification of any dwelling unit, room number, apartment number, business or multi-family residential property.
 - (3) The name and contact telephone number of the agency posting the notice on the property.
 - (4) The City Municipal Code section that has been violated.
 - (5) A statement that it is unlawful for any person to engage in the business of collecting, transporting or disposing of commercial solid waste kept, accumulated or generated in the city, or to engage in the business of soliciting accounts or invoicing customers for commercial solid waste service in the city unless a franchise has first been granted pursuant to the provisions of this article and such a franchise is in full force and effect.
- (c) A statement that a person violating the posted notice is subject to criminal penalties pursuant to City Code and administrative civil penalties in an amount of up to \$1,000.00 per day for each violation.
- (d) A statement that a person disturbing or destroying the posted notice is subject to administrative civil penalties in an amount of up to \$1,000.00, in addition to any other remedies provided by this article.

Sec. 74-148. - Notice of violation.

The general services director, and/or his or her designee, may issue a notice of violation to any person found to be in violation of a provision of this article, including, but not limited to, any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the general services director, and/or his or her designee, is authorized to enforce or implement pursuant to this article. Issuance of a notice of violation may also result in the issuance of a notice of administrative enforcement order pursuant to this article.

Sec. 74-149. - Notice of violation—Content.

- (a) In addition to any other content, a notice of violation shall contain the following elements:
 - (1) A statement of the general services director, and/or his or her designee, that indicates a violation has occurred.
 - (2) A citation of the provision of this article, including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that has been violated.
 - (3) A date by which any person must be in compliance with this article including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The

general services director, and/or his or her designee, may extend the compliance date when good cause exists for such an extension.

- (4) Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.
 - (5) Notification that the city may recover any costs incurred by the city as a result of the violation.
 - (6) Notification that a violation of this article may result in an administrative civil penalty or in criminal penalties.
 - (7) Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the general services director, and/or his or her designee, from issuing an administrative enforcement order and imposing administrative civil penalties relating to the alleged violation(s).
- (b) In addition to any other content, a notice of violation may establish required corrective actions, including the following:
- (1) Terms, conditions, and requirements reasonably related to the provisions of this article, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this article.
 - d. Reporting requirements to demonstrate ongoing compliance.
 - (2) A requirement that the person receiving same shall submit written certification to the general services director, and/or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the notice of violation may require documentation that substantiates the certification, including but not limited to, receipts, contracts, or photographs.
 - (3) Any other terms or conditions reasonably calculated to prevent additional violations of this article.
- (c) An administrative enforcement order may be issued separately, but only after issuance of a notice of violation, or in combination with a notice and order, for the same violations or set of related violations.

Sec. 74-150. - Administrative enforcement order.

- (a) If the general services director, and/or his or her designee, determines that a person, covered generator, franchised waste hauler or authorized recycler, has committed or is committing, a violation of any provision of this article, the general services director, and/or his or her designee, may issue an administrative enforcement order, after issuing a notice of violation or in combination with a notice of violation, requiring that the violation be corrected and imposing an administrative penalty.
- (b) Pursuant to this article, the violator shall be liable for a penalty of not more than \$1,000.00 for each day on which each violation occurs and/or continues.

Sec. 74-151. - Administrative enforcement order—Content.

- (a) In addition to any other content, an administrative enforcement order shall contain the following elements:
 - (1) A statement of the general services director, and/or his or her designee's, that indicates a violation has occurred.
 - (2) A citation of the provision of this article including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that has been violated.
 - (3) A date by which any person must be in compliance with this article, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The general services director, and/or his or designee, may extend in writing the compliance date when good cause exists for such an extension.
 - (4) Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.
 - (5) Notification that the city may recover any costs incurred by the city as a result of the violation.
 - (6) Notification as to whether an administrative civil penalty is imposed and the terms and conditions of payment, if any. In establishing the penalty amount, the general services director, and/or his or her designee, shall take into consideration:
 - a. The nature, circumstances, extent, and gravity of the violation;
 - b. The violator's past and present efforts towards compliant behavior;
 - c. The violator's ability to pay the penalty;
 - d. The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
 - (7) Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the general services director, and/or his or her designee, from issuing an administrative enforcement order and imposing administrative civil penalties relating to the alleged violation(s).
 - (8) Notification that the recipient has a right to a hearing on the matter as set forth in this article to appeal any findings or required corrective actions established by the general services director, and/or his or her designee.
 - (9) Notification of procedures for requesting a hearing under in this article.
- (b) In addition to any other content, an administrative enforcement order may establish required corrective actions, including the following:
 - (1) Terms, conditions, and requirements reasonably related to the provisions of this article, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this article.

- d. Reporting requirements to demonstrate ongoing compliance.
 - (2) A requirement that the person receiving same shall submit written certification to the general services director, and/or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the notice of violation may require documentation that substantiates the certification, including, but not limited to, receipts, contracts, or photographs.
 - (3) Any other terms or conditions reasonably calculated to prevent additional or on-going violations of this article.
- (c) A notice of violation or an administrative enforcement order may be issued separately or in combination with another notice or order for the same violations or set of related violations.

Sec. 74-152. - Delivery of notice or order.

Any notice of violation, franchise agreement revocation, administrative Enforcement Order or other enforcement action pursuant to the requirements of this article shall be subject to the following requirements:

- (1) Delivery shall be deemed complete upon either personal delivery to the recipient or by certified mail.
- (2) Where the recipient of the notice or order is the owner of the premises, the address for notice or order shall be the address from the most recently issued equalized assessment roll for the premises.
- (3) Where the owner or occupant of any premises cannot be located after reasonable efforts of the general services director, and/or his or her designee, the notice or order shall be deemed delivered after posting on the premises for a period of ten business days.

Sec. 74-153. - Administrative appeals.

- (a) Hearing request. Any person, owner or operator served with an administrative enforcement order issued pursuant to this article may contest the order on the basis that there was no violation of this article or that he or she is not the responsible party. To contest the order, the person shall submit a request for hearing form to the city within 15 days from the date of the administrative enforcement order. Directions on how to obtain the request form will be provided on the order.
- (b) Filing fee. The completed request must be submitted together with a filing fee, established and amended from time to time by the general services director, and/or his or her designee, based on actual expense to conduct the hearing by the hearing officer.
- (c) Notice of hearing. The person, owner or operator requesting the hearing shall be notified of the time and place set for the hearing at least ten days before the date of the hearing.
- (d) Additional reports. If the general services director, and/or his or her designee, submits an additional written report concerning the administrative enforcement order to the hearing officer for consideration at the hearing, then a copy of this report also shall be provided to the person requesting the hearing at least five days before the date of the hearing.

Sec. 74-154. - Hearing officer.

A hearing officer will be assigned the responsibility of conducting a hearing by the city manager. The city manager shall be authorized to assign hearing responsibilities from time to time to any person or persons, qualified by training or experience, whom the city manager may appoint, employ or who are retained by contract to conduct such hearings.

Sec. 74-155. - Hearing procedure.

