



**CITY OF CORNING  
SPECIAL CLOSED MEETING SESSION AGENDA**

**TUESDAY, JANUARY 25, 2011  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

**A. CALL TO ORDER: 6:30 p.m.**

**B. ROLL CALL:**

**Council:**

**Toni Parkins  
John Leach**

**Vacant**

**Darlene Dickison**

**Mayor:**

**Gary Strack**

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

**C. PUBLIC COMMENTS:**

**D. ADJOURN TO CLOSED SESSION:**

**CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO SECTION 54957.6:  
Agency Negotiator: William May, Labor Relations Consultant  
Management, Miscellaneous, Dispatch and Public Safety Employees  
Bargaining Units**

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Gov't. Code  
Section 54956.9): Related to failure to seat City Council Candidate Elect Jesse  
Lopez as a City Council Member.**

**E. RECONVENE SPECIAL MEETING AND REPORT ON CLOSED SESSION:**

**F. ADJOURN TO REGULAR MEETING OF THE CITY COUNCIL:**

**POSTED: FRIDAY, JANUARY 21, 2011**



**CITY OF CORNING  
CITY COUNCIL AGENDA**

**TUESDAY, JANUARY 25, 2011  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

**A. CALL TO ORDER: 7:30 p.m.**

**B. ROLL CALL:**

**Council:**

**Toni Parkins**

**John Leach**

**Vacant**

**Darlene Dickison**

**Gary Strack**

**Mayor:**

**C. PLEDGE OF ALLEGIANCE: Led by the City Manager.**

**D. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS, PRESENTATIONS:**

**1. Presentation: Branding Project by Kate Grissom of Rolling Hills Casino.**

**E. BUSINESS FROM THE FLOOR:** If there is anyone in the audience wishing to speak on items not already set on the Agenda, please come to the podium, and briefly identify the matter you wish to have placed on the Agenda. The Commission will then determine if such matter will be placed on the Agenda for this meeting, scheduled for a subsequent meeting, or recommend other appropriate action. If the matter is placed on tonight's Agenda, you will have the opportunity later in the meeting to return to the podium to discuss the issue. The law prohibits the Commission from taking formal action on the issue, however, unless it is placed on the Agenda for a later meeting so that interested members of the public will have a chance to appear and speak on the subject.

**F. CONSENT AGENDA:** It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.

**2. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**

**3. Waive the Reading and Approve the Minutes of the January 11, 2011 City Council Meeting with any necessary corrections:**

**4. January 19, 2011 Claim Warrant - \$211,184.58.**

**5. January 19, 2011 Business License Report.**

**6. Approve Contract Change Order No. 2 Increasing the Traffic Signal Installation Project by \$4,372.20 for a Total Project Cost of \$284,839.57.**

**7. Approve Contract Change Order No. 4 Amending Scope of Work and Increasing the Rodgers Theater Improvement Project by \$7,517.67 for a Total Project Cost of \$188,902.36.**

**8. Approve Project Pay Estimate No. 5 in the Amount of \$51,236.56 to Azevedo Construction for the 2010 Rodgers Theater Improvement Project.**

**9. Approve Application for Indian Gaming Committee Grant Funds in the amount of \$19,320.**

**G. ITEMS REMOVED FROM THE CONSENT AGENDA:**

**H. PUBLIC HEARINGS AND MEETINGS:**

**I. REGULAR AGENDA:**

**10. Consideration of Seating of Elected Council Member Jesse Lopez:**

- 10-1. Consider adopting Supplemental Resolution 01-25-2011-01 Seating of Elected Council Member Jesse Lopez; and
- 10-2. Administering Oath of Office and Seating Jesse Lopez on the City Council; and
- 10-3. Consider Inviting Applications to be Submitted Now for Appointment to City Council Seat to Preserve Council's Options should Jesse Lopez either Resign or be determined to be ineligible to Hold Office.

**J. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:**

**K. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:**

- L. REPORTS FROM MAYOR AND COUNCIL MEMBERS:** City Councilmembers will report on attendance at conferences/meetings reimbursed at City expense (Requirement of Assembly Bill 1234).

**Parkins:**

**Leach:**

**Dickison:**

**Strack:**

**M. ADJOURNMENT!:**

**POSTED: FRIDAY, JANUARY 21, 2010**



**CITY OF CORNING  
SPECIAL CLOSED MEETING SESSION MINUTES**

**TUESDAY, JANUARY 11, 2011  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

**A. CALL TO ORDER: 6:30 p.m.**

**B. ROLL CALL:**

**Council:**

**Toni Parkins**

**John Leach**

**Vacant**

**Darlene Dickison**

**Mayor:**

**Gary Strack**

All members of the City Council were present with one vacancy remaining pending legal verification of ability of Councilman elect Jesse Lopez to serve as an elected member of the Council.

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

**C. PUBLIC COMMENTS: None.**

**D. ADJOURN TO CLOSED SESSION: 6:31 p.m.**

**CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO SECTION 54957.6:**

**Agency Negotiator: William May, Labor Relations Consultant**

**Management, Miscellaneous, Dispatch and Public Safety Employees  
Bargaining Units**

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

**Government Code Section 54956.9(b)(1) based upon failure to seat Council  
Member following election.**

**E. RECONVENE SPECIAL MEETING AND REPORT ON CLOSED SESSION: 7:30p.m.**

Mayor Strack announced that Council met with the City's Labor Negotiator and gave him direction and also met with the City Attorney and received advice on a matter that will be discussed later in the Agenda.

**F. ADJOURN TO REGULAR MEETING OF THE CITY COUNCIL: 7:31 pm**

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**Lisa M. Linnet, City Clerk**



**CITY OF CORNING  
CITY COUNCIL MINUTES**

**TUESDAY, JANUARY 11, 2011  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

**A. CALL TO ORDER: 7:31 p.m.**

**B. ROLL CALL:**

**Council:**

**Toni Parkins**

**John Leach**

**Vacant**

**Darlene Dickison**

**Mayor:**

**Gary Strack**

All members of the City Council were present with one vacancy remaining pending legal verification of ability of Councilman elect Jesse Lopez to serve as an elected member of the Council.

**C. PLEDGE OF ALLEGIANCE: Led by the City Manager.**

**D. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS, PRESENTATIONS:**

**1. Proclamation: January 2011 National Mentoring Month in the City of Corning.**

The Proclamation was read and Tehama County Department of Education Mentor Coordinator Melissa Mendonca accepted the Proclamation from Mayor Strack and introduced longtime local mentor Wayne Peterson. She stated that the City of Corning has a thriving program and invited all interested in becoming mentors to contact her. She stated that these are trying economic times and economic difficulties trickle down to our kids, therefore the care and guidance of mentors is especially needed.

**2. Introduction of the new County Librarian Jessica Hudson.**

Mayor Strack introduced and welcomed new County Librarian Jessica Hudson. She stated that she has been in her position as Tehama County Librarian for approximately 7-days.

**E. BUSINESS FROM THE FLOOR:**

A woman from the audience identified as "Kitty Claws" spoke presenting a poem on behalf of the local felines. She stated that a fundraiser known as "Corning Fur Bowl" would be held on Sunday, February 6<sup>th</sup> at Java Lanes from 2-5 p.m. to raise funds to address feline over population issues such as spaying and neutering, etc. She invited all to attend.

Ruby Tap addressed the Council asking who is the Police Chief's supervisor; she was informed that the City Council is his supervisor. She then asked why when calls are made from 918 Walnut Street the Police do not respond; however when the neighbor calls the City responds. Mayor Strack asked for direction from the City Attorney stating this seems to be an ongoing matter/dispute between two neighbors. City Attorney Fitzpatrick suggested putting the complaint in writing addressed to the City Manager and then Staff and Council can look at the facts and decide what, if any, action the City can take.

