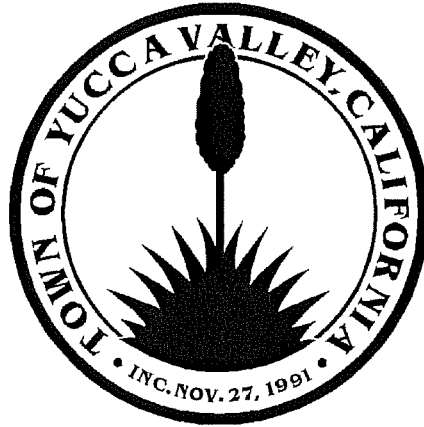


TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING



*The Mission of the Town of Yucca Valley is to  
provide a government that is responsive to its citizens  
to ensure a safe and secure environment  
while maintaining the highest quality of life.*

**TUESDAY, AUGUST 7, 2012  
TOWN COUNCIL MEETING: 6:00 P.M.  
YUCCA VALLEY COMMUNITY CENTER  
YUCCA ROOM  
57090 - 29 PALMS HIGHWAY  
YUCCA VALLEY, CALIFORNIA 92284**

**TELECONFERENCE SITE  
WESTIN RESORT  
BOULEVARD KUKULCAN KM 20  
CANCUN, QUINTANA ROO 77500  
MEXICO**

\* \* \* \*

**TOWN COUNCIL**  
*Dawn Rowe, Mayor*  
*Merl Abel, Council Member*  
*George Huntington, Council Member*  
*Robert Lombardo, Council Member*

\* \* \* \*

**TOWN ADMINISTRATIVE OFFICE:  
760-369-7207  
[www.yucca-valley.org](http://www.yucca-valley.org)**

**AGENDA  
REGULAR MEETING OF THE  
TOWN OF YUCCA VALLEY COUNCIL  
TUESDAY, AUGUST 7, 2012  
6:00 P.M.**

*The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's Office at 760-369-7209 at least 48 hours prior to the meeting.*

*An agenda packet for the meeting is available for public view in the Town Hall lobby and on the Town's website, [www.yucca-valley.org](http://www.yucca-valley.org), prior to the Council meeting. Any materials submitted to the Agency after distribution of the agenda packet will be available for public review in the Town Clerk's Office during normal business hours and will be available for review at the Town Council meeting. Such documents are also available on the Town's website subject to staff's ability to post the documents before the meeting. For more information on an agenda item or the agenda process, please contact the Town Clerk's office at 760-369-7209 ext. 226.*

*If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Town Clerk. The Mayor/Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.*

**(WHERE APPROPRIATE OR DEEMED NECESSARY, ACTION MAY BE TAKEN ON ANY ITEM LISTED IN THE AGENDA)**

**OPENING CEREMONIES**

**CALL TO ORDER**

**ROLL CALL:** Council Members Abel, Huntington, Lombardo, and Mayor Rowe.

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

Led by Chaplain Mike Kelliher, Joshua Springs Calvary Chapel

**APPROVAL OF AGENDA**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Vote \_\_\_\_\_

## PRESENTATIONS, RECOGNITIONS, INTRODUCTIONS

1. Employee of the Quarter
2. Presentation to Captain Miller

## CONSENT AGENDA

- 1-10 3. Minutes of the Regular Town Council Meeting of July 17, 2012.

**Recommendation: Approve the minutes as presented.**

4. Waive further reading of all ordinances (if any in the agenda) and read by title only.

**Recommendation: Waive further reading of all ordinances and read by title only.**

- 11-19 5. Network Support Services – Professional Services Agreement

**Recommendation: Authorize a one-year extension through August 14, 2013 of the current contract with Southwest Networks, Inc. to provide professional network maintenance and computer services, and authorize the Town Manager to make any necessary non-substantive changes and sign all related documents in a form approved by the Town Attorney.**

- 20-24 6. Contract Amendment No. 1 – RJM Design Group, Community Center Playground Improvements & Splash Park – Town Project No. 8961, Agreement Amendment for Compensation, Additional Tasks and Services

**Recommendation: Approve Amendment No. 1 to the agreement for Professional Consulting Services with RJM Design Group, to provide additional required tasks and services specifically described in Consultant’s Proposal dated June 21, 2012, increasing total compensation under the Agreement for Professional Consulting Services by \$5,175, bringing the total compensation under the Agreement to \$48,575; and authorize the Town Manager to sign all documents necessary to implement the Agreement.**

- 25-36 7. Community Facilities District No. 11-1 (Services), Annexation Area No. 1, Improvement Area No. 2, Dollar General, To Community Facilities District No. 11-1, APN 586-121-06

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA

VALLEY DECLARING ITS INTENTION TO ANNEX TERRITORY TO  
COMMUNITY FACILITIES DISTRICT NO. 11-1 (SERVICES)

**Recommendation:** Adopt the Resolution declaring the intent to annex territory to Community Facilities District 11-1 and to levy a special tax thereon to finance certain services.

37-45 8. Warrant Register, July 24, 2012

**Recommendation:** Ratify the Warrant Register total of \$257,416.08 for checks dated July 24, 2012 to July 26, 2012. Ratify Payroll Registers total of \$178,317.01 dated July 20, 2012

*All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Town Council instruction. The items listed on the consent calendar may be enacted by one motion and a second. There will be no separate discussion of the consent calendar items unless a member of the Town Council or Town Staff requests discussion on specific consent calendar items at the beginning of the meeting. Public requests to comment on consent calendar items should be filed with the Town Clerk/Deputy Town Clerk before the consent calendar is called.*

**Recommendation:** Adopt Consent Agenda (items 3-8)(roll call vote)

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Vote \_\_\_\_\_

**DEPARTMENT REPORTS**

46-68 9. Local Revenue Measure Election; Budget Amendment

Staff Report

**Recommendation:** It is recommended that the Town Council adopt:

1. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF A LOCAL ONE CENT (1%) TRANSACTIONS AND USE TAX FOR GENERAL FUND PURPOSES AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 AS CALLED BY RESOLUTION NO. 12-15
2. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, DIRECTING THE TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, SETTING

**PRIORITIES FOR FILING WRITTEN ARGUMENTS, AND PROVIDING FOR REBUTTAL ARGUMENTS REGARDING THE YUCCA VALLEY LOCAL TRANSACTIONS AND USE TAX MEASURE**

3. **An Amendment to the FY 2012-13 Adopted Budget by**
  - a. **Appropriating \$6,000 from General Fund Undesignated Reserves to 10-12-7860 (Town Clerk – Election Expenses) to cover the County Registrar costs for conducting the local measure;**
  - b. **Appropriating \$20,000 from General Fund Undesignated Reserves to 05-01-7110 (Town Manager Professional Services) to continue public education / outreach activity through the end of the calendar year**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Vote \_\_\_\_\_.

- 69-74 10. Selection of Mayor Pro Tem

Staff Report

**Recommendation: Select a Council Member to act as Mayor Pro Tem through December 4, 2012.**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Vote \_\_\_\_\_.

**FUTURE AGENDA ITEMS**

**PUBLIC COMMENTS**

*In order to assist in the orderly and timely conduct of the meeting, the Council takes this time to consider your comments on items of concern which are on the Closed Session or not on the agenda. When you are called to speak, please state your name and community of residence. Notify the Mayor if you wish to be on or off the camera. Please limit your comments to three (3) minutes or less. Inappropriate behavior which disrupts, disturbs or otherwise impedes the orderly conduct of the meeting will result in forfeiture of your public comment privileges. The Town Council is prohibited by State law from taking action or discussing items not included on the printed agenda.*

**STAFF REPORTS AND COMMENTS**

## **MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS**

11. Council Member Huntington
12. Council Member Lombardo
13. Council Member Abel
14. Mayor Rowe

## **ANNOUNCEMENTS**

Time, date and place for the next Town Council meeting.

**6:00 p.m., Tuesday, August 21, 2012, Yucca Valley Community Center Yucca Room**

## **CLOSING ANNOUNCEMENTS**

## **ADJOURNMENT**

## Yucca Valley Town Council

### Meeting Procedures

The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Town of Yucca Valley Town Council in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Yucca Valley Town Council, Commissions and Committees.

**Agendas** - All agendas are posted at Town Hall, 57090 Twentynine Palms Highway, Yucca Valley, at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed at the Town Hall offices located at 57090 Twentynine Palms Highway, Yucca Valley.

**Agenda Actions** - Items listed on both the "Consent Calendar" and "Items for Discussion" contain suggested actions. The Town Council will generally consider items in the order listed on the agenda. However, items may be considered in any order. Under certain circumstances new agenda items can be added and action taken by two-thirds vote of the Town Council.

**Closed Session Agenda Items** - Consideration of closed session items, *excludes* members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Mayor will announce the subject matter of the closed session. If final action is taken in closed session, the Mayor shall report the action to the public at the conclusion of the closed session.

**Public Testimony on any Item** - Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Town Council should complete a "Request to Speak" form, provided at the rear of the meeting room, and present it to the Town Clerk prior to the Council's consideration of the item. A "Request to Speak" form must be completed for *each* item when an individual wishes to speak. When recognized by the Mayor, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Council, speakers are limited to up to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Council at any one meeting. The Mayor or a majority of the Council may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Council member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

**Agenda Times** - The Council is concerned that discussion takes place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

**Public Comment** - At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject with Council's authority. *Matters raised under "Public Comment" may not be acted upon at that meeting. The time limits established in Rule #4 still apply.*

**Disruptive Conduct** - If any meeting of the Council is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Mayor may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive conduct includes addressing the Council without first being recognized, not addressing the subject before the Council, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, or otherwise preventing the Council from conducting its meeting in an orderly manner. *Please be aware that a NO SMOKING policy has been established for all Town of Yucca Valley meetings. Your cooperation is appreciated!*

## ACRONYM LIST

ADA	Americans with Disabilities Act
CAFR	Comprehensive Annual Financial Report
CALTRANS	California Department of Transportation
CEQA	California Environmental Quality Act
CCA	Community Center Authority
CDBG	Community Development Block Grant
CHP	California Highway Patrol
CIP	Capital Improvement Program
CMAQ	Congestion Mitigation and Air Quality
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COP	Certificates of Participation
CPI	Consumer Price Index
ED	Economic Development
EIR	Environmental Impact Report (pursuant to CEQA)
GAAP	Generally Accepted Accounting Procedures
GASB	Governmental Accounting Standards Board
IEEP	Inland Empire Economic Partnership
IIPP	Injury and Illness Prevention Plan
IRC	Internal Revenue Code
LAIF	Local Agency Investment Fund
LLEBG	Local Law Enforcement Block Grant
LTF	Local Transportation Fund
MBTA	Morongo Basin Transit Authority
MBYSA	Morongo Basin Youth Soccer Association
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MUSD	Morongo Unified School District
PARSAC	Public Agency Risk Sharing Authority of California
PERS	California Public Employees Retirement System
PPA	Prior Period Adjustment
PVEA	Petroleum Violation Escrow Account
RDA	Redevelopment Agency
RSA	Regional Statistical Area
RTP	Regional Transportation Plan
SANBAG	San Bernardino Associated Governments
SCAG	Southern California Association of Governments
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TEA-21	Transportation Enhancement Act for the 21 <sup>st</sup> Century
TOT	Transient Occupancy Tax



**TOWN OF YUCCA VALLEY  
TOWN COUNCIL MEETING MINUTES  
JULY 17, 2012**

**OPENING CEREMONIES**

Mayor Rowe called the meeting to order at 5:00 p.m.

Council Members Present: Abel, Huntington, Lombardo, and Mayor Rowe. Council Member Hagerman was absent

Staff Present: Town Manager Nuaimi, Deputy Town Manager Stueckle, Town Attorney Laymon, Community Services Director Schooler, Administrative Services Director Yakimow, Police Capt. Miller, and Town Clerk Anderson

**CLOSED SESSION**

There being no members of the public present requesting to comment, Mayor Rowe adjourned the meeting to Closed Session at 5:01 p.m.

**1. CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

The legislative body is deciding whether or not to initiate litigation pursuant to Government Code Section 54956.9(c). (1 case)

Mayor Rowe reconvened to open session at 5:55 p.m. and recessed the Town Council Meeting

**JOINT TOWN COUNCIL/PLANNING COMMISSION WORKSHOP**

Mayor Rowe called the joint session to order at 6:05 p.m.

**ROLL CALL:** Council Member Abel, Huntington, Lombardo, and Mayor Rowe  
Council Member Hagerman absent

Commissioner Alberg, Drozd, and Chair Humphreville. Commissioner Bridenstine and Hildebrand were absent

Town Manager Nuaimi announced that the Council did meet in closed session prior to this joint meeting and that there was no reportable action taken

**DEPARTMENT REPORTS**

**2. General Plan Land Use Review**

Wendy Grant, General Plan Consultant, advised the focus will be on key areas of change and questions that came up at the last joint meeting. A total of 3,264 acres are recommended for change to reflect the community's input to preserve desert character, and maintain the Town as the economic hub of the Morongo Basin. Some changes are recommended to reflect established uses on the ground. New land use categories are

recommended that are more broad and inclusive, and streamline the General Plan, making it easier to implement. The proposed Plan has 26,556 housing units and estimated population of 62,966 while the 1995 General Plan has 24,401 housing units and a population of 62,223, for a difference of 2,155 units and 743 additional population.

A new proposed mixed use for the Civic Center assumes an 80% retail and 20% office mix and requires a specific plan. Town Center Mall mixed use assumes 60% retail, 20% office and 20% residential. Corridor Residential Overlay has 244 commercial acres with three transitional areas between mixed use or special policy area nodes on SR 62. The designation provides added flexibility and allows development of commercial or residential uses up to 25 dwelling units per acre. Special policy areas provide specialized policy guidance in addition to proposed land use designation. Underlying land uses remain in place.

The East side is envisioned to be a commercial center and industrial jobs base for the Town. It requires a specific plan and transitions in between residential and industrial uses.

Town Center Mall mixed use is envisioned to be a regional commercial destination, requires a specific plan and transitions in between differing uses such as residential and commercial.

Rural Mixed Use is industrial land north of Skyline Ranch Road. Business park uses are required adjacent to the Rancho Mesa neighborhood along Skyline Ranch Road. Areas north of the business park area are encouraged for home based businesses.

Feedback from the West Side focus area requested creation of a gathering place, built upon arts and culture, and creation of a festival/events area similar to Pappy and Harriet's musical venue. The Land uses will not change in the General Plan, but preparation of a specific plan is required. Additional alternatives will be evaluated in the EIR for the area with varying uses and residential densities.

Areas proposed for zoning changes include 320 acres north of Blue Skies Country club from R-L-1 (1 unit per acre) to Hillside Residential (RH) 1 unit per 20 acres. The change is recommended to preserve the natural landforms and hillsides to the greatest extent possible. Staff recommends extending the West Side Special Policy Area boundary to include the 320 acres. In response to Rancho Mesa resident concerns, 22.7 acres are proposed to be changed from Industrial (I) to Rural Residential 2.5 (RR2.5). The properties proposed for the change are either vacant or have existing residential on them. The property owner of a large parcel consisting of 8.1 acres and a smaller parcel to the west consisting of 2.8 acres, at the southwest corner of Yucca Trail and La Contenta, is requesting that the property be changed to Commercial (C). The Plan also proposes to change 9.1 acres of a 10 acre area of commercial mixed use (C-MU) to

Medium Density Residential. The property is a transition area between residential and the Old Town mixed use and many of the properties are currently developed with multiple dwelling units on site. A remaining 0.2 acre portion is changed to Commercial to reflect approved entitlement. The new plan proposes to change 113.7 acres of Rural Living 1 (R-L-1) at the southwest corner of the Country Club area to Hillside Residential (HR). The lowered density from 1 unit per acre to 1 unit per 20 acres is consistent with implementation of development of properties with similar topography. 36.4 acres of Resort/Recreation Commercial (C-RR) is proposed to be changed to Hillside Residential (HR) to be consistent with adjacent land uses and development. Should resort or hospitality use be desired for the site, preparation of a specific plan is recommended.