- (a) Setting the hearing. A hearing before the hearing officer shall be set for a date that is not less than 15 days nor more than 60 days from the date that the request for hearing is filed. The person requesting the hearing shall be notified of the time and place set for the hearing as soon as it is set, and at least ten days before the hearing. If the general services director, and/or his or her designee, submits a written report concerning the citation to the hearing officer for consideration at the hearing, then a copy of the report shall be served on the person requesting the hearing at least five days before the hearing. No hearing shall be held unless the filing fee has been paid in advance as required in this article.
- (b) Failure to appear. The failure of the person requesting the hearing to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.
- (c) At the hearing. The administrative enforcement order and any additional report submitted by the general services director, and/or his or her designee, shall constitute prima facie evidence of the respective facts contained in those documents. At the hearing, the party contesting the citation shall be given the opportunity to testify and to present evidence concerning the citation.
- (d) Continuances. The hearing officer may continue the hearing and may request additional information from the general services director, and/or his or her designee, or the person receiving the administrative enforcement order before issuing the decision.

Sec. 74-156. - Form and contents of decision—Finality of decision.

- (a) Following the hearing, the hearing officer shall issue an order in writing no later than 30 days from the date of the hearing, unless the time is waived by the parties. The order shall contain findings of fact and rationale appropriate to the violation and result, and a resolution of the essential issues raised, including the following:
 - (1) Confirmation or denial of the occurrence of violations of this article that are alleged by the general services director, and/or his or her designee;
 - (2) Confirmation or rejection of any administrative civil penalty sought by the general services director, and/or his or her designee, and establishment of the monetary amount of any administrative civil penalty to be enforced; and
 - (3) Confirmation, amendment, or rejection of required corrective actions related to compliance with this article that are imposed by the general services director, and/or his or her designee, but only if those requirements are appealed by the person.
- (b) The hearing officer's order shall uphold required corrective actions if the person fails to show clear and convincing evidence that the required corrective actions are unreasonable or unnecessary for achieving or demonstrating ongoing compliance with this article. The

hearing officer's order may amend or reject required corrective actions provided that compliance with this article will be achieved.

- (c) The hearing officer's order shall inform the person that failure to comply with the hearing officer's order shall constitute a misdemeanor and is subject to additional enforcement action, including criminal penalties and additional civil and administrative penalties.
- (d) The hearing officer's order shall inform the person that the time and manner by which a person may file a challenge to the Hearing Officer's order is governed by Government Code § 53069.4, or any successor provision thereto.
- (e) The order issued by the hearing officer pursuant to this article shall be effective upon issuance. The decision of the hearing officer is final and may not be appealed.

Sec. 74-157. - Procedures for collection of administrative civil penalty.

- (a) Any administrative penalty due shall be paid to the city within 30 days after the hearing officer's decision is issued. If the penalty is not timely paid, the general services director, and/or his or her designee, may pursue all reasonable and legal means in collecting those sums authorized and due.
- (b) All administrative civil penalties collected from actions brought pursuant to this article shall be paid to the general services director and/or his or her designee, enforcing this article, and shall be expended to fund the activities of the department to implement the applicable provisions of this article.

Sec. 74-158. - Actions not prohibited.

This article does not do any of the following:

- (1) Otherwise affect the authority of the general services director, and/or his or her designee, to take any other action authorized by any other provision of law.
- (2) Restrict the power of a city attorney, district attorney, or the attorney general to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.
- (3) Prevent the general services director, and/or his or her designee, from cooperating with, or participating in, proceedings specified in subsection 74-157(b) above.

Sec. 74-159. - Penalties.

In addition to the administrative penalties imposed by section 74-149 of this article, the city may seek all other legal remedies available under state law and under this Code, including, but not limited to, criminal sanctions.

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EXHIBIT A

ARTICLE IV. - BUSINESS AND MULTI-FAMILY RECYCLING AND ORGANICS RECYCLING

Sec. 74-126. - Purpose and declarations.

- (a) It is the intent and purpose of this article to promote recycling and organics recycling by:
 - (1) Requiring businesses and multi-family residential properties in the City of Citrus Heights to keep recyclable materials and organic recyclable materials separate from all other solid waste for recycling and organics recycling;
 - (2) Requiring businesses and multi-family residential properties to provide signs and labeled containers for the storage and collection of recyclable materials and organic recyclable materials; and
 - (3) Requiring businesses and multi-family residential properties to either self-haul or enter into a written service agreement for the collection and subsequent delivery of recyclable materials and/or organic recyclable materials to a recycling facility.
- (b) It is further the purpose of this article to provide a mechanism to require the implementation of recycling programs and organics recycling programs for businesses and multi-family residential properties within the city to thereby enable the city to meet and maintain the 50 percent waste diversion requirements set forth in the Public Resources Code § 41780(a)(2).

Sec. 74-127. - Definitions.

Authorization means the process of approving a recycler for collection and removal of recyclable materials from businesses and multi-family residential properties by the general services director and/or his or her designee.

Authorized recycler means any person or business entity who lawfully collects, accepts, transports or otherwise processes recyclable materials from businesses and multi-family properties for financial gain or profit, and has been certified and approved by the general services director and/or his or her designee.

Business means:

- (1) A commercial entity, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, or corporation that is organized for financial gain or profit, including but not limited to, offices, retail stores, markets, manufacturing facilities, warehouse and distribution facilities, restaurants, motels and hotels, theaters, medical offices, and gas stations and automotive facilities; and
- (2) Not-for profit organizations, including but not limited to, churches, hospitals, and social service organizations.

Certificate of operation means the license that an authorized recycler must obtain from the city before it may collect recyclable materials within the city boundaries.

City means the City of Citrus Heights, California.

Collection means the act of collecting and removing solid waste or recyclable materials or organic recyclable materials at the place of generation.

Commercial hauler or hauler means any person who collects, hauls, or transports commercial solid waste for a fee by use of any means, including but not limited to, a dumpster truck, roll-off truck, a side-load, front-load, or rear-load garbage truck, or a trailer.

Commercial solid waste means all solid waste as defined below and generated by commercial and industrial sources and multi-family residential properties, and that is collected by a franchised waste hauler.

Covered generator means all businesses and multi-family residential properties ~~that are subject to the requirements of this article.~~ defined as covered generators in section 74-128 of this article. ~~The general services~~

~~director, and/or his or her designee, shall specify the minimum weekly solid waste collection service threshold that defines covered generators for the purposes of this article.~~ A covered generator may include a business or multi-family residential property owner or generator, and is dependent on whomever executes a contract(s) for solid waste removal and recycling collection services.

Customer means a business or multi-family residential property owner or generator who contracts for solid waste removal services and enters into a service agreement with a franchised waste hauler or an authorized recycler for recycling services and/or organics recycling services. Where several businesses or multi-family residential properties share garbage containers and service, "customer" refers only to the party whom enters into a contract for solid waste collection services.

Designated green materials or green materials means materials that are required to be separated by covered generators from solid waste and designated recyclable materials prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products. Green materials include, but are not limited to: yard trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces and other types of organic yard waste. Green materials excludes food scraps and paper contaminated with food scraps.