Rolling Hills Casino's Kate Grissom addressed the Council on the "Branding Process" and presented an update on the "Branding Project". She stated that currently they are in the process of raising funds to get Roger Brooks to assist with the Branding Project and informed the Council that he will be here in March to finalize the contract. She also stated that they are working on some fundraiser events for this project in the south County. Council requested that the City Clerk agendize Ms. Grissom's presentation on the Branding Project for the next Council Agenda (January 25<sup>th</sup>).

Mayor Strack then asked Ms. Grissom if she could provide the Council with an update on the Rolling Hills Medical Facility. She stated that the facility should be opening in March and hiring should begin in early February.

**F. CONSENT AGENDA:** It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.

3. **Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**
4. **Waive the Reading and Approve the Minutes of the December 14, 2010 City Council Meeting with any necessary corrections:**
5. **January 5, 2011 Claim Warrant - \$438,057.10.**
6. **December 2010 Building Permit Valuation - \$46,922.**
7. **December 2010 Wages and Salaries - \$467,058.45.**
8. **City of Corning Wastewater Operation Summary Report – December 2010.**
9. **November 2010 – Treasurer’s Report.**
10. **December 2010 – Treasurer’s Report.**
11. **Authorize the Installation of a Park Bench and Concrete Slab at Northside Park in Memory of Bobby Strack.**
12. **Approve Progress Pay Estimate No. 1 in the Amount of \$53,510 to Franklin Construction for the 2010 Traffic Signal Installation Project.**
13. **Approve Progress Pay Estimate No. 4 in the Amount of \$34,606.90 to Azevedo Construction for the 2010 Rodgers Theater Improvement Project.**

Mayor Strack requested to remove item 11 because he will be unable to vote on this item due to a Conflict of Interest.

Councilor Leach moved to approve Consent Items 3-10 and 12-13. Councilor Parkins seconded the motion. **Ayes: Strack, Parkins, Leach and Dickison. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Council pending verification of Councilor elect Jesse Lopez’ eligibility to serve.**

**G. ITEMS REMOVED FROM THE CONSENT AGENDA:**

11. **Authorize the Installation of a Park Bench and Concrete Slab at Northside Park in Memory of Bobby Strack.**

Vice Mayor Parkins called for a motion. Councilor Dickison moved to Authorize the Gary Strack Family to install the concrete footing and bench adjacent to the tennis courts at Northside Park in memory of Bobby Strack with the final position to be approved by the Public Works Director or Assistant Public Works Director. Councilor Leach seconded the motion. **Ayes: Parkins, Leach and Dickison. Opposed: None. Absent: None. Abstain: Strack. Motion was approved by a 3-0 vote with Strack abstaining and one vacancy on the Council pending verification of Councilor elect Jesse Lopez’ eligibility to serve.**

**H. PUBLIC HEARINGS AND MEETINGS: None.**

**I. REGULAR AGENDA:**

**14. Approve Contract Change Order No. 1 to the Traffic Signal Installation Project Increasing the Cost by \$28,225.37 for a Total Project Cost of \$280,467.37.**

Mayor Strack introduced this item by title and Public Works Director John Brewer explained the reasoning for the Change Order.

Councilor Parkins moved to approve Contract Change Order No. 1 increasing the Traffic Signal installation Project by \$28,225 and set the budget appropriation from fund 116 to Street Projects Signal Improvements Account 116-9254-3001 at \$290,585. Councilor Dickison seconded the motion. Mayor Strack and Mr. Brewer explained that the light wouldn't be operational for a month or more in order to electrify the new vault for the traffic signal; PG&E is working with the City on the issue...the Contractor stated it could be up to a 12-week delay. **Ayes: Strack, Parkins, Leach and Dickison. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Council pending verification of Councilor elect Jesse Lopez' eligibility to serve.**

**15. Approve Plans and Specifications and Authorize Public Works to Seek Bids for the New Water Well Installation. Plans and Specifications are available for review at City Hall.**

Mayor Strack introduced this item by title and Public Works Director John Brewer updated the Council on the progress.

Councilor Parkins moved to approve the Plans and Specifications and authorize the Public Works Department to seek bids for the construction of a new water well, a pump station at Clark Park with the necessary waterline extensions, and related facilities as described in the project description, specifications and plans. Councilor Dickison seconded the motion. **Ayes: Strack, Parkins, Leach and Dickison. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Council pending verification of Councilor elect Jesse Lopez' eligibility to serve.**

**16. Approve Construction of Wall and Placement of City Seal and "In God We Trust" Message in City Council Chambers.**

Mayor Strack introduced this item by title. Mayor Strack illustrated the proposed site and size of the City Seal and statement "In God We Trust". During discussion he stated he would like to see it scaled down some after seeing the display. He also asked if the Council wanted to proceed with this.

Councilor Parkins stated that Council and Staff have been discussing this for some time, however she is not sure if, with the budget being what it is now, if now is really the time and if we have the budget for it. Councilor Leach asked if the City had the funds; he was informed yes.

Woody Palmer suggested placing it in one of the arches, and asked if the traffic signal cameras were being funded by grants, etc. stating that he remembered when the first signal at Sixth/Solano Street signal was installed, it cost the City about \$75,000 and now it seems they cost a quarter of a million. Jerry Lequia suggested getting a committee together to raise funds for the construction and installation of the City Seal and "In God We Trust". Councilor Parkins suggests using the font size 11 for the lettering.

Mr. Kimbrough suggested Council approve the construction tonight without the funding and that way Mr. Brewer can begin working with a committee. Mayor Strack suggests scaling it down.

Councilor Dickison moved to authorize the project utilizing font size 11 pending funding from private sources. Councilor Leach seconded the motion. **Ayes: Strack, Parkins, Leach and Dickison. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Council pending verification of Councilor elect Jesse Lopez' eligibility to serve.**

**17. Approve Payment of the City's "League of California Cities" 2011 Membership Dues in the Amount of \$3,953.**

Mayor Strack introduced this item by title stating that this cost has not been raised for a number of years. Councilor Parkins informed members of the audience that this is vital; this organization keeps Cities informed of new legislation affecting local government and helps initiate measures that insure that local taxes and revenues stay within the local Communities. Councilor Parkins moved to approve the continued membership in the League of California Cities and approve the payment of the annual dues in the amount of \$3,953. Councilor Dickison seconded the motion. **Ayes: Strack, Parkins, Leach and Dickison. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Council pending verification of Councilor elect Jesse Lopez' eligibility to serve.**

**18. Approve Increase of City Parking Violation Fees to \$32.50 and Handicap Parking Violation Fees at \$282.50.**

Mayor Strack stated that the City receives no funds from moving violation Citations; those funds go to the courts. Councilor Leach moved to set the Parking Violation Fees at \$32.50 and the Fee for parking in a handicapped zone without proper placards or identification at \$282.50 to cover the additional State Mandated Penalties of \$7.50 per Citation that must be collected. Councilor Dickison seconded the motion. **Ayes: Strack, Parkins, Leach and Dickison. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Council pending verification of Councilor elect Jesse Lopez' eligibility to serve.**

**19. Consideration of Administering Oath to Successful Candidate for City Council or Postponing Action Pending Legal Determination of Jesse Lopez' Eligibility to Assume Office.**

Mayor Strack introduced this item by title and stated that Council discussed this in closed session and received advise from Legal Council. City Attorney Michael Fitzpatrick stated that Council received a request from Mr. Lopez's Attorney for 40-days more to seek a court order (Judges determination) that would allow him to be seated. He advised Council to postpone action on this item until the January 25<sup>th</sup> Council meeting, not the 40-days requested as Council has 60-days from the date a vacancy occurs on the Council in which to make an appointment or they have to call a special election. The 60-days ends on February 5th. Therefore, he is recommending postponing a decision until the next Council meeting on January 25<sup>th</sup> and at that time hopefully we will know from Mr. Lopez what date he will be going to court and we can make a determination at that time. This recommendation is because the voters have chosen him and he believes that he is entitled to have a Judge determine whether or not Mr. Lopez is eligible to be seated. Mr. Fitzpatrick and Councilor Parkins both pointed out that a special election is extremely costly, between \$5,000 and \$20,000.