With reference to the property along Skyline Ranch Road, a letter was submitted by Carlene Malin requesting that additional parcels be added to the business park zoning to square off the map.

Planning Commission Chair Humphreville questioned how the property owners feel about changing industrial property to business park, or residential zoning. It was noted that the property owner sent the letter.

Deputy Town Manager Stueckle advised that the proposed land use map has recommendations based on environmental studies.

Chair Humphreville commented he has a problem changing industrial zoning without the rest of the property owners being notified. He would like to see all property owners notified where the zoning is being changed.

Discussion ensued regarding the intent of the business park designation allowing more design, attention to landscaping, screening etc.

**Carlene Malin**, Yucca Valley, advised there are two existing businesses in this area already, and there are a couple of other residential homes where businesses are operated out of the house.

**Cynthia Anderson**, Rancho Mesa, commented, in terms of the area being discussed for expansion of the business park area, there are no businesses in the area at this time. The residents of Rancho Mesa appreciate the effort by the Town and the Planning Center for recognizing the impacts of industrial zoning in the area.

**Margo Sturges**, Yucca Valley, requested disclosure of whether Council or Commissioners own property in the area.

Upon further discussion, it was determined to evaluate the area at the highest intensity of use.

Council and Commission agreed to request to add the 2.8 acre parcel to the larger parcel on the Southwest Corner of Yucca Trail and La Contenta with Commercial Zoning.

All agree to changing the Commercial Mixed Use south of the old town specific plan area to residential medium density.

Regarding the proposed change of the 113.7 acres of R-L-1 to HR at the south west corner of the Town, Mayor Rowe questioned if all those property owners have been notified that the property has been downzoned. Deputy Town Manager Stueckle advised they have. Mayor Rowe questioned if any parcel that has been subdivided would be allowed to stay at its present zoning. Deputy Town Manager Stueckle stated yes.

**Vivien Bandiola**, Desert Hot Springs, advised she owns 23 acres next to the satellite towers that she bought the property as an investment based on its current zoning of 1 unit per acre, not 1 per 20 acres. She noted she was not notified of the proposed change.

Upon further discussion staff was directed to work with the property owner, look at all the different constraints, and reevaluate the property.

Council and Commission agree to designation of property at Burnt Mountain to Hillside Residential.

**Richard Harlan**, Yucca Valley, expressed concern regarding rezoning this property, noting the present property owner has plans for the area.

Council Member Huntington advised that Mr. Harlan is talking about a different piece of property.

Currently the 320 acres above the golf course is zoned R-L-1 and the recommendation is to designate it Hillside Residential. Staff has received a letter from property owner requesting that the original zoning designation remain in place. Staff recommends it be designated Hillside to be consistent with what is existing in the area. Deputy Town Manager Stueckle advised that in the EIR there is going to be additional uses allocated inside the West Side special policy area so that when someone comes forward to look at golf course area the environmental analysis has been provided to allow them to move forward with a different kind of project.

**Cindy Melland**, Yucca Valley, advised they live south of property in question, and thanked the Town for including it in the special policy area. They are planning on designating portion of the area to wildlife but there are parts that are very developable.

It was determined that Staff will sit down with the property to determine if there are areas that may have more flexibility, with the understanding that the upper levels will remain as Hillside Residential.

Deputy Town Manager Stueckle thanked the Town Council and Commission for their work on this process tonight.

### ADJOURN JOINT WORKSHOP

Mayor Rowe adjourned the workshop at 8:05 p.m.

### RECONVENE TOWN COUNCIL MEETING

Mayor Rowe reconvened the Town Council meeting at 8:17 p.m.

### PLEDGE OF ALLEGIANCE

Led by Mayor Rowe

### INVOCATION

Led by Chaplain Mike Kelliher, Joshua Springs Calvary Chapel

### AGENCY REPORTS

#### Chamber of Commerce

#### 3. Monthly Report for June, 2012

Jennifer Collins, Chamber President, gave the monthly Chamber update for June 2012, and invited Council Members to attend the Board retreat on Saturday August 18<sup>th</sup> from 8:30 a.m. to 2:00 p.m.

#### Hi Desert Water District

#### 4. Water & Wastewater Project Updates.

Sarann Graham, Hi Desert Water District Board President, gave the monthly Water and Wastewater Project update for June, 2012.

### APPROVAL OF AGENDA

Council Member Abel moved to approve the agenda. Council Member Lombardo seconded.

Motion carried 4-0-1.

**CONSENT AGENDA**

5. **Approve**, Special Town Council Meeting Minutes of June 26, 2012, as presented.
6. **Waive**, further reading of all ordinances (if any in the agenda) and read by title only.
7. **Receive and file**, the monthly statistical Fire Department Report for June, 2012
8. **Receive and file**, the AB1234 Reporting Requirement Schedule for the months of April and May 2012
9. **Adopt**, Resolution No. 12-24, appointing a Board Member and an Alternate Board Member to the Board of Directors of the Public Agency Risk Sharing Authority of California.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,  
CALIFORNIA TO APPOINT TWO REPRESENTATIVES TO THE PUBLIC  
AGENCY RISK SHARING AUTHORITY OF CALIFORNIA BOARD OF  
DIRECTORS

10. **Accept**, Safe Routes to School (SR2S) grant funds in the amount of \$399,800, and authorize staff to proceed with all phases of the project, including submittal of the Request for Allocation to Caltrans; Authorize Staff to release a Request for Proposal (RFQ/RFP) from qualified consultants for the design, plans, specifications and cost estimates for the project following necessary Caltrans approvals; Approve and authorize the Town Manager as the designated signatory for the SR2S program; and **Adopt**, Resolution No. 12-25 amending the FY 2012-13 Adopted Budget.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA  
VALLEY, CALIFORNIA, AMENDING THE FY 2012-13 BUDGET

11. **Approve**, Cost Distribution Agreement between the Town and Caltrans for the traffic signal (future) located at SR 62 and Church Street, and authorize the Town Manager to sign the Agreement
12. **Approve**, addendum to the Existing Electrical Maintenance Agreement between the Town and Caltrans, and authorize the Town Manager to sign the Agreement, Traffic Signals and Lighting Project EA No. 08680-5T3000
13. **Approve**, Construction Cooperative Agreement No. 08-1542 with Caltrans, SR 62, La Honda to Dumosa Project, Transportation Congestion Relief Program (TCRP), and authorize the Mayor to sign and execute the Cooperative Agreement.

- 14. **Ratify**, Warrant Register total of \$503,018.64 for checks dated June 28, 2012. Ratify Payroll Registers total of \$318,374.84

**Richard Harlan**, Yucca Valley, thanked the Town for getting the street signs up on the highway,

Council Member Lombardo moved to adopt Consent Agenda Items 5-14. Council Member Abel seconded. Motion carried 4-0-1.

- AYES: Council Member Abel, Huntington, Lombardo, and Mayor Rowe
- NOES: None
- ABSTAIN: None
- ABSENT: Council Member Hagerman

**DEPARTMENT REPORTS**

- 15. **Financing, Disposition and Development Agreement for Affordable Senior Housing Project**

Town Manager Nuaimi gave an update on the TCAC application for the Senior Housing Project, noting they are getting ready to submit the 2<sup>nd</sup> round. The project received maximum points with the March submittal but the tie-breaker was insufficient to secure the tax credits. The tiebreaker was based upon local funding committed to the project. County HOME funds, land value, and the Town loan count towards the tiebreaker. Tiebreaker points are increased by cutting project costs, and more so by increasing local sources. He noted potential Town funding sources include project development impact fees in the amount of \$250,000; storm drain impact fees of (\$300,000; LTF funds \$300,000, December 2010 ENA (low mod income housing set aside) \$500,000; SERAF repayment from the Successor Agency \$635,000 and the Dumosa property valued at \$940,000 for a total of \$2,925,000.

Other considerations include use of funding on other improvements such as road and Long Canyon Channel. It was noted the project was meeting the obligations of the RDA to generate deed restricted but the RDA is now dissolved. There is also uncertainty with the low/mod funding until after Department of Finance (DOF) review, however the funds could be swept and a portion returned to the Town as General funds as opposed to low/mod obligated funds. The risk is whether or not the Department of Finance will honor the ENA amount of \$500,000 that has already been committed.

Staff's recommendation is to receive the update and provide comments regarding potential modification to the Financing, Disposition, & Development Agreement (FDDA) and direct staff to bring back all documents required to support the National Community Renaissance of California application for tax credits as part of a July Tax

Credit Allocation submittal.

Council Member Abel questioned if the DOF would take into consideration that the \$500,000 is for low income housing for seniors when they make their decision. Town Manager Nuaimi advised it is not known what they base their decisions on, however, staff will make as aggressive a pitch as we can and will show that the project can be traced back to June of 2010. We will do what we can to show the housing needs in community. Council Member Abel questioned if a project is not approved during the HUD process would get extra consideration the 2<sup>nd</sup> time around and questioned if the same would apply for TCAC. Town Manager Nuaimi commented it is believed that HUD misevaluated our application but would not tell us what score was. They have since discontinued the 202 program, but we believe if it had continued the project would have been reevaluated. He added that the TCAC process was very different and is very transparent.

Council Member Huntington questioned when the decision will be made on the application if it is due the 25<sup>th</sup> of July. Town Manager Nuaimi advised it is typically a 3 month process, and we would expect a decision in the mid to late fall. It depends on how many applications are received.

Council Member Huntington questioned how much time is allowed to sign the final agreement after the decision is made. Town Manager Nuaimi advised from that point it would be CORE accepting the funding. Staff will work with them and believe they have 180 days from acceptance to breaking ground. Council Member Huntington questioned how much of the initial allocation of \$500,000 has been spent. Town Manager Nuaimi stated approximately \$156,000 has been spent, noting they have not been billing us since the RDA dissolution. Council Member Huntington questioned if the property transfer from the Town to the RDA then to Core is secure. Town Manager Nuaimi advised it will be in the near term, noting one of the requirements is to submit an inventory of properties to the state. Council Member Huntington commended staff for their effort to date and recommended the Town continue.

Council Member Lombardo agreed that staff has put a lot of effort into this worthy project, noting he is delighted with the creativity.

Council Member Abel agreed.

Mayor Rowe stated she appreciates the transparency regarding other considerations for use of the funds.

Council Member Abel moved to direct Staff to bring back all documents required to support the NCRC application for Tax Credits as part of a July Tax Credit Allocation submittal. Council Member Huntington seconded. Motion carried 4-0-1.



**AYES:** Council Member Abel, Huntington, Lombardo, and Mayor Rowe  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Council Member Hagerman

Town Manager Nuaimi thanked Council for their vote of confidence and advised staff will bring back the revised DDA.

**PUBLIC COMMENT**

Margo Sturges, Yucca Valley, commented regarding the possible local revenue measure, and urged everyone to attend the July 24<sup>th</sup> meeting.

Amy Falls, Joshua Tree, thanked the Town and commented she happy is the Town is going to put sidewalks in along Sage to the High School. Also thanked the Town for the improvement on Church street from Onaga Trial to Joshua Drive.

**STAFF REPORTS AND COMMENTS**

Town Manager Nuaimi commented regarding public comment about the Town’s outreach efforts, and thanked staff and the consultants for assisting in that outreach effort. He noted it has never been indicated that the Town is running out of money or that the number of votes are there to approve it. We are however getting a fantastic response with good questions and good ideas. The first mailer sent out received over 470 responses with folks putting their own stamp on the piece. He invited everyone to come to the meeting of the 24<sup>th</sup> to review the proposal. We have a lot of needs to meet and it is incumbent on us to inform the community. No matter how hard we try we can’t prevent people from spreading this kind of information. He expressed appreciation to the efforts of the Town Council as we tackle some of these unprecedented issues.

**MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS**

**16. Council Member Huntington**

Congratulated staff for Safe Routes to School grant funding.

Advised that SANBAG will continue pushing through funding requests to complete projects.

**17. Council Member Lombardo**

Commended staff for all their hard work on the presentation tonight noting it is insulting to hear the Town has run out of money when we haven’t. It is a gross misrepresentation.

**18. Council Member Abel**

Thanked Staff for letting him be part of the Concerts in the Park series noting there was a nice crowd at the last concert.

Congratulated staff for obtaining the Safe Routes to School grant, noting it is very much needed.

Reported regarding attendance at a Mohave Desert AQMD Board tour of the various power plants, noting it was very informative.

**19. Mayor Pro Tem Hagerman**

Absent

**20. Mayor Rowe**

Echoed congratulations for the Safe Routes to School grant, and congratulated staff for their work on the housing program.

Thanked Water Board President Graham for staying through the meeting tonight and for the partnership with the District.

**ANNOUNCEMENTS**

Next Town Council Meeting, Tuesday, July 24, 2012, 6:00 p.m.

**ADJOURNMENT**

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

Respectfully submitted,

Jamie Anderson, MMC  
Town Clerk

**TOWN COUNCIL STAFF REPORT**

**To:** Honorable Mayor & Town Council  
**From:** Curtis Yakimow, Director of Administrative Services  
Lesley Copeland, Deputy Town Clerk / Management Analyst  
**Date:** August 1, 2012  
**For Council Meeting:** August 7, 2012  
**Subject:** Network Support Services – Professional Services Agreement

**Recommendation:** Authorize a one-year extension through August 14, 2013 of the current contract with Southwest Networks, Inc. to provide professional network maintenance and computer services, and authorize the Town Manager to make any necessary non-substantive changes and sign all related documents in a form approved by the Town Attorney.

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Roll Call Vote (Consent Agenda)

**Discussion:** In August 2011, Town Council renewed the network support services agreement, for an additional six months with the request for staff to submit a Request for Proposal (RFP) to solicit other vendors. In November 2011, the Town of Yucca Valley completed an RFP process from qualified firms to provide professional network maintenance and computer services. Based upon the completion of the RFP process and staff recommendation, Town Council approved a six-month extension with Southwest Networks. This shorter timeframe allowed staff the opportunity to discuss service options with Southwest Networks, Inc.

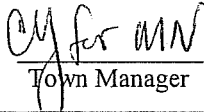
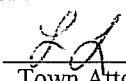
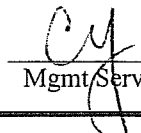
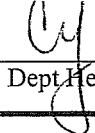
The recommended action will provide a continued relationship with the current vendor, providing professional and comprehensive technology service and support.

**Alternatives:** Direct staff to go out to bid.

**Fiscal impact:** The FY 2012-13 Adopted Budget provides \$75,000 in the Information Technology Division line item 001 05-08 7110 Professional Services. The recommended action is accommodated by the current budget.