Designated organic recyclable materials or organic recyclable materials means materials that are required to be separated by covered generators from solid waste and designated recyclable materials prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products. Organic recyclable materials include, but are not limited to: yard trimmings and food scraps such as green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces, other types of organic yard waste, vegetable waste, fruit waste, dairy waste, meat waste, fish waste, and paper contaminated with food scraps. The term "organic recyclable materials" solely means "designated green materials" when referencing multifamily residential property requirements.

Designated recyclable materials or recyclable materials means materials, as designated by the general services director and/or his or her designee, that are required to be separated by covered generators from solid waste prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products.

Franchise agreement means a commercial solid waste collection franchise agreement issued to a commercial hauler by the City of Citrus Heights.

Franchised waste hauler means a commercial waste hauler or hauler holding a franchise agreement issued by the city pursuant to section 74-166 of this Code. A franchised waste hauler may also collect, haul, or transport recyclable materials.

General services director means the General Services Director of the City of Citrus Heights, California.

Generator means each business or multi-family residential property that generates one or more designated recyclable materials or one or more designated organic recyclable materials as a result of its business activities or multi-family residential property activities.

Implementation period means the period of time between the effective date of this article and December 31, 2009.

Multi-family residential property means five or more residential dwelling units located on a single parcel of land, and any mobile home park, located within the city.

National contracts means contracts between waste management companies and multi-sited waste generating companies that operate throughout the country.

Organics recycling means the process of collecting, sorting and treating organic recyclable materials and/or designated green materials that would have otherwise become solid waste and returning them to a safe, nuisance-free compost product by treating the materials to a controlled biological decomposition.

Owner means the person who owns a business or multi-family residential property. An owner may also be a generator.

Person means an individual, firm, limited liability company, association, partnership, industry, public or private corporation, or any other entity whatsoever.

~~General services director means the General Services Director of the City of Citrus Heights, California.~~

Recycling means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place. Recycling does not include transformation as defined in Public Resources Code § 40201. The term recycling may be used to include source separated materials.

Recycling facility means those facilities or operations that receive, process, and transfer to market recyclable materials or organic recyclable materials that have been source separated from the solid waste stream.

Recyclable materials container means any box, tub, cart, or other container placed inside each individual multi-family residential unit and in maintenance or work areas on the premises of covered generators that is made of metal, hard plastic or other similar material and is suitable for the collection of designated recyclable materials and designated organic recyclable materials pursuant to this article. Recycling materials containers must be approved by the city.

Recycling plan means the plan to be presented to all covered generators by their franchised waste hauler to document understanding of the requirements of this article and record the selected compliance option for each designated recyclable material and/or each designated organic recyclable material.

Removal means the act of removing solid wastes, ~~or~~ recyclable materials or organic recyclable material from the place of waste generation.

Self-haul, when used in reference to designated generated by a covered generator, means a covered generator, or employee designated by the covered generator, who collects, transports and hauls recyclable materials or organic recyclable materials from the business or multi-family residential property, in a vehicle owned by either an employee or the entity, to a recycling facility rather than hiring a franchised waste hauler or an franchised waste hauler to perform this function.

Self-hauling form means the form provided by the general services director, and/or his or her designee, on which a business or multi-family residential property, owner or generator, certifies that all self-hauling activities will be completed in accordance with the provisions of this article or any other applicable law or regulation.

Service agreement means a written agreement between a franchised waste hauler or franchised waste hauler and a covered generator concerning the collection of designated recyclable materials and/or designated organic recyclable materials.

Solid waste means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes. Solid waste does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with § 25800) of Division 20 of the Health & Safety Code or medical waste. Solid waste does not include recyclable materials or organic recyclable materials set out for separate collection for the purposes of recycling or organics recycling, and that are not landfilled.

Source separate or source separated means the process of removing recyclable materials or organic recyclable materials from solid waste for the purpose of recycling and/or organics recycling.

Subcontract is a contract assigning some of the obligations of a contract to a third party.

Sec. 74-128. Threshold for covered generators

(a) Recycling requirements – Each business or multi-family residential property owner or generator that generates four or more cubic yards of commercial solid waste per week or a multi-family residential property of five or more dwelling units is a covered generator and shall obtain and maintain -recycling collection services as specified in this article.

(b) Business organics recycling requirements – . Covered generators that are businesses and meet or exceed the following thresholds shall obtain and maintain organics recycling collection services by the date listed:

1. April 1, 2016: Eight cubic yards or more of organic recyclable materials per week

2. January 1, 2017: Businesses that generate four cubic yards or more of organic recyclable materials per week.

3. January 1, 2019: Four cubic yards or more of solid waste per week.

(c) Multi-family residential property organics recycling requirements – Multi-family residential properties are not be required to separate food scraps for organics recycling. Covered generators that are multi-family residential properties and meet or exceed the following thresholds shall obtain and maintain organics recycling collection services by the date listed:

1. April 1, 2016: Eight cubic yards or more of green materials per week.

2. January 1, 2017: Four cubic yards or more of green materials per week.

3. January 1, 2019: Four cubic yards or more of solid waste per week.

Sec. 74-1298. - Requirements for covered generators.

- (a) Each covered generator shall be responsible for ensuring and demonstrating its compliance with the following requirements:
- (1) Source separate designated recyclable and/or designated organic recyclable and/or designated green materials ~~materials~~ from solid waste;
 - (2) Provide for a basic level of recycling service and/or organics recycling service that includes, at a minimum, the collection of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials; and
 - (3) Enter into a written service agreement with a franchised waste hauler or authorized recycler for the collection of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials; or
 - (4) Complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with the provisions of this article or any other applicable law or regulation. A copy of such form shall be made available to the general services director, and/or his or her designee, upon request.
- (b) Each covered generator shall provide recyclable materials containers for designated recyclable materials and/or designated organic recyclable materials and/or designated green materials in multi-family residential rental units and in maintenance and work areas where recyclable materials and organic recyclable ~~may~~ materials and/or green materials may be collected and/or stored.
- (c) Each covered generator shall prominently post and maintain one or more signs where designated recyclable materials and/or designated organic recyclable materials and/or designated green materials are collected and/or stored that set forth what materials are required to be source separated, in addition to collection procedures for such materials.
- (d) Each covered generator shall notify and instruct employees and tenants, in writing, of applicable source separation requirements, including a list of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials that are required to be source separated for recycling. A copy of such instructions shall be provided to the general services director, and/or his or her designee, upon request.

- (e) Each covered generator shall ensure that designated recyclable materials and/or designated organic recyclable materials and/or designated green materials generated at their site will be taken only to a recycling facility, and not to a landfill for disposal, by complying with all requirements under this article.
- (f) The recycling plan, service agreement, and self-haul form, or other documents pertaining to this article, shall be available for inspection by the general services director, and/or his or her designee, at the principal location of the covered generator during normal business hours.
- (g) Nothing in this article shall abridge the right of any covered generator, or any other person, to sell or exchange at fair market value its own recyclable materials or organic recyclable materials or green materials which are source separated for reuse and recycling.
- (h) No franchised waste hauler or authorized recycler shall be held liable for the failure of its customers to comply with such regulations.
- (i) No covered generator shall be liable for the failure of their franchised waste hauler or authorized recycler to deliver designated recyclable materials or designated organic recyclable materials or designated green materials to a recycling or processing facility.