Susan Price...stated that calling for applications is not on the Agenda tonight. She was informed that she was correct. Mayor Strack explained that waiting until the 25<sup>th</sup> does not allow individuals much time to prepare applications. Mayor Strack requested that the City Clerk place accepting applications on the next Agenda.

Following other questions by Council and members of the audience, Councilor Parkins moved to Agendize discussion and action on this issue on the January 25, 2011 City Council Meeting. Councilor Dickison seconded the motion. **Ayes: Strack, Parkins, Leach and Dickison. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Council pending verification of Councilor elect Jesse Lopez' eligibility to serve.**

**J. ITEMS PLACED ON THE AGENDA FROM THE FLOOR: None.**

**K. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION: None.**

- L. **REPORTS FROM MAYOR AND COUNCIL MEMBERS:** City Councilmembers will report on attendance at conferences/meetings reimbursed at City expense (Requirement of Assembly Bill 1234).

**Parkins:** Announced that the JPA1 will only be meeting every other month.

**Leach:** Nothing.

**Dickison:** LAFCO Meeting for tomorrow has been canceled due to a lack of agenda.

**Strack:** Nothing.

- M. **ADJOURNMENT!:** 8:24 p.m.

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Lisa M. Linnet, City Clerk



# MEMORANDUM

**TO:** HONORABLE MAYOR AND COUNCIL MEMBERS

**FROM:** LORI SIMS  
ACCOUNTING TECHNICIAN

**DATE:** January 19, 2011

**SUBJECT:** Cash Disbursement Detail Report for the  
Tuesday, January 25, 2011 Council Meeting

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**PROPOSED CASH DISBURSEMENTS FOR YOUR APPROVAL CONSIST OF THE FOLLOWING:**

A.	Cash Disbursements	Ending	01-19-11	\$	116,919.27
B.	Payroll Disbursements	Ending	01-11-11	\$	43,264.52
C.	Cash Disbursements	Ending	01-19-11	\$	51,000.79
<b>GRAND TOTAL</b>				<b>\$</b>	<b><u>211,184.58</u></b>

REPORT.: Jan 19 11 Wednesday  
 RUN...: Jan 19 11 Time: 14:46  
 Run By.: LORI

CITY OF CORNING  
 Cash Disbursement Detail Report  
 Check Listing for 01-11 Bank Account.: 1020

PAGE: 001  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description
011773	01/07/11	DOD01	JAMES DODGE	250.49	.00	250.49	110125	TRAINING/ED-POLICE
011774	01/07/11	ATT02	AT&T	1132.72	.00	1132.72	1964976	COMMUNICATIONS-
011775	01/07/11	USP01	UNITED STATES POST OFFICE	541.21	.00	541.21	110107	OFFICE SUPPLIES-FINANCE
				-541.21	.00	-541.21	110107u	Ck# 011775 Reversed
			Check Total.....:	.00	.00	.00		
011776	01/07/11	USP01	UNITED STATES POST OFFICE	330.91	.00	330.91	110107A	OFFICE SUPPLIES-FINANCE
011777	01/07/11	USP01	UNITED STATES POST OFFICE	210.29	.00	210.29	110107B	OFFICE SUPPLIES-FINANCE
011778	01/10/11	CAL35	CALIFORNIA BUILDING STAND	31.50	.00	31.50	11-0110	SB 1473 / BLD & SAFETY
011779	01/10/11	LAM03	LAMBETH, TAMMY	71.25	.00	71.25	110107	REC INSTRUCTOR-REC
011780	01/10/11	WAR05	WARREN, DANA KARL	147.25	.00	147.25	110107	REC INSTRUCTOR-REC
011781	01/12/11	LEA01	LEAGUE OF CALIF CITIES	3953.00	.00	3953.00	105279	ASSOC DUES-CITY COUNCIL
011782	01/12/11	DON05	DON AZEVEDO CONSTRUCTION,	31146.21	.00	31146.21	11-0112	THEATER RESTORATION-RODGE
011783	01/12/11	FRA03	FRANKLIN CONSTRUCTION, IN	48159.00	.00	48159.00	11-0112	SIGNAL IMPROVEMENTS-STR P
011784	01/12/11	AIR00	AIRGAS NCN	48.44	.00	48.44	102792028	MAT & SUPPLIES-FIRE
011785	01/12/11	AME15	AMERIGAS	67.26	.00	67.26	010071496	NATURAL GAS-ACO
011786	01/12/11	ARA02	ARAMARK UNIFORM SRV.INC.	33.56	.00	33.56	0881172	Mat/Supplies-
				33.56	.00	33.56	0901141	Mat/Supplies-
				33.56	.00	33.56	0910878	Mat/Supplies-
				33.56	.00	33.56	0920479	Mat/Supplies-
				63.56	.00	63.56	0931717	Mat/Supplies-
			Check Total.....:	197.80	.00	197.80		
011787	01/12/11	BAS01	BASIC LABORATORY, INC	86.00	.00	86.00	1100196	ProfServices Water Dept
011788	01/12/11	BAT02	BATTERY UNIVERSE	247.63	.00	247.63	11359	EQUIP MAINT-FIRE
011789	01/12/11	BEN03	LEXISNEXIS MATTHEW BENDER	66.81	.00	66.81	12577235	BOOKS/PERIODICS-LIBRARY
011790	01/12/11	BEN04	BEN TOILET RENTALS, INC.	43.16	.00	43.16	235349	MAT & SUPPLIES-PARKS
011791	01/12/11	COM01	COMPUTER LOGISTICS, INC	2750.00	.00	2750.00	51220	COMMUNICATIONS-POLICE
011792	01/12/11	COR12	CORNING FORD MERCURY, INC	829.22	.00	829.22	134504	Veh Opr/Maint-FIRE

REPORT.: Jan 19 11 Wednesday  
 RUN...: Jan 19 11 Time: 14:46  
 Run By.: LORI

CITY OF CORNING  
 Cash Disbursement Detail Report  
 Check Listing for 01-11 Bank Account.: 1020