**Attachments:** Draft Contract

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Reviewed By:      
Town Manager                      Town Attorney                      Mgmt Services                      Dept Head

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Department Report                       Ordinance Action                       Resolution Action                       Public Hearing  
 Consent                       Minute Action                       Receive and File                       Study Session

## **CONTRACT SERVICES AGREEMENT FOR INFORMATION TECHNOLOGY SUPPORT**

This Agreement for contract services is made and entered into by and between the Town of Yucca Valley, a municipal corporation, and Southwest Networks, a California Corporation. The Town of Yucca Valley (TOWN) and Southwest Networks (CONTRACTOR), agree as follows:

### **1.0 SERVICES**

- 1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, CONTRACTOR shall provide those services specified here within. CONTRACTOR shall perform the various services relative in assisting the TOWN to maintain network servers and workstations. The CONTRACTOR will advise the TOWN as to needs related to hardware and software. CONTRACTOR shall carry out those projects, tasks, and duties as desired and authorized by the TOWN.
- 1.2 Compliance with Law. All services rendered hereunder shall be provided in CONTRACTOR's best judgment in accordance with all ordinances, resolutions, statutes, rules and regulations of the United States of America, State of California, and other applicable agencies.
- 1.3 Familiarity with Services. By executing this contract, CONTRACTOR warrants that it has thoroughly investigated and considered the services to be performed, and fully understands the services to be performed under this Agreement.
- 1.4 Care and Diligence. CONTRACTOR agrees to use reasonable care and diligence to perform its obligations under this Agreement. CONTRACTOR agrees to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

### **2.0 COMPENSATION**

- 2.1 Compensation. Compensation to the CONTRACTOR shall be the sum of \$80 per hour. The CONTRACTOR may also sell to the TOWN at the TOWN's sole discretion such materials, parts, components and accessories at CONTRACTOR's retail price as TOWN determines to purchase. At all times TOWN may purchase such materials, parts, components and accessories from other vendors. Compensation to the CONTRACTOR under this Agreement for professional services, excluding payments for materials, parts, components and accessories, shall not exceed \$75,000.

- 2.2 Payments. All payments for services under this Agreement are contingent upon TOWN's approval of authorized completed services and acceptance of submitted products.

CONTRACTOR shall submit monthly itemized invoices for services rendered, in a form acceptable to the TOWN. TOWN shall pay CONTRACTOR as soon thereafter as the TOWN's regular procedures provide. CONTRACTOR shall include documentation with itemized invoices indicating number of hours worked, specific workstation or server, staff member assistance and excess hours, if any that were not utilized.

Payment for services will be made upon approval of CONTRACTOR invoices and during normal accounts payable process. Checks are to be written to Southwest Networks and mailed to 73-700 Dinah Shore Drive, Suite 404, Palm Desert, CA 92211.

### 3.0 PERFORMANCE SCHEDULE

- 3.1 Term. The term of this Agreement shall be from August 15, 2012 through August 14, 2013, unless earlier/otherwise terminated.

### 4.0 COORDINATION OF SERVICES

- 4.1 Representative of Contractor. Mr. Matt Disher will act as CONTRACTOR primary contact during the completion of this project. The TOWN will contact this representative in matters related to this Agreement.

- 4.2 TOWN Project Manager. The Director of Administrative Services will act as the TOWN primary contact. The CONTRACTOR will contact this representative in matters related to this Agreement.

- 4.3 Prohibition against Subcontracting or Assignment; Certain Exceptions. The experience, knowledge, capability and reputation of CONTRACTOR, its principals and employees were a substantial inducement for the TOWN to enter into this Agreement. CONTRACTOR shall not contract with any other person or entity to perform in whole or in part the services required hereunder without the express written approval of the TOWN.

- 4.4 Independent Contractor. Neither the TOWN nor any of its employees shall have any direct control over the manner, mode or means by which CONTRACTOR, its agents or employees, perform the services required. The TOWN shall have no voice in the selection, discharge, supervision or control of CONTRACTOR's

employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall obtain no rights to retirement benefits or other benefits which accrue to TOWN's employees, and Contractor hereby expressly waives any claim it may have to any such rights.

5.0 INDEMNIFICATION. The TOWN and CONTRACTOR shall, to the extent of their liabilities under the laws of California, indemnify, defend and save harmless the other from any and all loss, damage, claims, actions and suits whatsoever including all costs, expenses, and attorney's fees incurred on behalf of the other in connection therewith that arise out of the other's negligence or other legal wrong-doing in any way connected with activities under this Agreement. Each party agrees to give the other immediate notice of any claim, action or suit in any way connected with activities under this Agreement.

6.0 INSURANCE. CONTRACTOR, at CONTRACTOR's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

6.1 Worker's Compensation Coverage. CONTRACTOR shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his/her employees in accordance with the laws of the State of California. In addition, CONTRACTOR shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the TOWN at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the TOWN, its officers, agents, employees and volunteers for losses arising from work performed by CONTRACTOR for TOWN.

6.2 General Liability Coverage. CONTRACTOR shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

6.3 Automobile Liability Coverage. CONTRACTOR shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONTRACTOR arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an

amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

- 6.4 Professional Liability Coverage. CONTRACTOR shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors or omissions which may arise from CONTRACTOR's operations under this Agreement, whether such operations be by the CONTRACTOR or by its employees, sub-contractors, or sub-consultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis, or a combined single-limit per occurrence basis. If professional errors and omissions liability insurance is not reasonably available, CONTRACTOR shall inform TOWN and request written waiver of this requirement, but failure to grant such waiver shall not void the contract.
- 6.5 Endorsements. Each general liability and automobile liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:
- 6.5.01 The TOWN, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the CONTRACTOR, including materials, parts or equipment furnished in connection with such work or operations.
  - 6.5.02 This policy shall be considered primary insurance as respects the TOWN, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the TOWN, including any self-insured retention the TOWN may have, shall be considered excess insurance only and shall not contribute with it.
  - 6.5.03 This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
  - 6.5.04 The insurer waives all rights of subrogation against the TOWN, its elected or appointed officers, officials, employees or agents.
  - 6.5.05 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the TOWN, its elected or appointed officers, officials, employees, agents or volunteers.

6.5.06 The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days written notice has been received by the TOWN.

6.6 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the TOWN. At the TOWN's option, CONTRACTOR shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

6.7 Certificates of Insurance. CONTRACTOR shall provide certificates of insurance with original endorsements to TOWN as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the TOWN on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the TOWN at all times during the term of this Agreement.

## 7.0 REPORTS AND RECORDS

7.1 Reports. CONTRACTOR shall monthly prepare and submit to the TOWN such reports concerning the performance of the services required in carrying out this Agreement upon request of TOWN.

7.2 Records. The CONTRACTOR shall keep such books and records as shall be necessary to perform the services required by this Agreement. These records should include material invoices, receipts, supplier information, warranty tracking, and work orders. Such records shall be maintained for such period as may be required by law and the TOWN shall have access to such records in the event any audit is required.

7.3 Public Records Disclosure. All information received by the TOWN from CONTRACTOR or any source concerning this Agreement, including the Agreement itself, may be treated by the TOWN as public information subject to disclosure under the provisions of the California Public Records Act, Government Code §6250 et seq. (the "Public Records Act"). CONTRACTOR understands that although all materials received by the TOWN in connection with this Agreement are intended for the exclusive of the TOWN, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which CONTRACTOR has reasonably requested TOWN to hold in confidence is made to the TOWN, the TOWN shall notify CONTRACTOR of the request and shall thereafter disclose the requested information unless TOWN, within five (5) days of receiving notice of the disclosure request, requests



nondisclosure, provides TOWN a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold TOWN harmless in any/all actions brought to require disclosure. CONTRACTOR waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event TOWN fails to notify CONTRACTOR of any such disclosure request and/or releases any information concerning the contract received from CONTRACTOR or any other source.

## 8.0 ENFORCEMENT OF AGREEMENT

- 8.1 General. No delay or omission in the exercise of any right or remedy by the TOWN on any default shall impair such right or remedy or be construed as a waiver; TOWN's consent to or approval of any act by CONTRACTOR requiring TOWN's consent or approval shall not be deemed to waive or render unnecessary TOWN's consent to or approval by any subsequent act of CONTRACTOR. Any waiver by the TOWN of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.
- 8.2 Termination. Either the TOWN or the CONTRACTOR may terminate this Agreement, without cause, upon 30 days written notification to the other party to the Agreement as outlined in paragraph 10.1 of this Agreement. This Agreement may be terminated with cause at any time by TOWN upon material breach of this Agreement by CONTRACTOR.
- 8.3 Governing Law/Attorney's Fees/Venue. This Agreement is to be governed by and construed in accordance with the laws of the State of California. In the event any action shall be instituted by either of the parties hereto for the enforcement of any of its rights or otherwise, the party in whose favor a judgment shall be rendered therein shall be entitled to recover from the other party reasonable fees of attorneys, accountants, appraisers and expert witnesses ("litigation expenses") and costs incurred by said prevailing party in said action as may be established by the court, as applicable. The proper venue for the filing of any such action shall be the County of San Bernardino.

## 9.0 CONFLICT OF INTEREST - NON-DISCRIMINATION – PROHIBITED INTERESTS

- 9.1 Conflict of Interest. CONTRACTOR warrants that it will strictly comply with all conflict of interest laws.
- 9.2 Covenant Against Discrimination. CONTRACTOR covenants that, by and for itself, its heirs, executors, assigns and all persons

claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the performance of this Agreement. CONTRACTOR shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.

- 9.3 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, TOWN shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of TOWN, during the term of his or her service with TOWN, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

## 10.0 MISCELLANEOUS PROVISIONS

- 10.1 Notice. Notices or correspondence relating to this Agreement shall be in writing. Any notices to be given hereunder shall be effective when personally delivered, or two days after placing in the United States Mail, first class, postage prepaid, and addressed to the party to whom the notice is directed. The current addresses of the parties are as follows:

TOWN of Yucca Valley  
Attn: Administrative Services  
57090 Twentynine Palms Hwy  
Yucca Valley CA 92284  
760.369.7207 (telephone)  
760.369.0626 (facsimile)

Southwest Networks  
Attn: Matt Disher  
73-700 Dinah Shore Dr.,  
Suite 404  
Palm Desert, CA 92211  
760.770-5200 (telephone)

- 10.2 Integration; Amendment. It is understood that there are no oral Agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, Agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

- 10.3 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not effect any of the remaining phrases, sentences, clauses, paragraphs or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.
- 10.4 Authority of Persons Executing Agreement. CONTRACTOR, in executing this Agreement on its behalf, warrants that (i) it is duly organized and existing, (ii) it is duly authorized to execute and deliver this Agreement on its behalf, (iii) by so executing this Agreement, CONTRACTOR is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which CONTRACTOR is bound.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date stated below for execution.

Date: August 7, 2012

Approved as to form:

\_\_\_\_\_  
Lona Laymon,  
Town Attorney

TOWN OF YUCCA VALLEY

\_\_\_\_\_  
Mark Nuaimi,  
Town Manager

Southwest Networks

\_\_\_\_\_  
Matt Disher, President

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor and Town Council

**From:** Alex Qishta, Project Engineer

**Date:** August 1, 2012

**For Council Meeting:** August 7, 2012

**Subject:** Contract Amendment No. 1 – RJM Design Group  
Community Center Playground Improvements & Splash Park -Town Project  
No. 8961  
Agreement Amendment for Compensation  
Additional Tasks and Services

**Prior Council Review:** None for this specific item. On January 17, 2012, the Town Council awarded the design contract to RJM Design Group to provide Plans, Specifications, and Estimates for the Community Center Playground and Splash Park Project.

**Recommendation:** That the Town Council approves Amendment No. 1 to the Agreement for Professional Consulting Services with RJM Design Group, to provide additional required tasks and services specifically described in Consultant's Proposal dated June 21, 2012, increasing total compensation under the Agreement for Professional Consulting Services by \$5,175, bringing the total compensation under the Agreement to \$48,575; and authorizing the Town Manager to sign all documents necessary to implement the Agreement.

**Executive Summary:** The Town annually receives federal Community Development Block Grant (CDBG) funding through the County of San Bernardino. Federal standards require competitive bidding for the expenditure of CDBG funds. The design and preparation of Plans, Specifications, and Estimates (PS&E) is the first step in the process. Town Council action is required to amend the Agreement.

**Order of Procedure:** Request Staff Report  
Request Public Comment  
Council Discussion/Questions of Staff  
Motion/Second  
Discussion on Motion  
Call the Question (Roll Call Vote, Consent Agenda)

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Reviewed By:

  
Town Manager

  
Town Attorney

  
Mgmt Services

SRS  
Dept Head

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Department Report  
 Consent

Ordinance Action  
 Minute Action

Resolution Action  
 Receive and File

Public Hearing  
 Study Session

**Discussion:** The project entails the redesign of the existing playground area and equipment, as well as the design of a splash park amenity. The Town is required to adhere to federal guidelines implemented by the County of San Bernardino to competitively bid design services for the project. During the plan check process, staff identified the need to expand the lighting and security system elements on the project and requested the consultant to add these additional segments to the plans.

The following amendments would be made to the plans.

1. Electrical Plans for additional lighting;
2. Specifications for the electrical improvements;
3. Conduct Photometric Study;
4. Provide structural design/calculations for light poles;
5. Plans/specifications for security camera system;

The costs to modify to plans are \$5,175.

**Alternatives:** No alternative action is recommended. The amendment is necessary to include the lighting and security camera elements to the Project.

**Fiscal impact:** Proposed Amendment No. 1 increases the cost of the RJM Design Group Contract from \$43,400 to \$48,575, which represents an increase of \$5,175. Approximately \$350,000 in CDBG Funds is available for continued efforts for the project.

**Design Contract Cost**

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Initial Contract Value	\$43,400
Contract Amendment No.1	<u>\$5,175</u>
Total	\$48,575

**Attachments:** Proposed First Amendment to Original Agreement  
RJM Design Group Proposal

**FIRST AMENDMENT TO CONTRACT SERVICES AGREEMENT FOR  
PROFESSIONAL CONSULTING SERVICES BETWEEN THE TOWN OF  
YUCCA VALLEY ("TOWN") AND RJM DESIGN GROUP ("CONSULTANT")**

**RECITALS**

1. On January 17, 2012, TOWN and CONSULTANT entered in an Agreement for Professional Consulting Services consisting of professional engineering services to prepare Plans, Specification, and Estimate (PS&E) to design the Community Center Playground and for the construction of Splash Park in the amount of \$43,400.
2. CONSULTANT submitted for Town Plan check 90% plans and specifications for the project, Staff requested a lighting element to be added to the project.
3. CONSULTANT proposes Amendment No. 1, attached hereto as Exhibit "A", to the Agreement for Professional Consulting Services in the amount of \$5,175 for the cost to prepare the Electrical Plans, bringing the total compensation to \$48,575.
4. The total compensation to CONSULTANT as a result Amendments No. 1 to the original Agreement for Professional Consulting Services shall be \$48,575.

That certain Contract Services Agreement for Professional Consulting Services between the TOWN and CONSULTANT dated November 1, 2001 and attached herein is amended in the following respects only:

**Section 2.1. Compensation. is hereby amended to read:**

"Section 2.1. Compensation. Compensation to the CONSULTANT shall not exceed Forty Eight Thousand Five Hundred and Seventy Five Dollars (\$48,575) for services including proposed PS&E services described in Consultant's Proposal dated June 21, 2012 and attached hereto as Exhibit "A".

Except as amended, all of the terms and conditions of the original Agreement are re-affirmed and incorporated as though fully set forth herein.

Dated: August 7, 2012

For the Consultant

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Larry Ryan  
Principal

For the Town of Yucca Valley

---

Mark Nuaimi  
Town Manager

Approved as to Form

---

Lona N. Laymon  
Town Attorney

31591 Camino Capistrano  
San Juan Capistrano, CA 92675  
www.RJMdesigngroup.com  
[949] 493-2690 *fax*  
[949] 493-2600 *phone*

Community Inspired Spaces



**RJM** DESIGN  
GROUP

June 21, 2012

Mr. Alex Qishta  
Project Engineer  
Town of Yucca Valley  
58928 Business Center Drive  
Yucca Valley, CA 92284

**Re: Community Center Playground and Splash Pad - Request for Additional Services**

Dear Alex:

We are submitting this request for additional landscape architectural services resulting from the City's request for electrical plans and specifications. This work includes the following:

1. Provide electrical plans for playground security lighting and power to splash pad.
2. Provide specifications to include electrical improvements.
3. Provide Title 24 calculations.
4. Provide photometric study.
5. Provide structural design and calculations for the new light pole footings.