Sec. 74-130~~29~~. - Special requirements.

In addition to any and all requirements that apply to the recycling and/or organics recycling of designated recyclable materials and/or designated organic recyclable materials throughout the city listed above, collection service received or provided in the city shall be subject to the following additional special requirements:

- (1) No recycling, automatic lift containers or bins within the collection area of the city shall be placed or located in such a manner that blocks or impedes passage through an alley or through any doorway of any building adjoining an alley, notwithstanding that such building may be abandoned or otherwise out of use.
- (2) Compliance with the above special requirements shall be the sole responsibility of the covered generator.

Sec. 74-131~~0~~. - Designation of recyclable materials.

- (a) Designated recyclable materials and/or designated organic recyclable materials shall be source separated from solid waste before collection, removal, transportation or disposal pursuant to this article. The general services director, and/or his or her designee, shall specify designated recyclable materials and designated organic recyclable materials that must be source separated by all covered generators pursuant to section 74-128. The specifications for designated recyclable materials shall consider materials market conditions and the availability of a cost-effective system for recycling such materials.
- (b) Furthermore, all covered generators are encouraged to recycle additional materials, whether or not they have been specified as designated recyclable materials.

Sec. 74-132~~4~~. - Ownership of recyclable materials.

- (a) All designated recyclable materials and designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins shall be considered owned by and be the responsibility of either the franchised waste hauler or authorized recycler. Without permission of either the franchised waste hauler or authorized recycler, no person shall collect designated recyclable materials or designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins for recyclable materials or organic recyclable materials by customers.
- (b) Except as authorized by section 74-138~~7~~ (self-hauling) below, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or to otherwise organize, direct or sponsor the collection, removal or transportation of designated recyclable materials or designated organic recyclable materials who is not either a franchised waste hauler or an authorized recycler.

Sec. 74-133~~2~~. - Requirements for franchised waste haulers.

- (a) Commercial waste haulers shall be "franchised" pursuant to the provisions of chapter 74 of this Code, and such "franchise agreement" shall be in full force and effect.
- (b) Franchised waste haulers shall offer collection service and automatic lift containers, bins or roll-off bins for designated recyclable materials and designated organic recyclable materials sufficient to accommodate the quantity and types of designated recyclable materials and designated organic recyclable materials to all its solid waste customers.
- (c) Franchised waste haulers shall equip and provide automatic lift containers, bins and roll off bins for designated recyclable materials with locks and/or other suitable features to prevent theft of recyclable materials.
- (d) Franchised waste haulers may subcontract for collection of designated recyclable materials and designated organic recyclable materials, so long as the subcontractor holds a current franchise agreement or is an authorized recycler.
- (e) Franchised waste haulers shall conduct all activities in accordance with all applicable state and local laws and best management practices. Vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
- (f) Franchised waste haulers shall not take a customer's designated recyclable materials or designated organic recyclable materials to a landfill or other disposal site, but to a recycling facility.
- (g) Franchised waste haulers, upon request, shall provide the general services director, and/or his or her designee, with a copy of a service agreement, recycling plan or other document (e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials and/or designated organic recyclable materials are being taken to a recycling facility. The service agreement, recycling plan or other documents shall be available for inspection by the general services director, and/or his or her designee, at the franchised waste haulers' place of business during normal business hours.
- (h) City staff may audit all franchised waste haulers' records.

Sec. 74-1343. - Requirements for service agreements.

- (a) Franchised waste haulers and authorized recyclers shall execute a written service agreement with all covered generators, as required in section 74-1298 of this article, before the franchised waste hauler or authorized recycler begins to collect solid waste and/or designated recyclable materials and/or designated organic recyclable materials.
- (b) Service agreements shall incorporate, but are not limited to, the following terms and conditions:
 - (1) Be clearly labeled as a service agreement;
 - (2) Describe the solid waste and/or recycling collection services and/or organics recycling collection services to be provided by the franchised waste hauler or authorized recycler, and the cost for providing such services to the customer;
 - (3) Clearly state the initial term and renewal terms;
 - (4) Allow for any term that is mutually agreed to by the customer and the franchised waste hauler, but recognizing that the hauler's franchise or recyclers authorization granted by the city must remain in full force and effect throughout the term of the agreement;
 - (5) May contain automatic renewal for successive periods of no longer than one year, unless either party gives written notice of termination by certified or registered mail at least 60 days prior to termination date of the current agreement;
 - (6) May be amended as mutually agreed upon by the customer and the franchised waste hauler or authorized recycler;
 - (7) Customers are to receive a written notice of price increases not less than 30 days prior to the effective date of such price increase;

- (8) Franchised waste haulers and authorized recyclers shall respond to customer inquiries regarding the service agreement within 30 days;
- (9) Include language stating that collection containers will be removed from the property of a customer within 30 days of final termination of services to the customer;
- (10) Not require customers to pay over three months' liquidated damages during the renewal term and over six months' liquidated damages during the initial term of the service agreement;
- (11) Not require a customer to give a franchised waste hauler the exclusive right to provide recycling collection services or organics recycling collection services as a condition of a service agreement, unless the customer affirmatively indicates that is its desire;
- (12) Not require customers to give notice of any offer by a competitor or require customers to give franchised waste haulers the right to respond to such an offer;
- (13) Franchise agreements must be in full force and effect for the service agreement to be effective.
- (c) The requirements for service agreements contained in this section shall be incorporated into all new service agreements upon enactment of this article. Existing service agreements between a franchised waste hauler and a customer executed before the effective date of this article shall remain in force for the remainder of the existing contract and shall be governed by the terms and conditions specified in the existing service agreement, provided that such existing service agreements shall comply, to the extent allowable by law, with the new recycling and organics recycling programs established by this article.
- (d) National contracts or agreements are exempt from the requirements of contract length and renewal terms.

Sec. 74-1354. - Requirements for recycling plans.

- (a) The general services director, and/or his or her designee, shall provide a recycling plan template to each franchised waste hauler in order to document compliance with this article for each covered generator.
- (b) Franchised waste haulers shall present, complete, and sign a recycling plan for each covered generator located in the city.
- (c) Franchised waste haulers shall maintain a copy of each completed recycling plan, and submit to the general services director, and/or his or her designee, for audit purposes within five days of receipt of a written request.
- (d) Franchised waste haulers shall complete and file recycling plans for 100 percent of their customers that must comply with and are subject to the recycling requirements of this chapter by the date at which those customers must first comply with the requirements.
- ~~(d) Franchised waste haulers shall complete and file recycling plans for 50 percent of their covered generator customers no later than July 1, 2009, and 100 percent no later than December 31, 2009.~~
- (e) Franchised waste haulers shall complete and file recycling plans for 100 percent of their customers that must comply with and are subject to the organics recycling requirements of this chapter by the date at which those customers must first comply with the requirements, or by another deadline established by the public works director.
- ~~(f) Franchised waste haulers that fail to comply with the requirements of this section shall be subject to penalties under section 74-149 and/or section 74-158 of this specified in this~~ article.