PAGE: 002  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
011792	01/12/11	COR12	CORNING FORD MERCURY, INC	76.50	.00	76.50	134532	Veh Opr/Maint-POLICE
			Check Total.....	905.72	.00	905.72		
011793	01/12/11	DAT03	DATCO SERVICES CORP	640.50	.00	640.50	6213797	DATCO DRUG & ALCOHOL TEST
011794	01/12/11	DEP10	DEPT OF MOTOR VEHICLES	164.65	.00	164.65	110106	TRAINING/ED-POLICE
011795	01/12/11	FMR01	FM RICHELIEU ENGINEERING	1760.00	.00	1760.00	011011	ENG PROF SVCS-BLD & SAFET
011796	01/12/11	JES10	JESSEE HEATING & AIR, INC	244.00	.00	244.00	051015	BLD & MAINT-TRANS FAC
011797	01/12/11	LIN02	LINNETS TIRE SHOP	283.70	.00	283.70	51415	Veh Opr/Maint-
				213.58	.00	213.58	51420	Veh Opr/Maint-POLICE
			Check Total.....	497.28	.00	497.28		
011798	01/12/11	M.R01	M.R. METAL WORKS	75.00	.00	75.00	1502	BLD MAINT-FIRE
011799	01/12/11	NOR01	NORTH VALLEY BARRICADE	192.69	.00	192.69	13880	SAFETY ITEMS-PW ADMIN
011800	01/12/11	RON03	RON DUPRATT FORD	267.60	.00	267.60	665208	VEH OP/MAINT-POLICE
				71.04	.00	71.04	665212	VEH OP/MAINT-
			Check Total.....	338.64	.00	338.64		
011801	01/12/11	SLA00	SLAKEY BROS - CHICO	295.08	.00	295.08	959802700	THEATER RESTORATION-RODGE
011802	01/12/11	SUB01	SUBURBAN PROPANE	744.92	.00	744.92	167515	PROPANE-AIRPORT
011803	01/12/11	TEH14	TEHAMA CO SECRET WITNESS	1020.00	.00	1020.00	110105	Secret Witness PoliceServ
011804	01/12/11	TRI02	TRI-COUNTY NEWSPAPERS	91.50	.00	91.50	110770	Print/Advert. City Clerk
				88.31	.00	88.31	111424	Print/Advert. City Clerk
			Check Total.....	179.81	.00	179.81		
011805	01/12/11	XER00	XEROX CORPORATION	91.06	.00	91.06	052536607	EQUIP MAINT-POLICE
011806	01/13/11	ACC00	ACCESS INFORMATION	42.00	.00	42.00	59890	EQUIP MAINT-GEN CITY
011807	01/13/11	COM01	COMPUTER LOGISTICS, INC	1769.61	.00	1769.61	39395A	COMP/EQUIP/SOFT-FIRE
011808	01/13/11	EDD01	EMPLOYMENT DEVELOPMENT	18.10	.00	18.10	110113	STATE INCOME TAX
011809	01/13/11	KNI00	KNIFE RIVER CONSTRUCTION	963.30	.00	963.30	114589	MAT & SUPPLIES-
011810	01/13/11	NOR31	NORM'S PRINTING	307.84	.00	307.84	009321	OFFICE SUPPLIES-FINANCE

REPORT.: Jan 19 11 Wednesday  
 RUN....: Jan 19 11 Time: 14:46  
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CITY OF CORNING  
 Cash Disbursement Detail Report  
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PAGE: 003  
 ID #: PY-DP  
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Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description
011811	01/17/11	ATK01	DON ATKINS	90.00	.00	90.00	110111	TRAINING/ED-POLICE
011812	01/17/11	BUT04	BUTTE CTY CREDIT BUREAU	14.00	.00	14.00	11083	PROF SVCS-DISPATCH
011813	01/17/11	CAR12	CARREL'S OFFICE MACHINES	4.01	.00	4.01	097219	MAT & SUPPLIES-LIBRARY
011814	01/17/11	CHE02	CHEM QUIP, INC.	1063.92	.00	1063.92	5063881	MAT & SUPPLIES-WTR
011815	01/17/11	CLA01	CLARKS DRUG STORE	87.19	.00	87.19	16093	MAT & SUPPLIES-POLICE
011816	01/17/11	COM01	COMPUTER LOGISTICS, INC	2148.71	.00	2148.71	39768	MACHINE/EQUIP-FINANCE (20
				42.00	.00	42.00	43215	COMMUNICATIONS- (2008)
				24.00	.00	24.00	43216	COMMUNICATIONS-FIRE (2008)
			Check Total.....:	2214.71	.00	2214.71		
011817	01/17/11	CON07	CONEXIS	30.00	.00	30.00	12100R348	MEDICAL INS-COBRA
011818	01/17/11	COR12	CORNING FORD MERCURY, INC	27.27	.00	27.27	26852	Veh Opr/Maint-POLICE
011819	01/17/11	FIR02	FIRST NATIONAL BANK	243.45	.00	243.45	101229	COMMUNICATIONS-POLICE
011820	01/17/11	HEL00	HELMUTS R US, INC.	471.50	.00	471.50	30503	SCHOOL PROGRAMS-POLICE
011821	01/17/11	LIB03	LIBERTEL	79.01	.00	79.01	181681	COMMUNICATIONS-POLICE
011822	01/17/11	PGE03	PG&E	32.87	.00	32.87	110103	Mat/Supplies PoliceServic
011823	01/17/11	PUR02	PURCHASE POWER	5000.00	.00	5000.00	110117	COMMUNICATIONS-GEN CITY
011824	01/17/11	RON03	RON DUPRATT FORD	114.16	.00	114.16	665265	VEH/OP MAINT-POLICE
				179.11	.00	179.11	665340	VEH-OP MAINT-POLICE
			Check Total.....:	293.27	.00	293.27		
011825	01/17/11	UNI02	UNIFORMS, TUXEDOS & MORE	112.96	.00	112.96	103437	UNIFORMS/CLOTH-POLICE
011826	01/18/11	BAS01	BASIC LABORATORY, INC	86.00	.00	86.00	1100427	ProfServices Water Dept
011827	01/18/11	COM01	COMPUTER LOGISTICS, INC	142.67	.00	142.67	43217	COMMUNICATIONS-POLICE
				24.00	.00	24.00	44266	COMMUNICATIONS-FIRE
				24.00	.00	24.00	47320	COMMUNICATIONS-
			Check Total.....:	190.67	.00	190.67		
011828	01/18/11	DEP12	DEPT OF JUSTICE	140.00	.00	140.00	830973	PROF SVCS-POLICE
011829	01/18/11	JOH06	JOHNSON'S TURBO CLEAN	792.87	.00	792.87	3514	MAT & SUPPLIES-BLD MAINT

REPORT.: Jan 19 11 Wednesday  
 RUN....: Jan 19 11 Time: 14:46  
 Run By.: LORI

CITY OF CORNING  
 Cash Disbursement Detail Report  
 Check Listing for 01-11 Bank Account.: 1020

PAGE: 004  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
011830	01/18/11	PET03	PETTY CASH	297.89	.00	297.89	110117	MAT & SUPPLIES-
011831	01/18/11	REB00	REBBING, LYNN	994.54	.00	994.54	110117	BLD MAINT-TRANS FAC
011832	01/18/11	STR12	STROING, KYLEE	118.00	.00	118.00	110117	VEH OP/MAINT-POLICE
011833	01/18/11	COR09	CORNING CHAMBER OF COMM.	60.00	.00	60.00	110118	CONF/MTGS-
011834	01/18/11	REX01	REXEL INC.	66.67	.00	66.67	801196486	MAT & SUPPLIES-BLD MAINT
011835	01/18/11	TEH28	TEHAMA CO HEALTH AGENCY	57.80	.00	57.80	110118	EMP PHYSICALS-PW ADMIN
011836	01/19/11	CAM02	CAMELLIA VALLEY SUPPLY	573.68	.00	573.68	0761452-1	MAT & SUPPLIES-WTR
011837	01/19/11	DUR11	DURKE, MIKE	585.00	.00	585.00	110118	PROF SVCS-
				-585.00	.00	-585.00	110118u	Ck# 011837 Reversed
Check Total.....:				.00	.00	.00		
011838	01/19/11	FIT01	FITZPATRICK LAW OFFICES	480.00	.00	480.00	28505	GEN CITY SRV/LEGAL SRV (C
				336.00	.00	336.00	28507	GEN CITY SRV/LEGAL SRV (M
				2412.00	.00	2412.00	228506	GEN CITY SRV/LEGAL SRV
Check Total.....:				3228.00	.00	3228.00		
011839	01/19/11	GOL03	GSFM / WFM	417.30	.00	417.30	I-030957	Mat/Supplies-WTR
011840	01/19/11	GRA02	GRAINGER, W.W., INC	354.53	.00	354.53	943421617	MAT & SUPPLIES-WTR
011841	01/19/11	DUR11	DURKE, MIKE	525.00	.00	525.00	110118A	PROF SVCS-
011842	01/19/11	NOR31	NORM'S PRINTING	62.24	.00	62.24	009355	OFFICE SUPPLIES-CITY ADMI
Cash Account Total.....:				116919.27	.00	116919.27		
Total Disbursements.....:				116919.27	.00	116919.27		
Cash Account Total.....:				.00	.00	.00		