Compensation for the above additional services \$5,175.00  
Assumes no utility plan or coordination. All power tie ins to be existing on site.

Please do not hesitate to call should additional information be required.

Sincerely,  
**RJM DESIGN GROUP, INC.**

Accepted By:  
**TOWN OF YUCCA VALLEY**

Eric Chastain, LLA, LEED AP  
Associate Landscape Architect

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

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



## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor and Town Council

**From:** Shane R. Stueckle, Deputy Town Manager

**Date:** August 1, 2012

**For Council Meeting:** August 7, 2012

**Subject:** Community Facilities District No. 11-1 (Services)  
Annexation Area No. 1, Improvement Area No. 2, Dollar General  
To Community Facilities District No. 11-1  
APN 586-121-06

**Prior Council Review:** None for this specific item.

**Recommendation:** That the Town Council adopts the Resolution declaring the intent to annex territory to Community Facilities District 11-1 and to levy a special tax thereon to finance certain services.

**Executive Summary:** Town Council has previously formed CFD 11-1 pursuant to the Mello-Roos Community Facilities Act of 1982 to provide funding for the maintenance of public improvements installed by the Warren Vista Center development. As one of the conditions of approval for SPU 11-1 the Dollar General project is required to annex into CFD 11-1.

**Order of Procedure:** Request Staff Report  
Request Public Comment  
Council Discussion/Questions of Staff  
Motion/Second  
Discussion on Motion  
Call the Question (Roll Call Vote, Consent Agenda)


**Discussion:** Development projects are approved subject to conditions of approval that require that projects form/annex to a maintenance district. These districts apply an annual fee or special tax upon properties within the District which provides the revenue to offset the cost of maintenance of the public improvements necessary to serve the development.

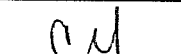
The public facilities and services proposed to be financed within the territory to be annexed to the District are the following:


1. Maintenance of public streets, storm drainage, storm water management, and

Reviewed By:

  
Town Manager

  
Town Attorney

  
Mgmt Services

  
Dept Head

Department Report

Ordinance Action

Resolution Action

Public Hearing

Consent

Minute Action

Receive and File

Study Session

- drainage system facilities;
- 2. Maintenance of all public pedestrian or bicycle pathways; and
- 3. Public lighting and appurtenant facilities, including street lights and traffic signals.

This development will become a new improvement area (Improvement Area No. 2) within the existing CFD 11-1, as shown in the attached boundary map. In order to annex into CFD 11-1, a Resolution of Intention to annex property must be approved to identify the facilities to be maintained and establish the maximum special tax for this improvement area. The Resolution of Intention shall also set the date and time for the public hearing. The rate and method of apportionment of the special tax for this improvement area, (Improvement Area No. 2), is included as Exhibit "A" to the Resolution of Intention. The maximum annual special tax for this development has been calculated to be \$315.79 per EDU for fiscal year 2013-14.

If the Maximum Allowable Annual Fee were levied, the revenue generated would be \$1,823.24 per year. Approximately 60% of this amount is devoted to future replacement costs of the improvements, contract administration, annual report costs and any other cost related to maintenance of the District.

In order to annex property to CFD 11-01 pursuant to the provisions of California Government Code Section 53311 et seq., the Town must adopt a series of four statutorily required Resolutions which are summarized below.

- Resolution declaring Town intent to annex territory to Community Facilities District No. 11-1 including the boundary of the area to be annexed and the rate and method of apportionment of special taxes within the annexation area (the special tax applies only to properties within the annexation area).
- Resolution for the annexation of territory to the District, authorizing levy of special tax within the area annexed to the District, preliminarily, and submitting the levy of the special tax to the qualified electors within the annexation area of the District.
- Resolution setting a date for election approving the levy of the special tax within the annexation area.
- Resolution declaring the results of the election and directing the recording of the notice of special tax lien.

**Alternatives:** No alternatives are recommended.

**Fiscal impact:** The annual fees from Community Facilities District generate the revenue to offset the cost of maintenance of public improvements to serve the development project.

**Attachments:** Resolution No. 12-

**RESOLUTION NO.12-**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY DECLARING ITS INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO.11-1 (SERVICES)**

WHEREAS, the Town of Yucca Valley pursuant to Resolution No.11-38 adopted on August 16, 2011, approved the formation of Community Facilities District No. 11-1 (Services) ; and

WHEREAS, the Town requires that a funding mechanism be established for the purpose of funding the long-term maintenance and rehabilitation of asphalt pavement, sidewalk, curbs, and other related facilities related to the approval of Site Plan Review (SPR) 11-01, and

WHEREAS, in order to accomplish the foregoing, the Town desires to annex territory to be known as Annexation Area No. 1 (Improvement Area No. 2) to Community Facilities District No. 11-1 pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code § 53311, *et seq.*), and to levy a special tax on all property within the annexed territory for legally-permitted facilities and services;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Yucca Valley as follows:

**SECTION 1.** Pursuant to the Mello-Roos Community Facilities Act of 1982 (Gov't Code § 53311, *et seq.*), the Town Council hereby declares its intent to annex Improvement Area No. 2 to Community Facilities District No. 11-1 (Services). Pursuant to Section 53321 of the California Government Code, the Town Council hereby determines the following:

- A. The improvement area shall be annexed pursuant to the Mello-Roos Community Facilities Act of 1982 set forth in California Government Code Title 5, Division 2, Part 1, Chapter 2.5;
- B. The proposed boundaries of Annexation Area No. 1 (Improvement Area No. 2) shall correspond with the boundaries indicated on the map attached hereto as "Exhibit A" and incorporated herein by reference;
- C. The public facilities and services proposed to be financed by the District within Improvement Area No. 2 are the following:
  - i. Maintenance of public streets and alleyways, including pavement, traffic control devices, landscaping and other public improvements installed within the public right-of-way;
  - ii. Maintenance of all public pedestrian or bicycle pathways; and
  - iii. Public lighting and appurtenant facilities, including street lights and traffic signals.

- D. Except where funds are otherwise available, a special tax sufficient to pay for all facilities and services, secured by recordation of a continuing lien against all nonexempt real property in the District, will be annually levied within Annexation Area No. 1 (Improvement Area No. 2) ("the area"). The rate, method of apportionment, and manner of collection of the special tax are described in Exhibit B to this Resolution.
- E. The annexation area does not currently contain any parcels used for private residential purposes, and the Council hereby declares that no special tax shall be levied within the District against any parcel that may be subsequently used for private residential purposes;

**SECTION 2.** The Town Council hereby fixes September 18, 2012 as the date for a public hearing on this resolution, to commence at 6:00 p.m. at the Town of Yucca Valley Town Council Chambers, located at 57090 29 Palms Highway, Yucca Valley, California.

**SECTION 3.** The Town Manager or his designee is hereby directed to study the need for the formation of the proposed District and, at or before the time of the public hearing on formation of the District, to file a report with the Town Council containing a brief description of the public services which will be required to adequately meet the needs of the Annexation Area No. 1 (Improvement Area No. 2) and an estimate of the cost of providing those services.

**SECTION 4.** At or prior to the public hearing, protests against the formation of the District may be made orally or in writing by interested persons or taxpayers. Written response should be directed to: Janet M. Anderson, Town Clerk, Town of Yucca Valley, CA.

**SECTION 5.** The levy of the special tax to be imposed with the District shall be submitted to the qualified electors of the territory to be included within the District pursuant to Section 53326 of the Government Code.

**SECTION 3.** The Town Council hereby directs the Town Clerk to publish notice of the public hearing on this resolution in the manner required by Section 53322 of the California Government Code; and to provide written notice of said public hearing to all landowners within the proposed District in the manner required by Section 53322.4 of the California Government Code; and to conduct all activities necessary for the election on the levy of special taxes as may be legal and necessary.

APPROVED AND ADOPTED on this 7th day of August, 2012

---

Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Attachments: Exhibit A – Boundary Map Annexation Area No. 1  
Exhibit B - Rate and Method of Apportionment of Special Taxes for  
Annexation Area No. 1

**PROPOSED BOUNDARIES**  
**ANNEXATON NO. 1**

(Attached)

NOTE – all parcels located within the proposed annexation boundaries are owned by the following parties:

# Exhibit A

PROPOSED BOUNDARY MAP

## TOWN OF YUCCA VALLEY

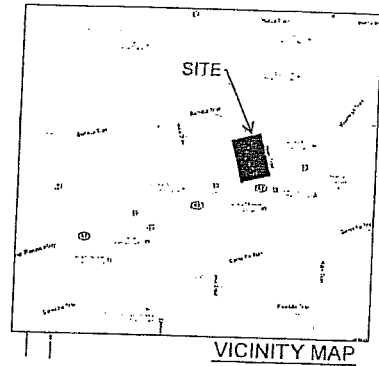
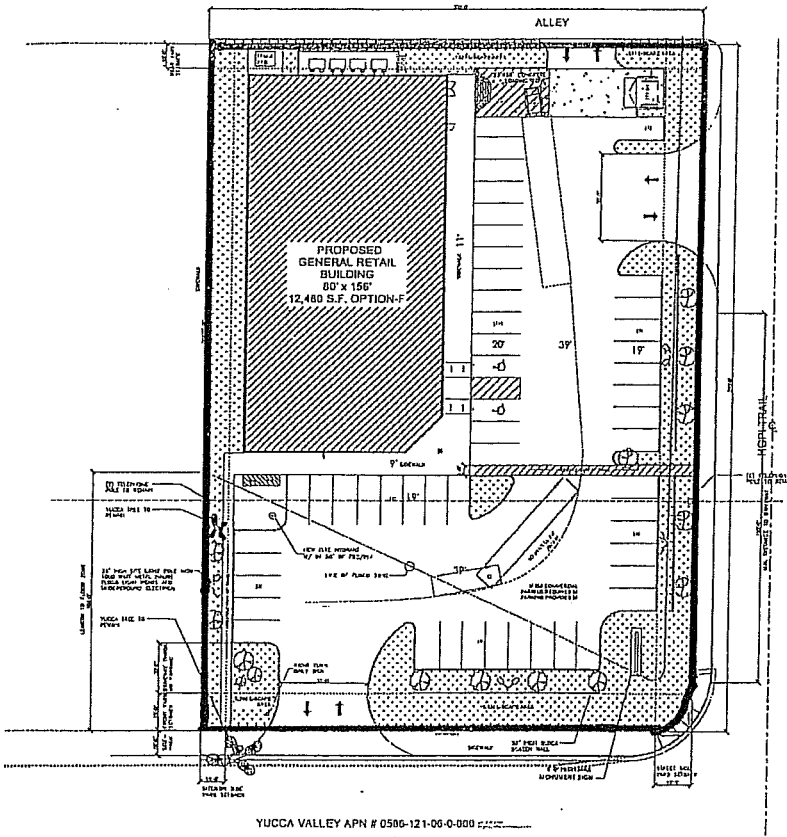
IN THE COUNTY OF SAN BERNARDINO

STATE OF CALIFORNIA

COMMUNITY FACILITY DISTRICT NO.11-1

ANNEXATION AREA No.1 (IMPROVEMENT AREA NO. 2)

LOT 13 AND 14, A PORTION OF YUCCA VALLEY UNIT NO. 3, OF TRACT NO. 3081, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42, PAGES 57 TO 58 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.



**LEGEND**  
INDICATES FACILITIES DISTRICT BOUNDARY

FILED IN THE OFFICE OF THE TOWN CLERK THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 2012.

TOWN CLERK  
TOWN OF YUCCA VALLEY

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012 AT THE HOUR OF \_\_\_\_\_ O'CLOCK  
BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES  
DISTRICT AT PAGE \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER IN THE  
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

COUNTY RECORDER  
COUNTY OF SAN BERNARDINO

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF  
COMMUNITY FACILITIES DISTRICT 11-1, ANNEXATION AREA NO.1 (IMPROVEMENT  
AREA NO.2) OF THE TOWN OF YUCCA VALLEY, COUNTY OF SAN BERNARDINO,  
STATE OF CALIFORNIA WAS APPROVED BY THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY  
AT A REGULAR MEETING THEREFOR, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012  
BY ITS RESOLUTION NO. \_\_\_\_\_

TOWN CLERK  
TOWN OF YUCCA VALLEY

**EXHIBIT A**  
**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES**  
**TOWN OF YUCCA VALLEY**  
**COMMUNITY FACILITIES DISTRICT NO. 11-1 (Services)**  
**Annexation No. 1 (Improvement Area No. 2)**

Special Taxes shall be levied annually on all Assessor's Parcels in Annexation Area No. 1 (Improvement Area No. 2) located within Community Facilities District No. 11-1 (Services) of the Town of Yucca Valley (the "District") commencing in Fiscal Year 2013-14 in an amount determined by the Town through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property in Annexation Area No. 1 (Improvement Area No. 2), unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Act"** means the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California, as amended.

**"Administrative Expenses"** means the actual or estimated costs incurred by the Town as administrator of the District to determine, levy and collect the Special Taxes, including salaries and benefits of Town employees whose duties are directly related to administration of the District and the fees of consultants, legal counsel, the costs of collecting installments of the Special Taxes upon the general tax rolls, preparation of required reports; and any other costs required to administer the District as determined by the Town.

**"Annual Escalation Factor"** means the greater of the increase in the annual percentage change of the All Urban Consumers Consumer Price Index (CPI) or four percent (4%). The annual CPI used shall be for the San Diego Area as determined by the Bureau of Labor Statistics.

**"Approved Property"** means an Assessor's Parcel and/or Lot in the District, which has a Final Map recorded prior to March 1st preceding the Fiscal Year in which the Special Tax is being levied, but for which no building permit has been issued prior to the May 1<sup>st</sup> preceding the Fiscal Year in which the Special Tax is being levied. The term "Approved Property" shall apply only to Assessors' Parcels and/or Lots, which have been subdivided for the purpose of residential development, excluding any Assessor's Parcel that is designated as a remainder parcel determined by final documents and/or maps available to the District Administrator, or Non-Residential Property which has an approved Parcel Map.

**"Assessor's Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned assessor's parcel number.

**"Assessor's Parcel Map"** means an official map of the Assessor of the County designating parcels by assessor's parcel number.

**"Authorized Services"** means those services as described in the "Special Tax Report Community Facilities District No. 11-1, Annexation No. 1 (Improvement Area No. 2) Town of Yucca Valley.



**"Base Year"** means Fiscal Year ending June 30, 2014.

**"District Administrator"** means the Town Manager, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

**"District"** means Community Facilities District No. 11-1 (Services) of the Town of Yucca Valley.

**"Developed Property"** means all Taxable Property for which a building permit has been issued prior to May 1st preceding the Fiscal Year in which the Special Tax is being levied.

**" Dwelling Unit "** means an individual single family unit or an individual residential unit within a duplex, tri-plex, four-plex, condominium or apartment structure.

**"Exempt Property"** means an Assessor's Parcel not subject to the Special Tax. Tax-Exempt Property includes: (i) Public Property, (ii) Property Owner Association Property, and (iii) property designated by the Town's District Administrator as Tax-Exempt Property

**"Final Map"** means an Assessor's Parcel Map, a final subdivision map, other parcel map, other final map, other condominium plan, or functionally equivalent map that has been recorded in the Office of the County Recorder.

**"Fiscal Year"** means the period starting July 1 and ending on the following June 30.

**"Land Use Class"** means any of the classes listed in Table 1.

**"Lot"** means property within a recorded Final Map identified by a lot number for which a building permit has been issued or may be issued.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C below that can be levied within Annexation Area No. 1 (Improvement Area No. 2) in the District in any Fiscal Year on any Assessor's Parcel.