Sec. 74-1365. - Requirements for authorized recyclers.

- (a) No person shall provide service as a franchised waste hauler or authorized recycler within the city without having obtained a certificate of operation and becoming an "authorized recycler." All authorized recyclers shall file a certificate of operation application form approved by the general services director, and/or his or her designee, providing the information and documentation that is requested by the general services director, and/or his or her designee, including, but not limited to, the following:

- (1) The name, address and telephone number of the applicant;
 - (2) A description of the vehicles that the applicant will use to collect recyclable materials and/or organic recyclable materials, including the make, model, and serial number or vehicle identification number (VIN) of each vehicle; and
 - (3) Authorized recyclers shall indemnify, defend with counsel selected by the city, and hold harmless the city and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, causes of action and the payment of all attorneys fees and other related costs and expenses arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of authorized recycler or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work to the maximum as allowed by applicable law.
 - (4) Authorized recyclers shall defend, indemnify and hold harmless the city, including, but not limited to, elected officials, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from, the authorized recycler's activities pursuant to this article to the maximum as allowed by applicable law. Authorized recyclers shall defend with counsel selected by the city.
 - (5) Without limiting the authorized hauler's indemnification, the authorized hauler shall maintain in force at all times during the term of this authorization certificate and any extensions or modifications thereto, insurance as specified in the addendum of the certificate of operation agreement. It is the responsibility of the authorized recycler to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in the addendum of the certificate of operation agreement.
 - (6) A written statement certifying that the applicant has reviewed and will comply with all of the requirements in the certificate of operation and this article.
- (b) If the general services director, and/or his or her designee, determines that the applicant complies with the terms of this article, the general services director, and/or his or her designee, shall grant a certificate of operation. The general services director, and/or his or her designee, shall deny an application for a certificate of operation if the general services director, and/or his or her designee, determines that the applicant does not comply with the terms of this article.
 - (c) The certificate of operation shall remain in effect for a period of five years.
 - (d) The general services director, and/or his or her designee, may revoke a certificate of operation if the general services director, and/or his or her designee, determines after providing 30 days' written notice and an opportunity for a hearing, that an authorized recycler has violated the provisions in the certificate of operation or any applicable law.
 - (e) Authorized recyclers shall offer collection service and automatic lift containers, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials sufficient to accommodate the quantity and types of recyclable materials and organic recyclable materials to all its customers.
 - (f) Authorized recyclers may subcontract for collection of designated recyclable materials and/or designated organic recyclable materials, so long the subcontractor is a franchised waste hauler or authorized recycler.
 - (g) Authorized recyclers shall conduct all activities in accordance with all applicable laws, the City's Municipal Code and best management practices. An authorized recycler's vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
 - (h) An authorized recycler's automatic lift containers, bins or roll-off bins for recyclable materials and/or organic recyclable materials shall be clearly identified with the name, or recognizable corporate or company logo, and phone number of the authorized recycler that is legible from a distance of 50 feet.
 - (i) Authorized recyclers shall equip and provide to all recycling, automatic lift containers, bins or roll-off bins for designated recyclable materials locks and/or other suitable features to prevent scavenging of recyclable materials and/or organic recyclable materials.

- (j) Authorized recyclers shall deliver a customer's recyclable materials [and/or organic recyclable materials](#) to a recycling facility, and not to a landfill or other site for disposal.
- (k) Authorized recyclers, upon request, shall provide the general services director, and/or his or her designee, with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials are being delivered to a recycling facility. The service agreement or other document shall be available for inspection by the general services director, and/or his or her designee, at the franchised waste haulers' place of business during normal business hours.
- (l) The general services director, and/or his or her designee, may audit all authorized recyclers' recycling records.

Sec. 74-1367 - Requirements for multi-family [residential](#) properties.

- (a) Multi-family residential tenants shall be responsible for compliance with the requirement to source-separate designated recyclable materials [and/or designated green materials](#) from solid waste pursuant to subsection 74-1298(a)(1).
- (b) No multi-family residential property owner who is a covered generator pursuant to ~~section 74-127 this article~~ shall be cited for noncompliance with this article as a result of the failure of his or her rental property tenants to source separate designated recyclable materials [or designated green materials](#) from solid waste pursuant to subsection 74-1298 (a)(1).
- (c) Multi-family residential property owners who are covered generators pursuant to ~~section 74-127 this article~~ shall be responsible for compliance with subsections 74-1298(a)(2)(3) and (4), as well as subsections 74-1298(b)(c)(d)(e) and (f).
- (d) Every multi-family residential unit shall have a recyclable materials container provided by either the multi-family residential property owner who is a covered generator pursuant to ~~section 74-127 this article~~, or by the multi-family residential tenant as part of their rental agreement.

Sec. 74-1387 - Requirements for self-hauling.

- (a) A covered generator may haul or transport designated recyclable materials [and/or designated organic recyclable materials](#) generated and collected at its business or multi-family [residential](#) property to a recycling facility, rather than hiring a franchised waste hauler or authorized recycler, only if an owner, generator or employee of the entity completes this activity by utilizing a vehicle owned by either an employee or the entity.
- (b) A covered generator that hauls or transports designated recyclable materials [and/or designated organic recyclable materials](#) generated and collected at its business or multi-family [residential](#) property to a recycling facility without the utilization of a franchised waste hauler or authorized recycler must complete and retain on-site a self-hauling form that certifies that all self-hauling activities will be completed in accordance with the provisions of all applicable laws or regulations. The self-hauling form shall be made available to the general services director, and/or his or her designee, upon request. At a minimum, the covered generator shall provide the following information on the self-hauling form:
 - (1) The name, address and telephone number of the covered generator that is signing the self-hauling form;
 - (2) A list of the types of recyclable materials [and/or organic recyclable materials](#) being self-hauled;
 - (3) For each type of recyclable material [and/or organic recyclable material](#), the amount that is being taken from the business and multi-family [residential](#) property to a recycling facility quarterly;
 - (4) The name and address of the recycling facility(s).
- (c) The self-hauling form shall contain a written statement signed by the business or multi-family [residential](#) property, owner or generator, certifying that the owner or generator is in compliance with the requirements of this article.
- (d) The general services director, and/or his or her designee, may restrict or prohibit self-hauling by a person if the general services director, and/or his or her designee, determines, after providing 30-day written notice and an opportunity for a hearing, that the person's self-hauling activities violate the provisions of this article or any other applicable law or regulation.

Sec. 74-13~~98~~⁹⁹. - Appeal upon denial of certificate of operation or self-haul certificate.