REPORT.: Jan 19 11 Wednesday  
 RUN....: Jan 19 11 Time: 14:46  
 Run By.: LORI

CITY OF CORNING  
 Cash Disbursement Detail Report - Payroll Vendor Payment(s)  
 Check Listing for 01-11 Bank Account.: 1025

PAGE: 005  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description
4844	01/11/11	BAN03	POLICE OFFICER ASSOC.	350.00	.00	350.00	B10111	POLICE OFFICER ASSOC
4845	01/11/11	CAL37	CALIFORNIA STATE DISBURSE	138.46	.00	138.46	B10111	WITHHOLDING ORDER
4846	01/11/11	EDD01	EMPLOYMENT DEVELOPMENT	3962.05	.00	3962.05	B10111	STATE INCOME TAX
				1245.95	.00	1245.95	1B10111	SDI
			Check Total.....:	5208.00	.00	5208.00		
4847	01/11/11	ICM01	ICMA RETIREMENT TRUST-457	200.00	.00	200.00	B10111	ICMA DEF. COMP
4848	01/11/11	OEU03	OPERATING ENGINEERS	550.00	.00	550.00	B10111	CREDIT UNION SAVINGS
4849	01/11/11	PERS1	PUBLIC EMPLOYEES RETIRE	27935.87	.00	27935.87	B10111	PERS PAYROLL REMITTANCE
4850	01/11/11	PERS4	Cal Pers 457 Def. Comp	25.00	.00	25.00	B10111	PERS DEF. COMP.
4851	01/11/11	PRE03	PREMIER WEST BANK	6981.77	.00	6981.77	B10111	HSA DEDUCTIBLE
4852	01/11/11	STA04	STATE OF CALIFORNIA	550.00	.00	550.00	B10111	WAGEASN 1107012828
4853	01/11/11	VAL06	VALIC	1325.42	.00	1325.42	B10111	AIG VALIC P TAX
			Cash Account Total.....:	43264.52	.00	43264.52		
			Total Disbursements.....:	43264.52	.00	43264.52		

REPORT.: Jan 19 11 Wednesday  
 RUN...: Jan 19 11 Time: 15:49  
 Run By.: LORI

CITY OF CORNING  
 Cash Disbursement Detail Report  
 Check Listing for 01-11 Bank Account.: 1020

PAGE: 001  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Payment Information	
							Invoice #	Description
011843	01/19/11	SWW00	SWWC SERVICES, INC.	3052.80	.00	3052.80	17613	PROF SVCS-WWTP
				90.00	.00	90.00	17614	PROF SVCS-WWTP
				702.80	.00	702.80	17620	PROF SVCS-WWTP
				2659.15	.00	2659.15	17630	PRETREATMENT PROG-SWR
				44465.28	.00	44465.28	17631	PROF SVCS-WWTP
			Check Total.....:	50970.03	.00	50970.03		
011844	01/19/11	UPS01	UNITED PARCEL SERVICE	30.76	.00	30.76	F7377X031	PROF SVCS-
			Cash Account Total.....:	51000.79	.00	51000.79		
			Total Disbursements.....:	51000.79	.00	51000.79		

Date..: Jan 19, 2011  
Time..: 2:52 pm  
Run by: LORI

CITY OF CORNING  
NEW BUSINESSES FOR CITY COUNCIL

Page.: 1  
List.: NEWB  
Group: WTFMB

Business Name	Address	CITY/STATE/ZIP	Contact Name	Business Desc. #1	Business Start Date	Primary Teleph
BAY ALARM CO.	2335 LARKSPUR LN	REDDING, CA 96002	WRIGHT (SUPV) ROBERT	CONTRACTOR (ALARM/SECURITY SYSTEMS)	01/13/11	(530) 232-3901
NOMAD MARKETS	1306 SOLANO ST	CORNING, CA 96021	DAMON SCOTT	DISCOUNT MARKET, MISC. HOUSEHOLD ITEMS	01/18/11	(530) 370-5532

**ITEM NO: F-6  
APPROVE CONTRACT CHANGE  
ORDER #2 INCREASING THE TRAFFIC  
SIGNAL INSTALLATION PROJECT BY  
\$4,372.20 FOR A TOTAL PROJECT  
COST OF \$284,839.57**

**JANUARY 25, 2011**

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**  
**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER**  
**JOHN L. BREWER, AICP, DIRECTOR OF PUBLIC WORKS**  
**ED ANDERSON, CITY ENGINEER**



**SUMMARY:**

Staff recommends the City Council approve the attached Change Order No. 2 in the amount of \$4,372.20. The Change Order is attached for Council review and approval. City Engineer Ed Anderson has provided the following justification for each aspect contained within the requested Change Order. The revised contract total for this traffic signal improvement project, including this Change Order will be \$284,839.57.

Original Construction Contract	\$ 252,242.00
Contract Change Order No. 1	\$ 28,225.37
Adjusted Contract Amount	\$ 280,467.37
<b>Proposed CCO No. 2</b>	<b>\$ 4,372.20</b>
<b>Total Adjusted Contract Amount</b>	<b>\$ 284,839.57</b>

Contract Change Order No. 2 provides for labor and material expenses to connect to PG&E's existing secondary electrical line in order to receive power for the contracted signal controller. In order to connect to the secondary line, approximately 50 feet of flatwork and 10 feet of curb and gutter will have to be removed and replaced along with careful excavation in order to safely connect to the existing power.

**BACKGROUND:**

Both the City's Capital Improvement Plan and Development Impact Fee Mitigation Program Plan include signalization of the Marguerite Avenue and Solano Street intersection. City Engineer Ed Anderson and Consulting Engineer Terry Hansen provided the design plans and specifications for the intersection signalization project. Since preparing the plans and awarding the bid, we've noted the need for some project revisions that are included in this Change Order

**FINANCE:**

The contract for the traffic signal installation was awarded to Franklin Construction of Chico, CA on August 24, 2010 for the amount of \$252,242, and City Council authorized an additional \$10,118 for the City's purchase of the signal controller and cabinet, all to be funded in Street Projects Account 116-9254-3001.

Approval of Change Order No. 2, requires a Budget appropriation of an additional \$4,372.20 from Traffic Mitigation Fund 116 to bring the total funds appropriated for this project in Street Projects Signal Improvements Account 116-9254-3001 to \$294,957.20.