**"Property Owner Association Property"** means any property within the boundaries of the District that is owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to a property owner association, including any master or sub-association.

**"Proportionately"** means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels within each Land Use Class.

**"Public Property"** means any property within the boundaries of the District that is, at the time of the District formation or at the time of an annexation, expected to be used for rights-of-way, parks, schools or any other public purpose and is owned by or irrevocably offered for dedication to the federal government, the State, the County, or any other public agency.

**"Residential Property"** means any parcel on which an individual single family residence or, a duplex, tri-plex, four-plex, condominium or apartment structure may be constructed.

"**Special Tax**" means the Special Tax to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property to fund the Special Tax Requirement, and shall include Special Taxes levied or to be levied under Sections C and D, below.

"**Special Tax Requirement**" means that amount required in any Fiscal Year for the District to: (i) pay for providing the authorized services including the actual costs of maintenance, repair, monitoring, replacement of facilities, and reporting as required under all applicable permits; (ii) pay reasonable Administrative Expenses; (iii) pay any amounts required to establish or replenish any reserve funds; and (iv) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less any surplus of funds available from the previous Fiscal Year's Special Tax levy.

"**State**" means the State of California.

"**Taxable Property**" means all of the Assessor's Parcels within the boundaries of the District and any future annexation to Annexation Area No. 1 (Improvement Area No. 2) of the District that is not exempt from the Special Tax pursuant to law or as defined herein.

"**Town**" means the Town of Yucca Valley, California

"**Undeveloped Property**" means, for each Fiscal Year, all Assessors' Parcels of Taxable Property not classified as Developed Property or Approved Property, including an Assessor's Parcel that is designated as a remainder parcel and is not identified as potential Public Property by any final documents and/or maps available to the District Administrator.

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year using the definitions above, all Taxable Property within Annexation Area No. 1 (Improvement Area No. 2) of the District shall be classified as Developed Property, Approved Property, Undeveloped Property or Exempt Property. Commencing with the Base Year and for each subsequent Fiscal Year, all Taxable Property shall be subject to Special Taxes pursuant to Sections C and D below.

**C. MAXIMUM SPECIAL TAX RATE**

The Maximum Annual Special Tax rates for Assessor's Parcels are shown in the following tables:

**TABLE 1**  
**Equivalent Dwelling Unit Factors**  
**Community Facilities District No. 11-1**  
**Annexation Area No. 1 (Improvement Area 2)**

<b>Property Classification</b>	<b>Improvement Area 2</b>
<b>Developed Property</b> Residential Non-Residential	1 EDU per dwelling unit 4.5 EDU per acre
<b>Approved Property</b> Residential Non-Residential	1 EDU per dwelling unit 4.5 EDU per acre
<b>Undeveloped Property</b> Residential Non-Residential	4.5 EDU per acre 4.5 EDU per acre
<b>Exempt Property</b>	N/A

**TABLE 2**  
**Maximum Special Tax for Approved Property**  
**Community Facilities District No. 11-1**  
**Annexation Area No. 1 (Improvement Area 2)**

<b>Property Classification</b>	<b>Maximum annual Special Tax</b>
<b>Developed Property</b> Residential Non-Residential	\$315.79 per EDU \$1,421.08 per acre
<b>Approved Property</b> Residential Non-Residential	\$315.79 per EDU \$1,421.08 per acre
<b>Undeveloped Property</b> Residential Non-Residential	\$1,421.08 per acre \$1,421.08 per acre

On each July 1 following the Base Year, the Maximum Special Tax Rates in Table 2 shall be increased in accordance with the Annual Escalation Factor.

**4. Tax-Exempt Property**

No Special Tax shall be levied on Tax-Exempt Property.

**D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2013-14, and for each subsequent Fiscal Year, the District Administrator shall calculate the Special Tax Requirement based on the definitions in Section A and levy the Special Tax as follows until the amount of the Special Tax levied equals the Special Tax Requirement. First, the Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Developed Property up to 100% of the applicable Maximum Special Tax for Developed Property. Second, if the Special Tax Requirement

has not been satisfied by the first step, then the Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Approved Property up to 100% of the applicable Maximum Special Tax for Approved Property. Third, if the Special Tax Requirement has not been satisfied by the first two steps, then the Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Undeveloped Property up to 100% of the applicable Maximum Special Tax for Undeveloped Property.

**E. APPEALS**

Any taxpayer that believes that the amount of the Special Tax assigned to a Parcel is in error may file a written notice with the District Administrator appealing the levy of the Special Tax. This notice is required to be filed with the District Administrator during the Fiscal Year the error is believed to have occurred. The District Administrator or designee will then promptly review the appeal and, if necessary, meet with the taxpayer. If the District Administrator verifies that the tax should be changed the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

**F. MANNER OF COLLECTION**

Special Tax as levied pursuant to Section D above shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the District Administrator may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the District or as otherwise determined appropriate by the District Administrator. The Special Taxes when levied shall be the lien imposed pursuant to Section 3115.5 of the Streets and Highways Code. This lien shall be a continuing lien and shall secure each levy of Special Taxes. The lien of the Special Taxes shall continue in force and effect until the Special Tax ceases to be levied in the manner provided by Section 53330.5 of the Government Code.

**G. TERM OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity.

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Curtis Yakimow, Administrative Services Director  
**Date:** August 1, 2012  
**For Council Meeting:** August 7, 2012  
**Subject:** Warrant Register: August 7, 2012

### Recommendation:

Ratify the Warrant Register total of \$ 257,416.08 for checks dated July 24, 2012 to July 26, 2012. Ratify the Payroll Registers total of \$ 178,317.01 dated July 20, 2012.

### Order of Procedure:

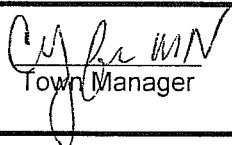
Department Report  
Request Staff Report  
Request Public Comment  
Council Discussion  
Motion/Second  
Discussion on Motion  
Call the Question (Roll Call)

### Attachments:

Warrant Register No. 5 dated July 24, 2012 total of \$ 197,556.62  
Payroll Register No. 4 dated July 20, 2012 total of \$ 178,317.01  
Warrant Register No. 7 dated July 26, 2012 total of \$ 59,859.46

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Reviewed By:

  
Town Manager

  
Admin. Services

  
Town Attorney

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<input type="checkbox"/> Department Report	<input type="checkbox"/> Ordinance Action	<input type="checkbox"/> Resolution Action	<input type="checkbox"/> Public Hearing
<input checked="" type="checkbox"/> Consent	<input checked="" type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session


TOWN OF YUCCA VALLEY  
PAYROLL REGISTER # 04  
CHECK DATE - July 20, 2012

Fund Distribution Breakdown

**Fund Distribution**

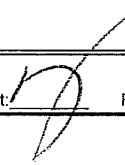
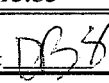
General Fund	\$159,459.32
Gas Tax Fund	10,693.53
Successor Agency	8,164.16
	<hr/>

<b>Grand Total Payroll</b>	<b>\$178,317.01</b>
	<hr/> <hr/>

Prepared by P/R & Financial Specialist: 

Reviewed by H/R & Risk Mgr.: 

**Town of Yucca Valley**  
**Payroll Net Pay & Net Liability Breakdown**  
Pay Period 04 - Paid 07/20/2012  
(June 30, 2012 - July 13, 2012)  
Checks: 4429-4450

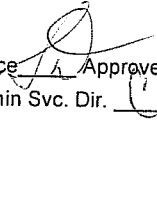


	Employee	Employer	Total
<b><u>Net Employee Pay</u></b>			
Payroll Checks	\$8,199.91		\$8,199.91
Direct Deposit	84,916.89	-	84,916.89
Sub-total	93,116.80		93,116.80
<b><u>Employee Tax Withholding</u></b>			
Federal	16,912.15		16,912.15
Medicare	1,803.49	1,803.53	3,607.02
SDI - EE	-	-	-
State	5,475.04		5,475.04
Sub-total	24,190.68	1,803.53	25,994.21
<b><u>Employee Benefit &amp; Other Withholding</u></b>			
Health Benefit Account Credit	-	13.00	13.00
Deferred Compensation	4,056.41	2,603.69	6,660.10
PERS Survivor Benefit	51.00		51.00
Health Café Plan	2,649.50	14,767.46	17,416.96
American Fidelity Pre-Tax	259.76		259.76
American Fidelity After-Tax	12.15		12.15
American Fidelity-FSA	681.29		681.29
PERS EE - Contribution 7%	754.67		754.67
PERS EE - Contribution 8%	7,190.66		7,190.66
PERS Retirement - Employee	-	845.91	845.91
PERS Retirement - Employer	-	16,705.69	16,705.69
Wage Garnishment - Employee	350.61		350.61
Life & Disability Insurance		976.70	976.70
Unemployment Insurance		2,217.91	2,217.91
Workers' Compensation		5,069.59	5,069.59
Sub-total	16,006.05	43,199.95	59,206.00
<b>Gross Payroll</b>	<b>\$133,313.53</b>	<b>\$45,003.48</b>	<b>\$178,317.01</b>
Prepared by P/R & Financial Specialist:  Reviewed by H/R & Risk Mgr.: 			

**WARRANT REGISTER # 5**  
**CHECK DATE - JULY 24, 2012**

**FUND DISTRIBUTION BREAKDOWN**

Checks # 40908 to # 40936 are valid

GENERAL FUND # 001	\$182,416.46
INTERNAL SERVICE FUND # 100	\$542.20
DEPOSITS FUND # 200	\$115.00
GAS TAX FUND # 515	\$512.38
LTF UFND # 516	\$1,955.00
MEASURE I LOCAL ROADS FUND # 523	\$920.00
MEASURE I 2010-2040 FUND # 524	\$21.58
CMAG FUND # 542	\$9,030.00
HUD JERRY LEWIS FUND # 551	\$894.00
CAPITAL PROJECTS RESERVE FUND # 800	\$1,150.00
 <b>GRAND TOTAL</b>	 <b><u>\$197,556.62</u></b>

Prepared by Shirlene Doten, Finance  Approved by Mark Nuaimi, Town Manager   
Reviewed by: Curtis Yakimow, Admin Svc. Dir. 



**Town of Yucca Valley**  
**Warrant Register**  
**July 24, 2012**

<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
001	GENERAL FUND			
	40909	Alliant Insurance Services	Liability Insurance	\$1,745.78
	40910	Big 5 Corp.	Recreation Supplies	107.74
	40911	Carquest Auto Parts	Vehicle Maintenance	123.67
	40912	CDW Government, Inc.	Technology Equipment	109.87
	40913	Charles Abbott & Assoc, Inc.	Plan Check Fee Service	4,527.89
	40914	Desert Entertainer	Museum Advertising	200.00
	40915	Hajoca Corporation	Facilities Maintenance	138.36
	40916	Hi-Desert Water	Water Service	10,560.36
	40917	Hi-Desert Publishing	Museum Advertising	429.98
	40920	Morongo Basin Adult Health Servs.	Community Partnership Agreement	5,000.00
	40921	Morongo Unified School District	Fleet Fuel	3,036.76
	40922	Morongo Unified School District	Facility Rental	54.27
	40923	NRO Engineering	Engineering Services	1,035.00
	40924	Oasis Office Supply	Copy Charges	16.89
	40925	OnTrac	Delivery Service	3.59
	40926	Perris Fence & Supply	Parks Fence Maintenance	724.15
	40928	S & S Worldwide	Recreation Program Expense	414.14
	40929	SBCO Animal Care & Control	License Pass Through FY 11/12	4,281.30
	40930	Office of the County Recorder	Filing Fee	144.00
	40931	SCE	Electric Service	14,833.75
	40932	So. Cal. Gas Co.	Vehicle Fuel	13.09
	40933	The Planning Center	General Plan Update Svs.	120,232.79
	40934	Valley Independent	Stationery Supplies	785.90
	40935	Youth Sports Park Coalition	Community Partnership Agreement	5,000.00
	40936	YV Chamber of Commerce	Community Relations Event	310.00
	EFT	The Home Depot	Maintenance Supplies	652.78
	EFT	First Bankcard	Meetings & Operational Supplies	7,934.40
<b>Total 001</b>	<b>GENERAL FUND</b>			<b>\$182,416.46</b>
100	INTERNAL SERVICE FUND			
	40919	Mail Finance	Postage Meter Lease	\$542.20
<b>Total 100</b>	<b>INTERNAL SERVICE FUND</b>			<b>\$542.20</b>
200	DEPOSITS FUND			
	40923	NRO Engineering	Engineering Services	\$115.00
<b>Total 200</b>	<b>DEPOSITS FUND</b>			<b>\$115.00</b>
515	GAS TAX FUND			
	40916	Hi-Desert Water	Water Service	\$138.16
	40931	SCE	Electric Service	374.22
<b>Total 515</b>	<b>GAS TAX FUND</b>			<b>\$512.38</b>
LTF	FUND			
	40923	NRO Engineering	Engineering Services	\$1,955.00
<b>Total 516</b>	<b>LTF FUND</b>			<b>\$1,955.00</b>

**Town of Yucca Valley**  
**Warrant Register**  
**July 24, 2012**



<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
523		MEASURE I - LOCAL ROADS FUND		
	40923	NRO Engineering	Engineering Services	\$920.00
<b>Total 523</b>		<b>MEASURE I - LOCAL ROADS FUND</b>		<b>\$920.00</b>
524		MEASURE I - 2010-2040 FUND		
	40931	SCE	Electric Service	\$21.58
<b>Total 524</b>		<b>MEASURE I - 2010-2040 FUND</b>		<b>\$21.58</b>
542		CMAQ FUND		
	40908	Albert Grover & Assoc.	Hwy Signal Synchronization	\$9,030.00
<b>Total 542</b>		<b>CMAQ FUND</b>		<b>\$9,030.00</b>
551		HUD- JERRY LEWIS PARK FUNDS		
	40918	LandMark	SS Park Project	\$594.00
	40927	RHA Landscape Architect	SS Park Project	300.00
<b>Total 551</b>		<b>HUD- JERRY LEWIS PARK FUNDS</b>		<b>\$894.00</b>
800		CAPITAL PROJECTS RESERVE FUND		
	40923	NRO Engineering	Engineering Services	\$1,150.00
<b>Total 800</b>		<b>CAPITAL PROJECTS RESERVE FUND</b>		<b>\$1,150.00</b>
<b>***</b>		<b>Report Total</b>		<b>\$197,556.62</b>

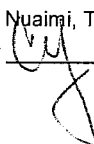
**WARRANT REGISTER # 7  
CHECK DATE - JULY 26, 2012**

**FUND DISTRIBUTION BREAKDOWN**

Checks # 40937 to # 41001 are valid

GENERAL FUND # 001	\$51,702.07
INTERNAL SERVICE FUND # 100	\$4,079.25
DEPOSITS FUND # 200	\$32.59
GAS TAX FUND # 515	\$1,603.16
SAFE ROUTES TO SCHOOL # 530	\$2,202.00
CAPITAL PROJECTS RESERVE FUND # 800	\$240.39
<b>GRAND TOTAL</b>	<b><u><u>\$59,859.46</u></u></b>