- (a) Within 30 days of written notification of denial, or within 60 days of general services director's and/or his or her designee's failure to act on the certificate, applicant has the right to meet with the general services director, and/or his or her designee, to review the items cited in the written notice and provide any additional evidence to support an approval. Within 15 days of such meeting, the general services director, and/or his or her designee, will make a final, written determination of the application based on the reviews of additional evidence, together with the original application. The General Services Director, and/or his or her designee, will send a copy of all final, written determinations, including reasons for denial, if any, to both applicant and the city manager.
- (b) Applicant may, within ten days after receiving the final denial from the general services director, and/or his or her designee's, request a public hearing before the city council by submitting to the city clerk a written petition for an appeal hearing. If a public hearing is requested, the city clerk shall set the matter for hearing at the next possible regularly scheduled city council meeting or any later date as agreed upon by the applicant and city clerk. At such hearing, applicant may present evidence in writing and through testimony of its employees and others relevant to the application. During such hearing, the city council may demand from the applicant such additional information as the city council may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing, and the applicant shall have the burden of proof to show facts demonstrating that the applicant does, in fact, meet the requirements of this article. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The city council will provide applicant with a written explanation of its determination on the application within 30 days of such hearing. The city council's decision is final.

Sec. 74-14~~03~~⁹⁹. - Reporting.

- (a) Franchised waste haulers shall provide the following reports to the city, no later than the last day of the month for the preceding reporting period. Reporting shall occur on a quarterly basis, or as requested by the general services director and/or his or her designee. Reports shall include, at a minimum, the following information:
 - (1) The total number of covered generators in the city that are in compliance with this article and for which a completed recycling plan is on-file;
 - (2) The total number of covered generators that are customers of the franchised waste hauler in the city;
 - (3) The total number of covered generators that have completed a recycling plan but remain in violation of this article for any reason;
 - (4) The total weekly cubic yardage of solid waste collection service and designated recyclable materials and/or designated organic recyclable materials collection service provided to covered generators during the reporting period.

Due dates for reporting are:

Reporting Period	Due Date
January 1—March 31	April 30
April 1—June 30	July 31
July 1—September 30	October 31
October 1—December 31	February 1

- (b) If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent and the franchised waste hauler shall pay to the city a delinquent report charge in the amount of \$50.00 per day. If the report remains delinquent for more than 15 days, the franchised waste hauler shall pay to the city a delinquent report charge in the amount of \$100.00 per day.
- (c) Franchised waste haulers' failure to file the reports required by this article shall constitute cause for termination or suspension the hauler's franchise pursuant to Chapter 74 of the City Municipal Code.
- (d) Self-haulers shall prepare quarterly reports to be kept on site identifying, at a minimum, the following:
 - (1) The recyclable materials [and/or organic recyclable materials](#) tonnage collected and removed within the city region during the previous quarter.
 - (2) The location of the recycling facility(s) to which the recyclable materials [and/or organic recyclable materials](#) were taken during the previous quarter.
- (e) The general services director, and/or his or her designee, shall provide and establish guidelines, forms and other appropriate material to assist franchised waste haulers, authorized recyclers and self-haulers in preparing the reports required by this article.

Sec. 74-14~~10~~¹⁹. - Exemptions from recycling standards.

- (a) Notwithstanding any other provision herein, a business or multi-family property, owner or generator, shall be exempt from the [recycling](#) requirements of this article if the owner or generator subscribes to less than four (4) cubic yards of solid waste collection service per week.
- (b) Notwithstanding any other provision herein, a covered generator shall not be required to source separate recyclable materials [and/or organic recyclable materials](#) if the business or multi-family [residential](#) property, owner or generator, demonstrates to the general services director and/or his or her designee that there is no collection service or other system available for recycling such material.
- (c) Notwithstanding any other provision herein, a covered generator shall be exempt from the [recycling and/or organics recycling](#) requirements in section 74-12~~98~~⁹⁸ if all of the generators on the owner's business or multi-family property are exempt from or not required to comply with the provisions of section 74-12~~98~~⁹⁸, or if designated recyclable materials are not being generated by any activities occurring on the covered generator's property.
- (d) Covered generators may be exempted by the general services director, and/or his or her designee, if it is determined through a site visit requested by the covered generator: 1) that there is not adequate storage space for automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable [and/or designated organic recyclable](#) materials on site and that it is infeasible for the covered generator to share automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable materials [and/or designated organic recyclable materials](#) with another covered generator on an adjoining property; or 2) that compliance with this article results in a violation of the city's zoning code, including city zoning regulations for minimum parking spaces. If the general services director, and/or his or her designee, determines that it is feasible for recycling containers to be placed on site or shared with an adjoining generator, the covered generator will be responsible for compliance with this article.
- (e) An application for an exemption shall be submitted to the general services director, and/or his or her designee, on a form prescribed by the general services director, and/or his or her designee. After reviewing the request, the general services director, and/or his or her designee, shall either approve or disapprove the exemption request.
- (f) The following persons shall automatically be exempt from the requirements of this article:
 - (1) The United States, State of California, a city, the county, a special district or other local public agency, or any employee or member of the Armed Forces thereof, when collecting or transporting designated recyclable materials produced by operation of the public entity under a system of recyclable materials'

collection and transportation operated and maintained by the public agency within the city region as specified herein and in Chapter 6.20 of this Code.

- (2) Municipal corporations and other governmental agencies using their own vehicles and employees engaged in the collection, transportation or disposal of designated recyclable materials within the city.

Sec. 74-14~~24~~²⁴. - City rules and regulations.

- (a) The general services director, and/or his or her designee, is authorized to make and enforce administrative rules and regulations governing recycling and organics recycling at businesses and multi-family residential properties, and all related activities including recycling and commercial solid waste generation, storage, recovery, accumulation, collection, removal, transportation and disposal; the manner in which commercial solid waste and recycling and organics recycling services are provided; types of commercial solid waste and recycling containers and vehicles used for the operation and maintenance of sanitary methods of commercial solid waste and recycling and organics recycling disposal; reporting requirements for franchised waste haulers, authorized recyclers and self-haulers; and for the effective administration of this article. All such rules and regulations shall be consistent with the provisions of the City Municipal Code and shall be effective on the thirtieth day following the filing of any such rules and regulations with the city clerk.
- (b) The city council may, and is hereby empowered to, grant to a qualified applicant a non-exclusive franchise to engage in the business of collecting, transporting or disposing of commercial solid waste or recyclable materials or organic recyclable materials kept, accumulated or generated in the city region.
- (c) The city council may, directly or by delegating such authority by ordinance or resolution, grant franchises based on compliance with this article. Any grant of a franchise by the city council may be subject to such terms, conditions, rules, regulations, restrictions, and limitations, as the city council deems necessary to protect the public health, safety, or welfare.
- (d) The city council hereby empowers and grants to the ~~general services~~public works director, and/or his or her designee, the authority to ~~grant-enter into commercial non-exclusive collection service agreements (commercial non-exclusive franchises) to~~certificates of operation to ~~with~~ franchised waste haulers, to make administrative and non-substantive changes to certificates of operation forms, to specify designated recyclable materials and designated organic recyclable materials, and make administrative rules and regulations governing covered generators.
- (e) The city council hereby empowers and grants to the general services director, and/or his or her designee, the authority to administer, implement and enforce this article and administrative rules and regulations governing business and multi-family residential property recycling and organics recycling thereafter.
- (f) It shall be unlawful and constitute a violation of this article for any person to violate or otherwise fail to comply with any rule or regulation issued pursuant to this article.

Sec. 74-14~~32~~³². - Rights reserved to city.