**RECOMMENDATION:**

**MAYOR AND COUNCIL APPROVE CONTRACT CHANGE ORDER #2  
INCREASING THE TRAFFIC SIGNAL INSTALLATION PROJECT BY \$4,372.20.**

**SET THE BUDGET APPROPRIATION FROM FUND 116 TO STREET  
PROJECTS SIGNAL IMPROVEMENTS ACCOUNT 116-9254-3001 AT \$294,957.20.**

**CONTRACT CHANGE ORDER**

Order No. 2

Date: January 17, 2011

Contract for: Traffic Signal Installation and Related Work at Marguerite and Solano St.

Owner: City of Corning, 794 Third Street, Corning, CA 96021

To: Franklin Construction, Inc. 217 Flume St., Suite 200, Chico, CA 95928

You are hereby requested to comply with the following changes from the contract plans and specifications.

Description of Changes	DECREASE In Contract Price	INCREASE In
Contract Price		
1. Revise connection location from power source into the electrical control meter cabinet		\$4,372.20
Net Change in Contract Price:	0	+\$4,372.20

JUSTIFICATIONS:

1 The location of the electrical power conduit to serve the meter service cabinet at the Solano Street end of the new curb return was previously identified by PG&E as being behind the existing sidewalk adjacent to the proposed electrical service for the traffic signals. After further investigation by PG&E the conduit was discovered to actually be out in the street. This will entail digging into the street, connecting to the conduit, removing a section of sidewalk, trenching from the conduit to the service pedestal under the street, curb and gutter and sidewalk. The itemized breakdown is shown on the attached Change Order Request from Franklin Construction, dated January 14, 2011.

The contract total including this and previous change orders will be: \$ 284,839.57

The contract completion date will remain at: 120-days

This document will become a supplement to the Contract and all provisions will apply hereto.

Requested: \_\_\_\_\_ Date: \_\_\_\_\_  
Franklin Construction, Inc.

Recommended: \_\_\_\_\_ Date: \_\_\_\_\_  
J.E. (Ed) Anderson, City Engr.

Accepted: \_\_\_\_\_ Date: \_\_\_\_\_  
City of Corning



# Change Order Request #3 2

Date: January 14, 2011

To: Ed Anderson  
City Engineer  
P.O. Box 839  
Chico, CA 95927  
(530) 570-3996  
edandersn@sbcglobal.net

From: Myles MacColl  
Project Engineer  
Franklin Construction, Inc.  
217 Flume Street, Suite 200  
Chico, CA 95928  
Phone (530) 343-9600 Fax (530) 343-4245

PROJECT: Marguerite Ave/ Solano Street Traffic Signal Installation  
DESCRIPTION: CCO#3 - Signal Power Connection

**Item 1 - Connect to Secondary Line in Solano Street \$3841.95**

Richard A. Heaps Electrical - Connect for Power \$3509.00  
Richard A. Heaps Electrical - Sand Slurry top 12" \$150.00

Franklin 5% \$182.95

**Item 2 - Replace Concrete Sidewalk & Curb and Gutter on Solano Street \$530.25**

Ward's Concrete - Sidewalk Replacement (50 SF @ \$5.50/SF) \$275.00  
Ward's Concrete - C&G Replacement (10 LF @ \$23/LF) \$230.00  
Franklin 5% \$25.25

**TOTAL NOTICE OF POTENTIAL CLAIM \$4372.20**

This Contract Change Order Request is for the work required to connect to PG&E's existing secondary electrical line in order to receive power for the proposed signal controller. After meeting with PG&E on January 10, 2011 PG&E confirmed that the secondary line is located within the mainline trench on Solano Street vs. the back of sidewalk. In order to connect to the secondary line, approximately 50 SF of flatwork and 10 LF of curb and gutter will have to be removed and replaced along with careful excavation in order to safely connect to the existing power. We propose to backfill the trench with sand slurry for the top 12" from the connection point to the new C&G due to the 0.10' overlay of Solano Street:

1. Item #1 includes all the labor, equipment and materials required to remove 50 SF of sidewalk and 10 LF of curb and gutter for installation of the new 2" conduit. This price also includes excavating to locate and connect to the existing secondary line. Also included in this price is the installation of a No. 2 PG&E box w/extension with the required conduits from the PG&E box to the service box. This price is based on the existing line being approximately 5 feet into the road way and approximately 3-4 feet deep. Also included in this price is a 12" sand slurry backfill due to the proposed overlay.
2. Item #2 is based on replacing 50 SF of sidewalk and 10 LF of curb and gutter after the installation of the new 2" conduit.

Please let me know if you have any questions or comments.

Thank You,

A handwritten signature in black ink, appearing to read "Myles MacColl", is written over a horizontal line.

Myles MacColl  
Project Engineer

**ITEM NO: F-7**  
**APPROVE CONTRACT CHANGE ORDER #4,**  
**AMENDING SCOPE OF WORK AND**  
**INCREASING THE RODGERS THEATER**  
**IMPROVEMENT PROJECT BY \$7,517.67**  
**FOR A TOTAL PROJECT COST OF**  
**\$188,902.36.**

**JANUARY 25, 2011**

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**  
**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER**  
**JOHN L. BREWER, AICP, DIRECTOR OF PUBLIC WORKS**  
**TERRY HOOFARD, CITY BUILDING OFFICIAL**



**SUMMARY:**

Staff recommends the City Council approve the attached "Change Order No. 4" in the amount of \$7,517.67. The Change Order is necessary to reconstruct the western parapet wall to provide a lasting leak remedy along the roof-type interface. Additionally, this Change Order will pay for removal and replacement of some unanticipated dry rot in roof sheeting and framing members along the same west wall. See the attached requests from Don Azevedo Construction.

**BACKGROUND:**

The Rodgers Theater Improvement Project was awarded to Don Azevedo Construction of Chico, CA at the September 28, 2010 City Council Meeting. The project required the contractor to supply and install two new Heating Ventilation and Air Conditioning (HVAC) units. General work includes re-roofing, insulation improvements, and the installation of structural support framing and minor concrete and wood framing demolition and construction.

The interface of the west Parapet wall and the adjacent sloped roof has been a leak source for some time and in need of special attention to weatherproof. Building Official Terry Hoofard and Contractor Don Azevedo have come up with a solution that was not included in the plans or specifications.

Dry rot within the roof sheeting and framing has also been noted as the roofing membrane was removed.

**CHANGE ORDER:**

Don Azevedo Construction submitted requests for Contract Change Order No. 4 to cover the unexpected expenses resulting from these roofing plan changes. The expense will increase the original contract amount by \$7,517.67. The adjusted contract

amount for the Rodgers Theater Improvement Project will be \$188,902.36. See the summary of the contract costs below:

Original Contract Amount:	\$176,609.00
Change Order No. 1	2,475.69
Change Order No. 2	1,955.00
Change Order No. 3	345.00
Change Order No. 4	<u>7,517.67</u>
Adjusted Contract Amount	\$188,902.36

Budget Line Item No. 130-9116-6125 Theater Restoration/Rodgers Theater provides funding for this project.