Prepared by Shirlene Doten, Finance  Approved by Mark Nuaimi, Town Manager 

Reviewed by: Curtis Yakimow, Administrative Services Director 

**Town of Yucca Valley**  
**Warrant Register**  
**July 26, 2012**

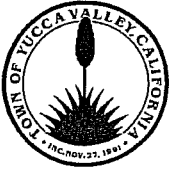
<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
001 GENERAL FUND				
	40937	Alsco/American Linen, Inc.	Facilities Maintenance	\$126.84
	40938	Anderson Bat Company	Recreation Program Supplies	781.65
	40939	The Answer, Inc.	Summer Music Festival	1,100.00
	40940	Boys & Girls Club	7-9/12 Partnership Agreement	10,750.00
	40942	Barr Lumber, Inc.	Parks Supplies	5.46
	40943	Carquest Auto Parts	Fleet Equip & Maintenance	56.45
	40944	Chichester, Inc.	Museum Shop Merchandise	232.91
	40945	Janine Cleveland	Museum Shop Merchandise	150.00
	40946	Wayne Coughlan	Sports Referee	66.00
	40947	Cyber Photographics	Recreation Program Expense	554.65
	40948	D & D Disposal, Inc.	Shelter Animal Disposal Svcs.	5,340.00
	40950	Desert Pacific Exterminators	Facilities Maintenance	229.00
	40951	Desert Hot Springs Animal Clinic	Veterinary Professional Svcs.	598.60
	40952	Gary Downen	Museum Shop Merchandise	180.50
	40953	Dublin Up	Summer Music Festival	1,100.00
	40954	FedEx	Delivery Service	37.87
	40955	Amber Fretheim	Safety Equipment	129.59
	40956	Roland Gagne	Summer Music Festival Sound	500.00
	40957	Roland Gagne	Summer Music Festival Sound	500.00
	40959	Suzanne Harvey	Recreation Program Refund	400.00
	40960	Mike Heil	Summer Music Festival	1,100.00
	40961	Hi-Desert Water	Water Service	2,878.02
	40962	Hi-Desert Publishing	Public Notice Advertising	437.63
	40963	ICMA	FY 12/13 Membership Dues	1,400.00
	40964	IIMC	FY 12/13 Membership Dues	135.00
	40965	Jobs Available, Inc.	Employment Advertising	567.00
	40967	Jeremie King	Sports Referee	66.00
	40968	Jason Lewellyn	Sports Referee	66.00
	40969	The Mallants Corp	Temporary Employment Svcs.	1,576.38
	40970	Kim Mayhew	Museum Shop Merchandise	125.00
	40971	Morongo Basin Adult Health Servs.	Community Partnership Agreement	5,000.00
	40972	Robert Mc Avoy	Sports Referee	132.00
	40973	Tiffany Mladinich	Museum Shop Merchandise	300.08
	40974	MM Internet, Inc.	Internet Service	515.05
	40975	Oasis Office Supply	Office Supplies	330.80
	40976	Public Agency Retirement Services	05/12 Trust Administrator Svcs.	300.00
	40977	PlasticPlace	Parks Maintenance Supplies	292.80
	40978	Pool & Spa Center	YCHS Pool Maintenance	89.22
	40979	Priority Mailing Systems, LLC	Delivery Labels	11.07
	40980	Jessica Rice	Meeting Mileage Reimbursement	82.14
	40981	Gene Rucker	Dog License Refund	8.00
	40982	SBCO-Office of the Assessor	Assessor Disc	429.49
	40983	SBCO - Information Services	06/12 Radio Access	2,037.00
	40984	Office of the County Recorder	Filing Fee	18.00
	40985	Office of the County Recorder	Filing Fee	18.00
	40986	Southbound & Co.	Summer Music Festival	1,100.00
	40987	Southwest Networks, Inc.	Technology Support Svcs.	2,383.98
	40988	Stater Bros	Recreation Program Expense	188.52

**Town of Yucca Valley**

**Warrant Register**

July 26, 2012

<b>Fund</b>	<b>Check #</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
	40989	The Sun Runner	Museum Advertising	100.00
	40991	Treasures Plus	Museum Shop Merchandise	68.00
	40992	Trophy Express	Employee Recognition Expense	17.54
	40993	Unisource Worldwide, Inc.	Facilities Maintenance	81.94
	40994	John Valdez	Recreation Program Refund	72.00
	40995	VCA Yucca Valley Animal Hospital	Veterinary Services	530.00
	40996	Verizon	Phone Service	3,066.04
	40997	Walmart Community	Museum Supplies	413.95
	40998	Woods Auto Repair	Fleet Vehicle Repair & Smog Svs	151.91
	40999	Guy Wulf	Sports Referee	132.00
	41000	Yucca Valley Quick Lube	Fleet Maintenance	39.14
	41001	YV Ford Center	Vehicle Repair	1,161.80
	EFT	The Home Depot	Facilities Maintenance	252.55
	EFT	First Bankcard	Teen Center Grant Expense	1,188.50
<b>Total 001</b>	<b>GENERAL FUND</b>			<b><u>\$51,702.07</u></b>
100 INTERNAL SERVICE FUND				
	40949	Desert Images Office Equipment, Inc	CS-255C Service Agreement	\$1,170.00
	40958	GE Capital Corporation	Copier Lease	2,909.25
<b>Total 100</b>	<b>INTERNAL SERVICE FUND</b>			<b><u>\$4,079.25</u></b>
200 DEPOSITS FUND				
	40975	Oasis Office Supply	Copies	\$32.59
<b>Total 200</b>	<b>DEPOSITS FUND</b>			<b><u>\$32.59</u></b>
515 GAS TAX FUND				
	40937	Alsco/American Linen, Inc.	Streets Uniform Service	\$52.70
	40942	Barr Lumber, Inc.	Streets Supplies	18.79
	40966	Johnson Machinery Co.	Streets Tractor Supplies	49.85
	40990	Tops n Barricades	Streets Signs & Supplies	1,481.82
<b>Total 515</b>	<b>GAS TAX FUND</b>			<b><u>\$1,603.16</u></b>
530 SAFE ROUTES TO SCHOOLS FUND				
	40941	Bags in Bulk	Safe Routes to School Program	\$2,202.00
<b>Total 530</b>	<b>SAFE ROUTES TO SCHOOLS FUND</b>			<b><u>\$2,202.00</u></b>
800 CAPITAL PROJECTS RESERVE FUND				
	40954	FedEx	Delivery Service	\$240.39
<b>Total 800</b>	<b>CAPITAL PROJECTS RESERVE FUND</b>			<b><u>\$240.39</u></b>
<b>***</b>	<b>Report Total</b>			<b><u>\$59,859.46</u></b>



**TOWN COUNCIL STAFF REPORT**

**To:** Honorable Mayor & Town Council  
**From:** Mark Nuaimi, Town Manager  
**Date:** August 2, 2012  
**For Council Meeting:** August 7, 2012

**Subject:** Local Revenue Measure Election; Budget amendment

**Prior Council Review:** The Town Council reviewed revenue needs and alternatives at the July 24<sup>th</sup>, 2012 Town Council meeting, directing staff to bring forward the proposed local revenue measure for consideration.

**Recommendation:** It is recommended that Town Council adopt:

1. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF A LOCAL ONE CENT (1%) TRANSACTIONS AND USE TAX FOR GENERAL FUND PURPOSES AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 AS CALLED BY RESOLUTION NO. 12-15**
2. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, DIRECTING THE TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS, AND PROVIDING FOR REBUTTAL ARGUMENTS REGARDING THE YUCCA VALLEY LOCAL TRANSACTIONS AND USE TAX MEASURE**
3. **An Amendment to the FY 2012-13 Adopted Budget by**
  - a. **Appropriating \$6,000 from General Fund Undesignated Reserves to 10-12-7860 (Town Clerk – Election Expenses) to cover the County Registrar costs for conducting the local measure;**
  - b. **Appropriating \$20,000 from General Fund Undesignated Reserves to 05-01-7110 (Town Manager Professional Services) to continue public education / outreach activity through the end of the calendar year**

Reviewed By:

  
Town Manager

  
Town Attorney

  
Admin Services

\_\_\_\_\_  
Dept Head

Department Report  
 Consent

Ordinance Action  
 Minute Action

Resolution Action  
 Receive and File

Public Hearing  
 Study Session

**Order of Procedure:**

Request Staff Report  
Public Comment  
Council Discussion / Questions of Staff  
Motion/Second  
Discussion on Motion  
Roll Call Vote

**Discussion:**

The Town of Yucca Valley has experienced, and continues to face, a dramatic and critical decline in revenues and has reached a point of fiscal crisis that could threaten vital Town services. State practices of taking local funds from Yucca Valley impact the Town's ability to address the community priorities, while State legislation, regulations and mandates also present tough financial challenges for Yucca Valley.

Since mid-2006, the U.S. economy has been suffering severe recessionary economic conditions that are unprecedented since the Great Depression of the 1930's. The effects of the recession have had profoundly negative impacts upon the Town and communities in the region, with the decline in housing values and commercial business activity causing a decline in property and sales tax revenues incoming to municipalities. The negative impact of the general economic recession upon local government is further compounded by the California Legislature's enactment of ABx1 26 (June 28, 2011) and AB 1484 (June 27, 2012), which bills eliminate the existence of, and funding for, local redevelopment agencies. These bills will effectively take approximately \$5.0 million in existing assets from the Town and *permanently* eliminate tax increment revenues as a source of income (at least \$2.0 million per year) to the Town. Monies lost to the Town through recent legislation will be diverted to other districts to pay for the financial obligations that the State has been unable to meet.

This unprecedented financial situation is due to several factors including: (1) the Town's General Funds have seen a revenue decline of 16% from fiscal year 2007/08 to 2010/11. This is due in part to the dramatic decrease in property values of 20% which caused an equivalent drop in property tax revenues; (2) the Town, like most other cities, has endured several years of damaging "money grabs" by the State of California, such as ABx1 26 and AB 1484 discussed above; (3) increasing general expenses to the Town such as the rising costs of fuel, electricity and supplies, and producing a balanced budget—while continuing to provide critical services at an acceptable level; and (4) declining sales tax revenues over the previous years due to the ongoing recession.

The Town has worked diligently to reduce expenditures 14% from fiscal year 2007-08 to 2010-11, by cutting programs; reducing employee salary costs by 13% and benefit costs by 19%; reducing non-public safety staff by almost 20% since 2009; and critically examining all expenditures.

The Town has implemented local pension reform measures, including a reduced-benefit pension program for new employees (two-tier pension) and requiring all employees to pay their share towards retirement costs (7-8% of gross salary).

## Defining the Need

In order to provide a thorough analysis of potential revenue measure alternatives, it is necessary to understand the unfunded activities that require the additional revenue. Since January 2011, Town staff has been emphasizing that additional resources are required for the following:

- Deferred road maintenance (\$14-\$15 million)
- Flood Control Improvements (\$20 million)
- Regional Wastewater Treatment System (\$125 million)
- Park Improvements (\$5 million)
- Park Maintenance Increases (\$300k)
- Public Safety Cost Increases (\$200k compounding annually)
- Road expansion projects (\$20 million)
- Public Facilities (\$3-\$5 million)

Many of these needs are on-going, long-term funding obligations. For example, the Regional Wastewater Treatment System will likely be financed over a 20 – 30 year period. Road maintenance and public safety costs are both one-time and recurring expenditures.

Due to the scale of the Town's revenue needs and the depth of the cuts that have already been made, only two realistic choices remain for dealing with community priorities: Yucca Valley must either generate additional revenue or make deeper cuts to Town services.

As citizens repeatedly ranked public safety and street maintenance as their top priorities, the Town is proposing a solution that would help maintain these important services, while developing a centralized sewer system to replace septic tanks and protect groundwater quality, including a plan to reduce the cost for local property owners to connect to the sewer system.

While an economic recovery from the ongoing recession is possible within the next several years, the State's recent legislation eliminating tax increment funding for local agencies represents a permanent cut to Town revenues, thus necessitating a long-term solution for providing new Town revenue sources. To this end, the Town proposes that a local revenue measure should be considered.

A local revenue measure would give Yucca Valley local control over local funds, for local community priorities including but not limited to reducing the cost for property owners to connect to the sewer system, maintaining neighborhood police patrols and 911 response, and maintaining and repairing existing neighborhood streets and alleys.



### Local Revenue Measure

The Town Council expressed its desire to submit to the voters a proposal to enact a one cent (i.e., 1%) transaction and use tax for a period of thirty (30) years in the Town of Yucca Valley, with the funds to be deposited in the Town's General Fund and be used for general Town purposes and services. If enacted, by law, these funds would be protected from Sacramento.

Town staff and legal counsel have structured the necessary Resolution calling the election and the enabling Ordinance Adding Chapter 3.26 to the Yucca Valley Municipal Code Imposing a Local Transactions and Use Tax. They are attached to the staff report for Council consideration.

The ballot question to be posed to the voters this November 6th is proposed as:

Measure – To protect local property values and preserve our small town atmosphere by funding local community services, such as: reducing the cost for property owners to connect to the sewer system; maintaining 9-1-1 response / neighborhood police patrols; maintaining neighborhood streets; and, other town services; Shall the Town of Yucca Valley enact a 1 cent sales tax for thirty years, with all funds for Yucca Valley only, requiring independent taxpayer oversight, annual audits, and funds protected by law from Sacramento?	YES
	NO

### Additional Provisions to the Measure

The proposed measure includes an independent taxpayers' oversight committee, mandatory financial audits, and yearly reports to the community to ensure the funds are spent as promised. These are contained in the enabling Ordinance under the following sections:

#### 3.26.160: INDEPENDENT ANNUAL AUDIT:

The proceeds resulting from this Transactions and Use Tax shall be deposited into the Town's General Fund and become subject to the same independent annual audit requirements as other general fund revenue. The independent auditor's report will be presented annually to the Taxpayers' Oversight Committee, the Town Council, and made available for public review.

### 3.26.170: TAXPAYERS' OVERSIGHT COMMITTEE:

By no later than the Operative Date of the tax authorized by this Chapter, the Town Council shall establish a committee consisting of no fewer than three (3) members of the public regarding the receipt of revenue and expenditure of funds from the tax authorized by this Chapter. The committee members shall be either Town residents or representatives of businesses located and doing business within the Town's jurisdiction. The committee members shall be appointed by the Town Council and shall serve without reimbursement or compensation. Within thirty (30) days of the Effective Date of this Ordinance, the Town Council shall adopt a resolution establishing the composition of the committee, setting the terms of office of the committee members, and defining the scope of the committee's responsibilities. The committee shall issue an annual report to the community, detailing the amounts collected under this Chapter and an analysis of the amounts allocated to specific Town services and programs and recommendations for future allocations of funding, consistent with 3.26.090. The committee's reports and recommendations shall be a matter of public record and shall be considered by the Town Council at a public meeting.

### 3.26.180: ALL FUNDS STAYING LOCAL:

All tax revenues collected under the authority of this Chapter shall be expended solely on local municipal services as defined in 3.26.090, and shall not be used for any other purposes.

While this is a General Tax, the enabling ordinance does highlight areas of expenditure envisioned for these new funds. This is defined in Section 3.26.090 of the enabling Ordinance as shown below:

### 3.26.090: PROCEEDS OF TAX:

The proceeds of the transactions and use tax imposed by this Chapter shall be deposited into the General Fund of the Town to be used for all general government purposes which may include, but are not limited to, infrastructure (i.e. wastewater treatment, streets, sidewalks, flood control, public facilities, parks) construction and financing, infrastructure maintenance, fire and police protection, street and sidewalk repair and maintenance, library and museum services, park repair and maintenance, recreational programs, building and code enforcement services, planning and zoning services, capital equipment requirements, repair and replacement of Town facilities, capital improvement projects, operational expenses, fiduciary responsibilities, administration, indebtedness and general obligations of the Town. The tax imposed by this Chapter is intended to be and is, a general tax, the proceeds of which are to be spent as the Town Council shall in its discretion, from time to time, determine.