In addition to all other rights reserved to the City, the following shall apply:

- (1) There is hereby reserved to the city every right and power, and the exercise thereof, which is reserved or authorized by any provision of any lawful Code, title or resolution of the city, whether enacted before or after the effective date of this article.
- (2) Neither the granting of any franchise or authorization, nor any provision of any franchise or authorization, shall constitute a waiver of or a bar to exercise of any governmental right or power of the city.
- (3) The grantee receiving any type of franchise agreement, license or certificate to collect recyclable materials shall have no recourse whatsoever against the city, its officers, employees or agents, or any of the city member entities, their officers, employees, or agents for any loss, cost, expense or damage arising out of any provision or requirement of this article, or of any franchised waste hauler or franchised waste hauler's certificate of operation issued under this article or because of the enforcement of this article.

- (4) There is hereby expressly reserved to the city the power and authority to amend any section of this article so as to require additional or greater standards on the part of the franchised waste hauler, commercial hauler or covered generator.

Sec. 74-14~~43~~⁴³. - Administration and costs.

- (a) The administration of this article is the duty of the general services director, and/or his or her designee. The general services director, and/or his or her designee, is authorized and directed by the city council to administer this article.
- (b) Commercial franchise fees may be used to fund solid waste administration, implementation and enforcement costs.

Sec. 74-14~~54~~⁵⁴. - Unlawful acts.

- (a) It shall be unlawful to combine designated recyclable materials and organic recyclable materials with other solid waste. Failure of covered generators to source separate designated recyclable materials or organic recyclable materials for recycling or organics recycling is a violation of this article.
- (b) It shall be unlawful for franchised waste haulers or authorized recyclers to commingle materials in solid waste bins or carts with materials in recycling bins or carts in one collection vehicle.
- (c) It shall be the responsibility of the covered generator whose solid waste was not removed because it contained designated recyclable materials to properly separate designated recyclable materials from the uncollected solid waste for proper recycling. Allowing such unseparated solid waste to accumulate will be considered a violation of this article.

Sec. 74-14~~65~~⁶⁵. - Implementation and enforcement.

The implementation and enforcement of article IV is the duty of the general services director, and/or his or her designee, of the city's general services department. The general services director, and/or his or her designee, is authorized and directed by the city council to implement and enforce this article.

Sec. 74-14~~7.6~~^{7.6}. - Posting of notices.

- (a) The general services director, and/or his or her designee, may post notices on automatic lift containers, bins and roll-off bins that are used for solid waste collection and the collection of designated recyclable materials, and the collection of designated organic recyclable materials within the city if the owner of the automatic lift containers, bins and roll-off bins is in violation of this article, including, but not limited to, any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the General Services Director, and/or his or her designee, is authorized to enforce or implement pursuant to this article.
- (b) A notice shall remain on automatic lift containers, bins and roll-off bins that are used for solid waste collection within the city so long as the owner of the automatic lift containers, bins and roll-off bins is in violation of this article. The notice shall be posted on the automatic lift container, bin, and/or roll-off bin so as to be clearly visible to the general public and include all of the following information:
- (1) The date the notice was posted on the container.
 - (2) The address or location of the property, including the identification of any dwelling unit, room number, apartment number, business or multi-family residential property.
 - (3) The name and contact telephone number of the agency posting the notice on the property.
 - (4) The City Municipal Code section that has been violated.
 - (5) A statement that it is unlawful for any person to engage in the business of collecting, transporting or disposing of commercial solid waste kept, accumulated or generated in the city, or to engage in the business of soliciting accounts or invoicing customers for commercial solid waste service in the city

unless a franchise has first been granted pursuant to the provisions of this article and such a franchise is in full force and effect.

- (c) A statement that a person violating the posted notice is subject to criminal penalties pursuant to City Code and administrative civil penalties in an amount of up to \$1,000.00 per day for each violation.
- (d) A statement that a person disturbing or destroying the posted notice is subject to administrative civil penalties in an amount of up to \$1,000.00, in addition to any other remedies provided by this article.

Sec. 74-14~~87~~⁹⁷. - Notice of violation.

The general services director, and/or his or her designee, may issue a notice of violation to any person found to be in violation of a provision of this article, including, but not limited to, any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the general services director, and/or his or her designee, is authorized to enforce or implement pursuant to this article. Issuance of a notice of violation may also result in the issuance of a notice of administrative enforcement order pursuant to this article.

Sec. 74-14~~98~~⁹⁸. - Notice of violation—Content.

- (a) In addition to any other content, a notice of violation shall contain the following elements:
 - (1) A statement of the general services director, and/or his or her designee, that indicates a violation has occurred.
 - (2) A citation of the provision of this article, including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that has been violated.
 - (3) A date by which any person must be in compliance with this article including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The general services director, and/or his or her designee, may extend the compliance date when good cause exists for such an extension.
 - (4) Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.
 - (5) Notification that the city may recover any costs incurred by the city as a result of the violation.
 - (6) Notification that a violation of this article may result in an administrative civil penalty or in criminal penalties.
 - (7) Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the general services director, and/or his or her designee, from issuing an administrative enforcement order and imposing administrative civil penalties relating to the alleged violation(s).
- (b) In addition to any other content, a notice of violation may establish required corrective actions, including the following:
 - (1) Terms, conditions, and requirements reasonably related to the provisions of this article, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this article.
 - d. Reporting requirements to demonstrate ongoing compliance.
 - (2) A requirement that the person receiving same shall submit written certification to the general services director, and/or his or her designee, that the necessary corrective actions have been completed. As

appropriate for the type of correction action taken, the notice of violation may require documentation that substantiates the certification, including but not limited to, receipts, contracts, or photographs.

- (3) Any other terms or conditions reasonably calculated to prevent additional violations of this article.
- (c) An administrative enforcement order may be issued separately, but only after issuance of a notice of violation, or in combination with a notice and order, for the same violations or set of related violations.

Sec. 74-15049. - Administrative enforcement order.

- (a) If the general services director, and/or his or her designee, determines that a person, covered generator, franchised waste hauler or authorized recycler, has committed or is committing, a violation of any provision of this article, the general services director, and/or his or her designee, may issue an administrative enforcement order, after issuing a notice of violation or in combination with a notice of violation, requiring that the violation be corrected and imposing an administrative penalty.
- (b) Pursuant to this article, the violator shall be liable for a penalty of not more than \$1,000.00 for each day on which each violation occurs and/or continues.

Sec. 74-1510. - Administrative enforcement order—Content.

- (a) In addition to any other content, an administrative enforcement order shall contain the following elements:
 - (1) A statement of the general services director, and/or his or her designee's, that indicates a violation has occurred.
 - (2) A citation of the provision of this article including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that has been violated.
 - (3) A date by which any person must be in compliance with this article, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The general services director, and/or his or her designee, may extend in writing the compliance date when good cause exists for such an extension.
 - (4) Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.
 - (5) Notification that the city may recover any costs incurred by the city as a result of the violation.
 - (6) Notification as to whether an administrative civil penalty is imposed and the terms and conditions of payment, if any. In establishing the penalty amount, the general services director, and/or his or her designee, shall take into consideration:
 - a. The nature, circumstances, extent, and gravity of the violation;
 - b. The violator's past and present efforts towards compliant behavior;
 - c. The violator's ability to pay the penalty;
 - d. The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
 - (7) Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the general services director, and/or his or her designee, from issuing an administrative enforcement order and imposing administrative civil penalties relating to the alleged violation(s).
 - (8) Notification that the recipient has a right to a hearing on the matter as set forth in ~~section 74-151 of~~ this article to appeal any findings or required corrective actions established by the general services director, and/or his or her designee.
 - (9) Notification of procedures for requesting a hearing ~~established under~~ according to section 74-151 of ~~in~~ this article.