**RECOMMENDATION:**

- **MAYOR AND COUNCIL APPROVE CONTRACT CHANGE ORDER #4, REVISING THE SCOPE OF WORK TO COMPLETE UNANTICIPATED ROOF STRUCTURAL AND SHEETING REPAIRS AT THE RODGERS THEATER IMPROVEMENT PROJECT, INCREASING THE CONTRACT AMOUNT BY \$7,517.67 FOR A TOTAL PROJECT COST OF \$188,902.36.**



# WEST SIDE PROPOSED PARAPET WALL

EXIST  
STEPPED  
PARAPET

60' x 48" wall

GUTTER PAN

PROPOSED NEW  
PARAPET wall

6' x 16" PONY wall

12' x 14" PONY wall

6' x 8" PONY wall

GALV. CAP 24" ±

2 1/2"

NEIGHBOR wall

NEW WALL w/  
PLY, PVC + CAP  
FLASHING

48 Bellarmine Ct. Suite 40  
Chico, CA 95928  
Phone: 530-894-2360  
Fax: 530-894-0699  
Lic. # 614121

**Don Azevedo  
Construction, Inc.**

# FAX

<b>To:</b> John	<b>From:</b> Kim
<b>Fax:</b> 824-2489	<b>Pages:</b> 2
<b>Phone:</b> 824-2489	<b>Date:</b> 1/6/11
<b>Re:</b> Rodger Theater	<b>CC:</b>

Urgent     For Review     Please Comment     Please Reply     Please Recycle

John,

Here is the first day Daily Extra Work Report for the Rodger Theater. I will send you one of these for every day we are on the job site working on the roof dry rot repairs. At the end of the repairs I will supply you with a change order that combines all of the days we worked out there. Let me know if you have any question on this form

Thanks,

Kim Azevedo

*JDS*  
*1-6-11*





## City of Corning, California

Department of Public Works

794 Third Street

Corning, CA 96021

(530) 824-7029

### Change Order No. 4

Change Order Date: January 10, 2011

Project Name: Rodger's Theater Improvement Project

**Vendor:**

Company Name: Don Azevedo Construction, Inc.

Address: 48 Bellarmine Court, #40  
Chico, CA 95928

Contact Name: Don Azevedo

Telephone Number: (530) 894-2360

Fax Number: (530) 894-0699

Change Requested by: City of Corning

### **Change Description:**

a.) Amendment of Contract signed by City of Corning on October 7, 2010 to include additional work to relocate HVAC Air Handler Unit in alternative truss bay location and suspended from roof structure as detailed in sketch from Engineer Eric Ausmus.

Original Contract Amount:	\$176,609.00
Previous Change Order No 1 Increase:	\$2,475.69
Change Order No 2 Increase	\$1,955.00
Change Order No. 3 Increase	\$345.00
<b>Change Order No. 4 Increase</b>	<b><u>\$7,517.67</u></b>
Amended Contract Amount:	\$188,902.36

### **Justification:**

The Plans and Specifications do not specifically address the treatment of the parapet

(Change Order No. 4-continued)

wall along the west wall of the theater. This change order will facilitate the construction of a new comprehensive framed 2" X 4" wall, about 84 feet in length and of varying height with a galvanized metal cap. This component of the Change Order amounts to \$6,196.20.

Additionally, this change order addresses the removal and replacement of dry rot in roof framing and sheeting along the same west wall. This unexpected work cost \$1,321.47 to complete.

Requested:

\_\_\_\_\_  
City of Corning

\_\_\_\_\_  
Date

Recommended:

\_\_\_\_\_  
Eric Ausmus, Project Engineer

\_\_\_\_\_  
Date

Accepted:

\_\_\_\_\_  
Don Azevedo

\_\_\_\_\_  
Date

ITEM NO: F-8  
**APPROVE PROGRESS PAY ESTIMATE  
 NO. 5 IN THE AMOUNT OF \$51,236.56 TO  
 AZEVEDO CONSTRUCTION FOR THE 2010  
 RODGERS THEATER IMPROVEMENT  
 PROJECT**

JANUARY 25, 2011

**TO: HONORABLE MAYOR AND COUNCILMEMBERS  
 OF THE CITY OF CORNING**

**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER  
 JOHN L. BREWER, AICP; DIRECTOR OF PUBLIC WORKS  
 TERRY HOOFARD, BUILDING OFFICIAL**



**SUMMARY:**

Attached for City Council review is a copy of Partial Pay Estimate No. 5 requesting payment of \$51,236.56 for the 2010 Rodgers Theater Improvement Project. The Pay Estimate lists the original contract amount, any change orders/adjustments, work completed to date, retention amount and current amount due to Azevedo Construction.

**FINANCIAL:**

The Director of Public Works and the Building Official have reviewed and approved this request.

Original Construction Contract	\$ 176,609.00
Contract Change Order No. 1	\$ 2,475.69
Contract Change Order No. 2	\$ 1,955.00
Contract Change Order No. 3	\$ 345.00
<b>CCO No. 4 – Pending Council Approval</b>	<b><u>\$ 7,517.67</u></b>
Total Adjusted Contract Amount	\$ 188,902.36

The following summarizes the Partial Pay requests and retention paid to date:

Proposed PPE No. 1	\$ 34,555.64
Retention to be held (10%)	<u>\$ (3,455.56)</u>
Amount paid to Contractor	\$ 31,100.08
Proposed PPE No. 2	\$ 39,860.20
Retention to be held (10%)	<u>\$ (3,986.02)</u>
Amount paid to Contractor	\$ 35,874.18
Proposed PPE No. 3	\$ 4,279.95
Retention to be held (10%)	<u>\$ (428.00)</u>
Amount paid to Contractor	\$ 3,851.95
Proposed PPE No. 4	\$ 34,606.90
Retention to be held (10%)	<u>\$ (3,460.69)</u>
Amount paid to Contractor	\$ 31,146.21
Proposed PPE No. 5	\$ 51,236.56
Retention to be held (10%)	<u>\$ (5,123.66)</u>
<b>Amount due to Contractor</b>	<b>\$ 46,112.90</b>

The table below lists each funding source for this project:

Account No	Title	Funds Allocated for Project
130-9116-6125	Theater Restoration/Rodgers Theater	\$220,000
	Energy Efficiency Commission Grant	\$35,175
<b>Total</b>		<b>\$255,175</b>

**BACKGROUND:**

The contract for the 2010 Rodgers Theater Improvement Project was awarded to Azevedo Construction of Chico, CA at the September 28, 2010 Regular City Council Meeting. Contract Change Order #1 increased the original contract amount by \$2,475.69 to include additional work to lower foundation walls that would conflict with future restroom improvements.

Contract Change Order #2 was approved at the November 23, 2010 City Council Meeting. The Change Order increased the contract amount by \$1,955 to include additional work for a gas pipe extension to the new roof-mounted HVAC units. Also amended but had no monetary effect to the contract was the Electrical Scope of Work to reflect a reduction of amperage within the electrical service box from 600 to 400 amps.

Contract Change Order #3 was approved at the December 14, 2010 City Council Meeting. The Change Order increased the contract amount by \$345. The Change order was deemed necessary in order to relocate an HVAC Air Handler Unit. The unit had to be relocated from its planned position due to a conflicting truss brace issue.

**RECOMMENDATION:**

**Mayor and Council approve Progress Pay Estimate No. 5 in the amount of \$51,236.56 to Azevedo Construction for the 2010 Rodgers Theater Improvement Project**

**PARTIAL PAYMENT ESTIMATE**

2010 Rodgers Theater Improvement Project

Progress Payment Estimate No. 5

OWNER:

City of Corning

CONTRACTOR:

Azevedo Construction of Chico, CA

PERIOD OF ESTIMATE:

FROM: Jan 4, 2011 to Jan 17, 2011

**CONTRACT CHANGE ORDER SUMMARY**

**ESTIMATE**

No.	Approval Date	Amount		
		Additions	Deductions	
1	10/28/2010	\$2,475.69		1. Original Contract..... \$176,609.00
2	11/23/2010	\$1,955.00		2. Change Orders..... \$ 12,293.36
3	12/14/2010	\$ 345.00		3. Revised Contract (1+2)..... \$188,902.36
4	Pending Approval	\$ 7,517.67		4. Work Completed ..... \$164,539.25
				5. Stored Materials ..... 0
				6. Subtotal (4+5)..... \$ 164,539.25
				7. Retainage .....10%..... \$ (16,453.93)
				8. Previous Payments..... \$ 101,972.42
				9. Amount Due (6-7-8)..... \$ 46,112.90
NET CHANGE		\$12,293.36		

**CONTRACT TIME**

Original (days) 90

Revised \_\_\_\_\_

Remaining \_\_\_\_\_

On Schedule  Yes

No

Starting Date: October 14, 2010

Projected Completion: January 14, 2011

**CONTRACTOR'S CERTIFICATION:**

The undersigned Contractor certifies that to the best of their knowledge, information and belief the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the contractor for work for which previous payment estimates was issued and payments received from the owner, and that current payment shown herein is now due.