## **Public Education & Outreach Program**

Local government agencies are permitted to conduct Public Education / Outreach programs in order to provide factual information concerning proposed ballot measures. Town staff recommends continuing such an effort to include:

- Presentations to community groups
- Informational Mailings

## **Impartial Analysis, Arguments For & Against, Rebuttals**

Whenever a municipal ballot measure is authorized, State law provides that the Town Council may direct the Town Attorney to prepare an impartial analysis and provide for the filing of written arguments for and against a measure and for rebuttal arguments to be filed with the Town elections official.

By adopting the additional resolution, the Town Council is directing the Town Attorney to prepare an impartial analysis of the Measure. The impartial analysis shall be filed within fifteen (15) days of the adoption of this Resolution or by the date set by the Town Clerk for the filing of primary arguments, whichever is later.

The resolution also authorizes members of the Council, collectively or individually, or any individual Yucca Valley voter or association of Yucca Valley citizens, to file written arguments in favor or against the Transactions and Use Tax Measure, and to change the argument until and including the date fixed by the Town Clerk after which no arguments for or against the Measure may be submitted to the Town Clerk. The Town Clerk shall follow Elections Code sections 9281 through 9287 in determining the printing of all arguments in favor and against.

**Alternatives:** None recommended.

**Fiscal impact:** The recommended action will incur election and public education and outreach expenses requiring:

### **Amendment to the FY 2012-13 Adopted Budget by**

- a. Appropriating \$6,000 from General Fund Undesignated Reserves to 10-12-7860 (Town Clerk – Election Expenses) to cover the County Registrar costs for conducting the local measure;**
- b. Appropriating \$20,000 from General Fund Undesignated Reserves to 05-01-7110 (Town Manager Professional Services) to continue public education / outreach activity through the end of the calendar year**

**Attachments:** Resolution calling Election w/ Attachment "A" – Enabling Ordinance Resolution Directing Impartial Analysis, Arguments

**RESOLUTION NO. 12-**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF A LOCAL ONE CENT (1%) TRANSACTIONS AND USE TAX FOR GENERAL FUND PURPOSES AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 AS CALLED BY RESOLUTION NO. 12-15**

**WHEREAS**, the Town of Yucca Valley has experienced, and continues to face, a dramatic and critical decline in revenues and has reached a point of fiscal crisis that could threaten vital Town services. State practices of taking local funds from Yucca Valley impact the Town's ability to address the community priorities, while State legislation, regulations and mandates also present tough financial challenges for Yucca Valley.

**WHEREAS**, Since mid-2006, the U.S. economy has been suffering severe recessionary economic conditions that are unprecedented since the Great Depression of the 1930's. The effects of the recession have had profoundly negative impacts upon the Town and communities in the region, with the decline in housing values and commercial business activity causing a decline in property and sales tax revenues incoming to municipalities. The negative impact of the general economic recession upon local government is further compounded by the California Legislature's enactment of ABx1 26 (June 28, 2011) and AB 1484 (June 27, 2012), which bills eliminate the existence of, and funding for, local redevelopment agencies. These bills will effectively take approximately \$5.0 million in existing assets from the Town and *permanently* eliminate tax increment revenues as a source of income (at least \$2.0 million per year) to the Town. Monies lost to the Town through recent legislation will be diverted to other districts to pay for the financial obligations that the State has been unable to meet.

**WHEREAS**, this unprecedented financial situation is due to several factors including: (1) the Town's General Funds have seen a revenue decline of 16% from fiscal year 2007/08 to 2010/11. This is due in part to the dramatic decrease in property values of 20% which caused an equivalent drop in property tax revenues; (2) the Town, like most other cities, has endured several years of damaging "money grabs" by the State of California, such as ABx1 26 and AB 1484 discussed above; (3) increasing general expenses to the Town such as the rising costs of fuel, electricity and supplies, and producing a balanced budget—while continuing to provide critical services at an acceptable level; and (4) declining sales tax revenues over the previous years due to the ongoing recession.

**WHEREAS**, the Town of Yucca Valley has worked diligently to reduce expenditures 14% from fiscal year 2007-08 to 2010-11, by cutting programs; reducing employee salary costs by 13% and benefit costs by 19%; reducing non-public safety staff by almost 20% since 2009; and critically examining all expenditures.

**WHEREAS**, the Town of Yucca Valley has implemented local pension reform measures, including a reduced-benefit pension program for new employees (two-tier pension) and requiring all employees to pay their share towards retirement costs (7-8% of gross salary).

**WHEREAS**, the Town estimates a deferred maintenance liability of approximately \$15 million on Town maintained roads. There is currently no identified funding source to address this community need.

**WHEREAS**, the State Water Resources Control Board recently voted to prohibit use of septic tanks in the Town of Yucca Valley, requiring the community to develop a centralized sewer system, or face significant penalties and fines.

**WHEREAS**, if the Town were to address this continuing shortfall and state mandates with further cuts alone, it would have to consider drastic cuts to programs such as police, street and sidewalk repair, graffiti removal, animal services, Code Enforcement, and Community Recreational programming.

**WHEREAS**, because of the scale of the Town's revenue needs and the depth of the cuts that have already been made, only two realistic choices remain for dealing with community priorities. Yucca Valley must either generate additional revenue or make deeper cuts to Town services.

**WHEREAS**, because citizens repeatedly rank public safety and street maintenance as their top priorities, the Town is proposing a solution that would help maintain these important services, while developing a centralized sewer system to replace septic tanks and protect groundwater quality, including a plan to reduce the cost for local property owners to connect to the sewer system.

**WHEREAS**, while an economic recovery from the ongoing recession is possible within the next several years, the State's recent legislation eliminating tax increment funding for local agencies represents a permanent cut to Town revenues, thus necessitating a long-term solution for providing new Town revenue sources. To this end, the Town proposes that a local revenue measure should be considered.

**WHEREAS**, a local revenue measure would give Yucca Valley local control over local funds, for local community priorities including but not limited to cost-efficiently financing the wastewater treatment plant and collection system, maintaining neighborhood police patrols and 911 response, and maintaining and repairing existing neighborhood streets and alleys.

**WHEREAS**, the Town Council desires to submit to the voters a proposal to enact a one cent (i.e., 1%) transaction and use tax for a period of thirty (30) years in the Town of Yucca Valley, with the funds to be deposited in the Town's General Fund and be used for general Town purposes and services. If enacted, by law, these funds would be protected from Sacramento.

**WHEREAS**, by taking this step, keeping the Town safe, crime rates low, emergency response times low for all areas of the Town, and keeping the Town well maintained with critical public facility/sewer infrastructure, the Town can protect property values and preserve the Town's small town atmosphere.

**WHEREAS**, the proposed measure includes an independent taxpayers' oversight committee, mandatory financial audits, and yearly reports to the community to ensure the funds are spent as promised.

**WHEREAS**, California Constitution Article XIII C, Section 2, provides any general tax must be submitted to the electorate and approved by a majority vote of the electorate.

**WHEREAS**, California Constitution Article XIII C, Section 2, provides that an election regarding a general tax must be consolidated with a regularly-scheduled general municipal election for members of the Town Council.

**WHEREAS**, a general municipal election on Tuesday, November 6, 2012 has been called by Resolution No. 12-15, adopted on June 26, 2012; and

**WHEREAS**, on the basis of the foregoing, the Town Council determines it is appropriate to place a measure before the voters at the November 6, 2012, general municipal election regarding adopting a Town transactions and use tax.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** That the Town Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election on November 6, 2012 the following question(s):

Measure –	
To protect local property values and preserve our small town atmosphere by funding local community services, such as: reducing the cost for property owners to connect to the sewer system; maintaining 9-1-1 response / neighborhood police patrols; maintaining neighborhood streets; and, other town services; Shall the Town of Yucca Valley enact a 1 cent sales tax for thirty years, with all funds for Yucca Valley only, requiring independent taxpayer oversight, annual audits, and funds protected by law from Sacramento?	YES
	NO

**SECTION 2.** Upon approval of the voters of the Town of Yucca Valley, the Yucca Valley Municipal Code shall be amended to add a new Chapter 3.26 to Title 3, establishing a one cent sales tax within the Town. The proposed complete text of the measure submitted to the voters is attached hereto as Exhibit "A".

**SECTION 3.** That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 4.** That notice of the time and place of holding the election is hereby given, and the Town Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

**SECTION 5.** That this Resolution shall become effective immediately upon its passage and adoption, and the Town Clerk is directed to send certified copies of this Resolution to the San Bernardino County Board of Supervisors, to the County Clerk-Recorder, and County of San Bernardino Election Department.

PASSED, APPROVED AND ADOPTED ON this 7th day of August, 2012.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK

**EXHIBIT "A"**

**ORDINANCE NO. \_\_\_\_\_ -**

**AN ORDINANCE OF THE PEOPLE OF THE TOWN OF YUCCA VALLEY ADDING CHAPTER 3.26 TO THE YUCCA VALLEY MUNICIPAL CODE IMPOSING A LOCAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION, SUBJECT TO APPROVAL OF A MAJORITY OF THE ELECTORS VOTING ON THE TAX MEASURE AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012.**

**WHEREAS**, the Town of Yucca Valley has experienced, and continues to face, a dramatic and critical decline in revenues and has reached a point of fiscal crisis that could threaten vital Town services. State practices of taking local funds from Yucca Valley impact the Town's ability to address the community priorities, while State legislation, regulations and mandates also present tough financial challenges for Yucca Valley.

**WHEREAS**, Since mid-2006, the U.S. economy has been suffering severe recessionary economic conditions that are unprecedented since the Great Depression of the 1930's. The effects of the recession have had profoundly negative impacts upon the Town and communities in the region, with the decline in housing values and commercial business activity causing a decline in property and sales tax revenues incoming to municipalities. The negative impact of the general economic recession upon local government is further compounded by the California Legislature's enactment of ABx1 26 (June 28, 2011) and AB 1484 (June 27, 2012), which bills eliminate the existence of, and funding for, local redevelopment agencies. These bills will effectively take approximately \$5.0 million in existing assets from the Town and *permanently* eliminate tax increment revenues as a source of income (at least \$2.0 million per year) to the Town. Monies lost to the Town through recent legislation will be diverted to other districts to pay for the financial obligations that the State has been unable to meet.

**WHEREAS**, this unprecedented financial situation is due to several factors including: (1) the Town's General Funds have seen a revenue decline of 16% from fiscal year 2007/08 to 2010/11. This is due in part to the dramatic decrease in property values of 20% which caused an equivalent drop in property tax revenues; (2) the Town, like most other cities, has endured several years of damaging "money grabs" by the State of California, such as ABx1 26 and AB 1484 discussed above; (3) increasing general expenses to the Town such as the rising costs of fuel, electricity and supplies, and producing a balanced budget—while continuing to provide critical services at an acceptable level; and (4) declining sales tax revenues over the previous years due to the ongoing recession.



**WHEREAS**, the Town of Yucca Valley has worked diligently to reduce expenditures 14% from fiscal year 2009-10 to 2010-11, by cutting programs; reducing employee salary costs by 13% and benefit costs by 19%; reducing non-public safety staff by almost 20% since 2009; and critically examining all expenditures.

**WHEREAS**, the Town of Yucca Valley has implemented local pension reform measures, including a reduced-benefit pension program for new employees (two-tier pension) and requiring all employees to pay their share towards retirement costs (7-8% of gross salary).

**WHEREAS**, the Town estimates a deferred maintenance liability of approximately \$15 million on Town maintained roads. There is currently no identified funding source to address this community need.

**WHEREAS**, the State Water Resources Control Board recently voted to prohibit use of septic tanks in the Town of Yucca Valley, requiring the community to develop a centralized sewer system, or face significant penalties and fines.

**WHEREAS**, if the Town were to address this continuing shortfall and state mandates with further cuts alone, it would have to consider drastic cuts to programs such as police, street and sidewalk repair, graffiti removal, animal services, Code Enforcement, and Community Recreational programming.

**WHEREAS**, because of the scale of the Town's revenue needs and the depth of the cuts that have already been made, only two realistic choices remain for dealing with community priorities. Yucca Valley must either generate additional revenue or make deeper cuts to Town services.

**WHEREAS**, because citizens repeatedly rank public safety and street maintenance as their top priorities, the Town is proposing a solution that would help maintain these important services, while developing a centralized sewer system to replace septic tanks and protect groundwater quality, including a plan to reduce the cost for local property owners to connect to the sewer system.

**WHEREAS**, while an economic recovery from the ongoing recession is possible within the next several years, the State's recent legislation eliminating tax increment funding for local agencies represents a permanent cut to Town revenues, thus necessitating a long-term solution for providing new Town revenue sources. To this end, the Town proposes that a local revenue measure should be considered.

**WHEREAS**, a local revenue measure would give Yucca Valley local control over local funds, for local community priorities including but not limited to cost-efficiently financing the wastewater treatment plant and collection system, maintaining neighborhood police patrols and 911 response, and maintaining and repairing existing neighborhood streets and alleys.

**WHEREAS**, the Town Council desires to submit to the voters a proposal to enact a one cent (i.e., 1%) transaction and use tax for a period of thirty (30) years in the Town of Yucca Valley, with the funds to be deposited in the Town's General Fund and be used for general Town purposes and services. If enacted, by law, these funds would be protected from Sacramento.

**WHEREAS**, by taking this step, keeping the Town safe, crime rates low, emergency response times low for all areas of the Town, and keeping the Town well maintained with critical public facility/sewer infrastructure, the Town can protect property values and preserve the Town's small town atmosphere.

**WHEREAS**, the proposed measure includes an independent taxpayers' oversight committee, mandatory financial audits, and yearly reports to the community to ensure the funds are spent as promised.

**WHEREAS**, California Constitution Article XIII C, Section 2, provides any general tax must be submitted to the electorate and approved by a majority vote of the electorate.

**WHEREAS**, California Constitution Article XIII C, Section 2, provides that an election regarding a general tax must be consolidated with a regularly-scheduled general municipal election for members of the Town Council.

**WHEREAS**, a general municipal election on Tuesday, November 6, 2012 has been called by Resolution No. 12-15, adopted on June 26, 2012; and

**NOW THEREFORE**, on the basis of the foregoing, the People of the Town of Yucca Valley at the November 6, 2012, general municipal election do hereby Ordain as follows:

**SECTION 1.** A new Chapter 3.26 is hereby added to the Yucca Valley Municipal Code to read as follows:

"Chapter 3.26  
TRANSACTIONS AND USE TAX

3.26.010: SHORT TITLE:

This Chapter shall be known as the Town of Yucca Valley Transactions and Use Tax Ordinance. This Chapter shall be applicable only in the incorporated territory of the Town.

3.26.020: BASIC DEFINITIONS:

As used in this Chapter, "Town" means the Town of Yucca Valley and "tax" means the transactions and use tax imposed under the provisions of this Chapter.

3.26.030: OPERATIVE DATE:

"Operative Date" means the first day that the tax is imposed and collected. The operative date means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.26.040: PURPOSE:

This Chapter is adopted to achieve the following, among other purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the Town to adopt this tax ordinance which shall be operative only if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that may be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that may be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

E. To provide transactions and use tax revenues to the Town to be used for the general governmental purposes of the Town, including but not limited to, infrastructure (i.e. wastewater treatment, streets, sidewalks, flood control, public facilities, parks) construction and financing, infrastructure maintenance, public safety, community services, economic development, animal care and control, and other Town provided services.