- (b) In addition to any other content, an administrative enforcement order may establish required corrective actions, including the following:
 - (1) Terms, conditions, and requirements reasonably related to the provisions of this article, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this article.
 - d. Reporting requirements to demonstrate ongoing compliance.
 - (2) A requirement that the person receiving same shall submit written certification to the general services director, and/or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the notice of violation may require documentation that substantiates the certification, including, but not limited to, receipts, contracts, or photographs.
 - (3) Any other terms or conditions reasonably calculated to prevent additional or on-going violations of this article.
- (c) A notice of violation or an administrative enforcement order may be issued separately or in combination with another notice or order for the same violations or set of related violations.

Sec. 74-15~~24~~²⁴. - Delivery of notice or order.

Any notice of violation, franchise agreement revocation, administrative Enforcement Order or other enforcement action pursuant to the requirements of this article shall be subject to the following requirements:

- (1) Delivery shall be deemed complete upon either personal delivery to the recipient or by certified mail.
- (2) Where the recipient of the notice or order is the owner of the premises, the address for notice or order shall be the address from the most recently issued equalized assessment roll for the premises.
- (3) Where the owner or occupant of any premises cannot be located after reasonable efforts of the general services director, and/or his or her designee, the notice or order shall be deemed delivered after posting on the premises for a period of ten business days.

Sec. 74-15~~32~~³². - Administrative appeals.

- (a) Hearing request. Any person, owner or operator served with an administrative enforcement order issued pursuant to this article may contest the order on the basis that there was no violation of this article or that he or she is not the responsible party. To contest the order, the person shall submit a request for hearing form to the city within 15 days from the date of the administrative enforcement order. Directions on how to obtain the request form will be provided on the order.
- (b) Filing fee. The completed request must be submitted together with a filing fee, established and amended from time to time by the general services director, and/or his or her designee, based on actual expense to conduct the hearing by the hearing officer.
- (c) Notice of hearing. The person, owner or operator requesting the hearing shall be notified of the time and place set for the hearing at least ten days before the date of the hearing.
- (d) Additional reports. If the general services director, and/or his or her designee, submits an additional written report concerning the administrative enforcement order to the hearing officer for consideration at the hearing, then a copy of this report also shall be provided to the person requesting the hearing at least five days before the date of the hearing.

Sec. 74-15~~43~~⁴³. - Hearing officer.

A hearing officer will be assigned the responsibility of conducting a hearing by the city manager. The city manager shall be authorized to assign hearing responsibilities from time to time to any person or persons, qualified by training or experience, whom the city manager may appoint, employ or who are retained by contract to conduct such hearings.

Sec. 74-15~~5~~4. - Hearing procedure.

- (a) Setting the hearing. A hearing before the hearing officer shall be set for a date that is not less than 15 days nor more than 60 days from the date that the request for hearing is filed. The person requesting the hearing shall be notified of the time and place set for the hearing as soon as it is set, and at least ten days before the hearing. If the general services director, and/or his or her designee, submits a written report concerning the citation to the hearing officer for consideration at the hearing, then a copy of the report shall be served on the person requesting the hearing at least five days before the hearing. No hearing shall be held unless the filing fee has been paid in advance, ~~under subsection 74-152(b) of as required in~~ this article.
- (b) Failure to appear. The failure of the person requesting the hearing to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.
- (c) At the hearing. The administrative enforcement order and any additional report submitted by the general services director, and/or his or her designee, shall constitute prima facie evidence of the respective facts contained in those documents. At the hearing, the party contesting the citation shall be given the opportunity to testify and to present evidence concerning the citation.
- (d) Continuances. The hearing officer may continue the hearing and may request additional information from the general services director, and/or his or her designee, or the person receiving the administrative enforcement order before issuing the decision.

Sec. 74-15~~6~~5. - Form and contents of decision—Finality of decision.

- (a) Following the hearing, the hearing officer shall issue an order in writing no later than 30 days from the date of the hearing, unless the time is waived by the parties. The order shall contain findings of fact and rationale appropriate to the violation and result, and a resolution of the essential issues raised, including the following:
 - (1) Confirmation or denial of the occurrence of violations of this article that are alleged by the general services director, and/or his or her designee;
 - (2) Confirmation or rejection of any administrative civil penalty sought by the general services director, and/or his or her designee, and establishment of the monetary amount of any administrative civil penalty to be enforced; and
 - (3) Confirmation, amendment, or rejection of required corrective actions related to compliance with this article that are imposed by the general services director, and/or his or her designee, but only if those requirements are appealed by the person.
- (b) The hearing officer's order shall uphold required corrective actions if the person fails to show clear and convincing evidence that the required corrective actions are unreasonable or unnecessary for achieving or demonstrating ongoing compliance with this article. The hearing officer's order may amend or reject required corrective actions provided that compliance with this article will be achieved.
- (c) The hearing officer's order shall inform the person that failure to comply with the hearing officer's order shall constitute a misdemeanor and is subject to additional enforcement action, including criminal penalties and additional civil and administrative penalties.
- (d) The hearing officer's order shall inform the person that the time and manner by which a person may file a challenge to the Hearing Officer's order is governed by Government Code § 53069.4, or any successor provision thereto.
- (e) The order issued by the hearing officer pursuant to this article shall be effective upon issuance. The decision of the hearing officer is final and may not be appealed.

Sec. 74-15~~7~~6. - Procedures for collection of administrative civil penalty.

- (a) Any administrative penalty due shall be paid to the city within 30 days after the hearing officer's decision is issued. If the penalty is not timely paid, the general services director, and/or his or her designee, may pursue all reasonable and legal means in collecting those sums authorized and due.
- (b) All administrative civil penalties collected from actions brought pursuant to this article shall be paid to the general services director and/or his or her designee, enforcing this article, and shall be expended to fund the activities of the department to implement the applicable provisions of this article.

Sec. 74-15~~87~~⁷. - Actions not prohibited.

This article does not do any of the following:

- (1) Otherwise affect the authority of the general services director, and/or his or her designee, to take any other action authorized by any other provision of law.
- (2) Restrict the power of a city attorney, district attorney, or the attorney general to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.
- (3) Prevent the general services director, and/or his or her designee, from cooperating with, or participating in, proceedings specified in subsection 74-15~~76~~⁷(b) above.

Sec. 74-15~~98~~⁸. - Penalties.

In addition to the administrative penalties imposed by section 74-14~~98~~⁸ of this article, the city may seek all other legal remedies available under state law and under this Code, including, but not limited to, criminal sanctions.