3.26.050: CONTRACT WITH STATE:

Prior to the operative date, the Town shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided however, that if the Town shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.26.060: IMPOSITION OF TRANSACTIONS TAX; TRANSACTIONS TAX RATE:

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the Town at the rate of one percent (1.00 %) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.26.070: PLACE OF TRANSACTION:

For the purposes of this Chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.26.080: IMPOSITION OF USE TAX; USE TAX RATE:

An excise tax is hereby imposed on the storage, use or other consumption in the Town of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one percent (1.00 %) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.26.090: PROCEEDS OF TAX:

The proceeds of the transactions and use tax imposed by this Chapter shall be deposited into the General Fund of the Town to be used for all general government purposes which may include, but are not limited to, infrastructure (i.e. wastewater treatment, streets, sidewalks, flood control, public facilities, parks) construction and financing, infrastructure maintenance, fire and police protection, street and sidewalk repair and maintenance, library and museum services, park repair and maintenance, recreational programs, building and code enforcement services, planning and zoning services, capital equipment requirements, repair and replacement of Town facilities, capital improvement projects, operational expenses, fiduciary responsibilities, administration, indebtedness and general obligations of the Town. The tax imposed by this Chapter is intended to be and is, a general tax, the proceeds of which are to be spent as the Town Council shall in its discretion, from time to time, determine.

3.26.100: ADOPTION OF PROVISIONS OF STATE LAW:

Except as otherwise provided in this Chapter and except insofar as they are inconsistent with the provisions of Parts 1.5 or 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Chapter as though fully set forth herein.

3.26.110: LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES:

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this Town shall be substituted therefore. However, the substitution shall not be made:

1. When the word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California.

2. When the result of that substitution would require action to be taken by or against this Town or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.

3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

i. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or

ii. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "Town" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.26.120: PERMIT NOT REQUIRED:

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.26.130: EXEMPTIONS AND EXCLUSIONS:

A. There shall be excluded from the calculation of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any Town, Town and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the Town which is shipped to a point outside the Town, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the Town shall be satisfied:

- i. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-Town address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
- ii. With respect to commercial vehicles, by registration to a place of business out-of-Town and declaration under

penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this Chapter, the storage, use or other consumption in this Town of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any State-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any

party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the Town shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the Town or participates within the Town in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.

7. "A retailer engaged in business in the Town" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the Town.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

#### 3.26.140: CHANGES IN LAW:

All amendments subsequent to the effective date of this Chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter.

#### 3.26.150: ENJOINING COLLECTION FORBIDDEN:

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Town, or against any officer of the State or the Town, to prevent or enjoin the collection under this Chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.



3.26.160: INDEPENDENT ANNUAL AUDIT:

The proceeds resulting from this Transactions and Use Tax shall be deposited into the Town's General Fund and become subject to the same independent annual audit requirements as other general fund revenue. The independent auditor's report will be presented annually to the Taxpayers' Oversight Committee, the Town Council, and made available for public review.

3.26.170: TAXPAYERS' OVERSIGHT COMMITTEE:

By no later than the Operative Date of the tax authorized by this Chapter, the Town Council shall establish a committee consisting of no fewer than three (3) members of the public regarding the receipt of revenue and expenditure of funds from the tax authorized by this Chapter. The committee members shall be either Town residents or representatives of businesses located and doing business within the Town's jurisdiction. The committee members shall be appointed by the Town Council and shall serve without reimbursement or compensation. Within thirty (30) days of the Effective Date of this Ordinance, the Town Council shall adopt a resolution establishing the composition of the committee, setting the terms of office of the committee members, and defining the scope of the committee's responsibilities. The committee shall issue an annual report to the community, detailing the amounts collected under this Chapter and an analysis of the amounts allocated to specific Town services and programs and recommendations for future allocations of funding, consistent with 3.26.090. The committee's reports and recommendations shall be a matter of public record and shall be considered by the Town Council at a public meeting.

3.26.180: ALL FUNDS STAYING LOCAL:

All tax revenues collected under the authority of this Chapter shall be expended solely on local municipal services as defined in 3.26.090, and shall not be used for any other purposes.

3.26.190: EFFECTIVE DATE:

This ordinance levying the tax described herein shall be effective ten days after the date on which the Town Council has declared that the voters of the Town of Yucca Valley have approved said ordinance by a vote of no less than a majority of the votes cast by the electors voting on the tax measure set forth in this ordinance at the general municipal election to be held on Tuesday, November 6, 2012.

3.26.200: TERMINATION DATE:

The authority to levy the tax imposed by this Chapter shall expire on the thirtieth (30<sup>th</sup>) anniversary of the last day of the calendar quarter preceding the operative date.

3.26.210: PENALTIES:

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor.

3.26.220: AMENDMENTS:

The tax rate in this Chapter may only be increased by a vote of the people of the Town of Yucca Valley; provided, however, that the Town Council may amend this Chapter to reduce the amount of the tax authorized herein or to otherwise implement or advance the purpose and intent of this Chapter.

**SECTION 2.** If any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof to any person or circumstance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the Town of Yucca Valley hereby declared that they would have passed each subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

I hereby certify that Ordinance No. \_\_\_\_ was passed, approved and adopted by the People of the Town of Yucca Valley, California, voting on the 6<sup>th</sup> day of November, 2012.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK

**RESOLUTION NO. 12-**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, DIRECTING THE TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS, AND PROVIDING FOR REBUTTAL ARGUMENTS REGARDING THE YUCCA VALLEY LOCAL TRANSACTIONS AND USE TAX MEASURE**

**WHEREAS**, a General Municipal Election shall be held in the Town of Yucca Valley, California, on November 6, 2012, at which there will be submitted to the voters a ballot measure to consider a temporary transactions and use tax for the Town of Yucca Valley (the "Measure"); and

**WHEREAS**, whenever a municipal ballot measure is authorized, State law provides that the Town Council may direct the Town Attorney to prepare an impartial analysis and provide for the filing of written arguments for and against a measure and for rebuttal arguments to be filed with the Town elections official.

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, DOES RESOLVE, DECLARE, AND ORDER AS FOLLOWS:**

**Section 1.** The Town Council directs the Town Attorney to prepare an impartial analysis of the Measure. The impartial analysis shall be filed within fifteen (15) days of the adoption of this Resolution or by the date set by the Town Clerk for the filing of primary arguments, whichever is later.

**Section 2.** The Town Council authorizes members of that body, collectively or individually, or any individual Yucca Valley voter or association of Yucca Valley citizens, to file written arguments in favor or against the Transactions and Use Tax Measure, and to change the argument until and including the date fixed by the Town Clerk after which no arguments for or against the Measure may be submitted to the Town Clerk. The Town Clerk shall follow Elections Code sections 9281 through 9287 in determining the printing of all arguments in favor and against.

**Section 3.** Any argument filed for or against said Measure not exceeding 300 words shall be filed with the Town Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

**Section 4.** When the Town Clerk has selected the arguments for and against the Measure that will be printed and distributed to the voters, the Town Clerk shall send a copy of the argument in favor of the Measure to the authors of any argument against the Measure and a copy the argument against the Measure to the authors of any argument in favor of the Measure.

**Section 5.** The author or a majority of the authors of an argument relating to the Measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument may not be signed by more than five persons. The rebuttal arguments shall be filed with the Town Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers. Any rebuttal argument must be filed within 10 days after the final date for filing direct arguments.

**Section 6.** Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

**Section 7.** The Town Clerk shall cause the Town Attorney's Impartial Analysis, and duly selected arguments and rebuttals, to be printed and distributed to voters in accordance with State law regarding same.

PASSED, APPROVED AND ADOPTED ON this 7th day of August, 2012.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Jamie Anderson, Town Clerk  
**Date:** August 2, 2012  
**For Council Meeting:** August 7, 2012

**Subject:** Selection of Mayor Pro Tem

**Recommendation:** Select a Council Member to act as Mayor Pro Tem through December 4, 2012.

### Executive Summary

Mayor Pro Tem Hagerman resigned from the Town Council effective July 20, 2012, leaving the position of Mayor Pro Tem vacant.

### Order of Procedure:

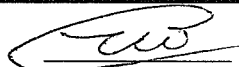
- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question

**Discussion:** On June 21, 2011, the Town Council adopted Ordinance No. 227, establishing alternative procedures for filling vacancies on Town Council. Section 2.05.060½(F) establishes the following:

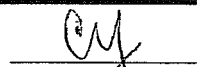
“If the town council vacancy to be filled pursuant to the procedures of this section consists of the seat of mayor or mayor pro tempore, then the councilmembers remaining after such vacancy shall, before making any appointment or calling a special election pursuant to this section, appoint the title of mayor or mayor pro tempore, as appropriate, to a currently-seated councilmember. Such appointment of mayor or mayor pro tempore shall be made by majority vote of the council body present. If the seated councilmembers are unable to decide upon an appointment to mayor or mayor pro tempore, then the appointment shall pass according to councilmember seniority.”


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Reviewed By:

  
Town Manager

  
Town Attorney

  
Admin Services

  
Dept Head

Department Report  
 Consent

Ordinance Action  
 Minute Action

Resolution Action  
 Receive and File

Public Hearing  
 Study Session

Seniority of the Council is established based upon length of service on the Council. However, any member, upon completion of his/her term as Mayor, shall become the most junior member of those elected at the general election. Seniority among the current councilmembers (excluding the Mayor) is Councilman Abel, Lombardo, and Huntington in that order.

Based upon this policy, Town Council may vote to appoint any member as Mayor Pro Tem. If an agreement cannot be reached on the appointment, the position would pass to the senior member – in this case, Councilman Abel.

The Mayor Pro Tem performs the duties of Mayor in his/her absence.

**Alternatives:** None

**Fiscal impact:** None

**Attachments:** Ordinance No. 227

**ORDINANCE NO. 227**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ADDING SECTION 2.05.060½ TO CHAPTER 2.05, TITLE II, OF THE YUCCA VALLEY MUNICIPAL CODE RELATING TO ALTERNATIVE PROCEDURES FOR THE FILLING OF COUNCILMEMBER VACANCIES CONSISTENT WITH CALIFORNIA GOVERNMENT CODE SECTION 36512**

WHEREAS, Subsection (b) of Section 36512 of the California Government Code provides that when a vacancy occurs on a city council, the city council must, within sixty days of the occurrence of such vacancy, fill the vacancy by appointment or by calling a special election; and,

WHEREAS, Subsection (b) of said Section 36512 provides that the person so appointed or elected at special election to fill the vacancy shall—in the absence of a local ordinance holding otherwise—hold office for the unexpired term of the former incumbent; and,

WHEREAS, Subsection (c)(3) of said Section 36512 provides that, notwithstanding Subsection (b) of Section 36512 of the Government Code, a city may enact an ordinance that provides that a person appointed to fill a vacancy on a city council shall hold office only until the date of a special election, which shall be called to fill the remainder of the term; and,

WHEREAS, Subsection (c)(3) of said Section 36512 provides that such election may be held on the date of the next regularly-established election or regularly-scheduled municipal election to be held throughout the city that is not less than 114 days from the call of such special election; and,

WHEREAS, Subsection (c)(3) of said Section 36512 provides that such ordinances shall apply to a vacancy on a city council but not to a vacancy in the office of an elective mayor, which, instead, shall be filled in the manner provided for by Section 34902 of the Government Code; and,

WHEREAS, by limiting the term of a council appointee to vacancy, the voters shall have the opportunity to fill the balance of the vacancy by election while maintaining the Town Council's discretion to temporarily fill the vacancy until such election may be held.

NOW, THEREFORE, The Town Council of the Town of Yucca Valley does hereby ordain as follows:

SECTION 1. The recitals set forth above are hereby incorporated by reference into this ordinance and made a part hereof.

SECTION 2. Section 2.05.060½ of the Yucca Valley Municipal Code is hereby added to Chapter 2.05 of Title II of the Yucca Valley Municipal Code to read, in its entirety, as follows:

"Section 2.05.060½. Alternate methodologies for Filling Council Vacancy

- A. Appointment. Pursuant to Government Code Section 36512(b), the town council may fill a vacancy on the town council by appointment within the time frame established by state law. An appointment under this subsection shall be for the remainder of the term of the former incumbent.
- B. Special election. Pursuant to Government Code Section 36512(b), the town council may fill a vacancy on the town council by calling a special election within the time frame and process called for under state law. The term of office under this subsection following the special election shall be for the remainder of the term of the former incumbent.
- C. Interim appointment and special election. Pursuant to Government Code Section 36512(c)(3), the town council also has the option of filling a vacancy on the town council by making an interim appointment and immediately calling a special election. Such interim appointment and calling of a special election shall be done within the timeframe called for under state law. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election. An appointment under this option shall be only for that period of time until the results of the special election for the vacant council seat are certified and accepted by the town council. Thereafter, the person elected to fill the vacant council seat shall serve the remainder of the term of the former incumbent.
- D. No majority-appointed council. Notwithstanding any other provision of this Section, an appointment shall not be made to fill a vacancy on the town council if the appointment would result in a majority of the members serving on the town council having been appointed. In that instance, the vacancy shall be filled in the following manner:
  - 1. The town council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call.
  - 2. If the town council does not call an election pursuant to subsection (D)(1) of this section, the vacancy shall be filled at the next regularly established election date.
- E. Election form. If authorized by state law, if the town council determines to call a special election, the council may determine that that election will be conducted as an all mailed ballot election or a special election as set forth herein.
- F. Vacancy in Seat of Rotational Mayor or Mayor Pro Tempore. If the town council vacancy to be filled pursuant to the procedures of this section consists of the seat of mayor or mayor pro tempore, then the councilmembers remaining after such vacancy shall, before making any appointment or calling



a special election pursuant to this section, appoint the title of mayor or mayor pro tempore, as appropriate, to a currently-seated councilmember. Such appointment of mayor or mayor pro tempore shall be made by majority vote of the council body present. If the seated councilmembers are unable to decide upon an appointment to mayor or mayor pro tempore, then the appointment shall pass according to councilmember seniority. Such seniority shall be based upon the length of time each councilmember has been seated; as between councilmembers who have held their seats for the same length of time, seniority between them shall be based on the number of votes received for their seat.

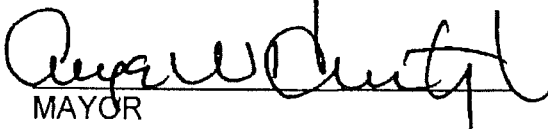
G. Not for elected mayor. This provision only applies in the event that the Town designates the mayoral seat as an elected position. An elected mayor may not be filled by an interim appointment. If a vacancy is in the office of an elected mayor, then the town council has 60 days to make an appointment, and if it fails to make an appointment, then must call a special election as required by Government § 34902 (a)."

SECTION 3. SEVERABILITY. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The town council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 4. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

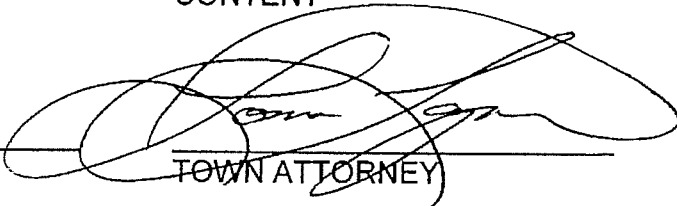
APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this <sup>27<sup>th</sup></sup> day of June, 2011.

  
MAYOR

ATTEST:

APPROVED AS TO FORM &  
CONTENT

  
TOWN CLERK

  
TOWN ATTORNEY

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 227 as duly and regularly introduced at a meeting of the Town Council on the 7<sup>th</sup> day of June, 2011, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 21<sup>st</sup> day of June, 2011, by the following vote, to wit:

Ayes: Council Members Abel, Hagerman, Rowe, and Mayor Huntington

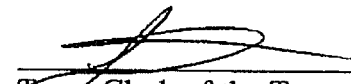
Noes: None

Abstain: None

Absent: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 22<sup>nd</sup> day of June, 2011.

(SEAL)

  
\_\_\_\_\_  
Town Clerk of the Town of  
Yucca Valley