Contractor Azevedo Construction

By \_\_\_\_\_

Date \_\_\_\_\_

**ARCHITECT OR ENGINEER'S CERTIFICATION:**

The undersigned certifies that the work has been carefully inspected and to the best of their knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.

Architect or Engineer Eric Ausmus

By \_\_\_\_\_

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

**APPROVED BY OWNER:**

Owner \_\_\_\_\_

By Stephen J. Kimbrough, City Manager

Date January 26, 2011

Jan 18 2011 12:22PM Don Azevedo Construction 5308940699 p.3

**From:**  
 Don Azevedo Construction, Inc.  
 48 Bellarmine Ct. Suite 40  
 Chico, CA 95928

**To:**  
 City of Corning  
 794 Third St.  
 Corning, CA 96021

**Project:**  
 10-10  
 ROGERS THEATER IMPROVEMENT PROJECT  
 1217 SOLANO ST  
 CORNING, CA 96021

Page 2 of 2 Pages  
 Application No: 5  
 Application Date: 1/17/2011  
 Period To: 1/17/2011  
 Contract Date: 9/29/2010  
 Architects Project#:

## Application for Payment - Continuation Sheet CAP703

A Item No	B Description of Work	C Contract Value	D Work Completed		F Materials Presently Stored (Not In D or E)	G Total Completed and Stored To Date (D+E+F)	% (G / C)	H Balance To Finish (C - G)	I Retainage (If Variable Rate)
			From Previous Application (D + E)	This Period					
1	20 Ton Carrier package	54,770.00	43,816.00	10,954.00	0.00	54,770.00	100	0.00	5,477.00
2	Carrier 7.5 ton Split System	19,260.00	15,408.00	3,852.00	0.00	19,260.00	100	0.00	1,926.00
3	Roof R & R & abatement	33,328.00	1,666.40	19,996.80	0.00	21,663.20	65	11,664.80	2,166.32
4	Ceiling Insulation	3,726.00	186.30	0.00	0.00	186.30	5	3,539.70	18.63
5	Electrical Upgrade	14,346.00	717.30	11,476.80	0.00	12,194.10	85	2,151.90	1,219.41
6	Structural Improvements	46,499.00	46,499.00	0.00	0.00	46,499.00	100	0.00	4,649.91
7	Asbestos removal in lobby	4,680.00	234.00	0.00	0.00	234.00	5	4,446.00	23.40
8	CO#: 1 Foundation Demo	2,475.69	2,475.69	0.00	0.00	2,475.69	100	0.00	247.57
9	CO#: 2 Gas Line	1,955.00	1,955.00	0.00	0.00	1,955.00	100	0.00	195.50
10	CO#: 3 HVAC	345.00	345.00	0.00	0.00	345.00	100	0.00	34.50
11	CO#: 4 Parapet Wall	6,196.20	0.00	4,956.96	0.00	4,956.96	80	1,239.24	495.70
		187,580.89	113,302.69	51,236.56	0.00	164,539.25	88	23,041.64	16,453.94

RECEIVED  
 JAN 18 2011  
 CITY OF CORNING

ITEM NO: F-9  
APPROVE APPLICATION FOR  
STATE INDIAN GAMING FUNDS  
TO SUPPORT A PORTION OF  
POLICE OFFICER SALARY  
JANUARY 25, 2011

TO: HONORABLE MAYOR AND COUNCILMEMBERS  
OF THE CITY OF CORNING

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER  
ANTHONY F. CARDENAS, POLICE CHIEF



**SUMMARY:**

This year the City of Corning will be receiving Indian Gaming Funds through the State of California. The Tehama County Indian Gaming Committee distributes the funds for the State of California.

This year the City has been told it will receive \$19,320.

**BACKGROUND:**

The State of California through Agreements with a number of Tribes operating Casinos, will distribute the funds to the County Indian Gaming Committee. The City of Corning and the County of Tehama are both close to the tribal lands of the Paskenta Band of Nomlaki Indians; for this reason we may receive a portion of the funds.

Mayor Gary Strack, Councilwoman Toni Parkins and City Treasurer Pala Cantrell represent the City of Corning on the County Indian Gaming Committee. The Commission will be meeting soon to receive the application from the County and the City, consider them and award the funding.

The City of Corning utilizes the funds to support a portion of the salary of one Police Officer. State Auditors have indicated that the clearest connection between a Tribal Casino and the Local Government would be through actual Police Officer support rather than using the funds to acquire equipment. This is the reason the City only applies for the salary support.

**RECOMMENDATION:**

**MAYOR AND COUNCIL APPROVE THE SUBMITTAL OF AN APPLICATION FOR INDIAN GAMING FUNDS IN THE AMOUNT OF \$19,320 TO SUPPORT FUNDING A PORTION OF THE SALARY OF A POLICE OFFICER.**



**JOHN CHIANG**  
*California State Controller*  
Division of Accounting and Reporting

January 7, 2011

INDIAN GAMING LOCAL COMMUNITY BENEFIT COMMITTEE MEMBERS  
COUNTY BOARD OF SUPERVISORS  
COUNTY CHIEF ADMINISTRATIVE OFFICER

Chapter 719, Statutes of 2010 appropriates \$30 million from the Indian Gaming Special Distribution Fund (IGSDF) to restore funding deleted from the Budget Act of 2007 for the purpose of providing grants to local government agencies pursuant to Section 12715 of the Government Code. Attached is a spreadsheet reporting the various amounts that were deposited into the Individual Tribal and County Tribal Casino Accounts, which was prepared pursuant to Government Code (GC) section 12715 and in consultation with the California Gambling Control Commission.

GC section 12715 (b)(1) created the Indian Gaming Local Community Benefit Committee (IGLCBC) to establish application policies and procedures for grants that follow the priorities specified in GC section 12715 (g). The IGLCBC is to assess the eligibility of applications for grants from local jurisdictions impacted by tribal gaming. The IGLCBC shall determine the appropriate amount of reimbursement for county administrative costs, not to exceed 2 percent of the aggregate county tribal account in any given fiscal year.

Each county's IGLCBC shall submit to the State Controller's Office (SCO) Authorization Forms to Release Funds from the Tribal Casino Accounts. Upon receipt of the authorization forms, the SCO shall release the funds directly to the local government entities for which the committee has approved a grant. Funds not allocated by June 30, 2011, shall revert back to the IGSDF. These funds are now available so please submit your authorization forms as soon as possible and no later than May 13, 2011, to allow time for processing. Please submit your approved authorization forms to:

Office of the State Controller  
Attention: Linda Brida  
Division of Accounting and Reporting  
P.O. Box 942850  
Sacramento, CA 94250-5872

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250  
STREET ADDRESS 3301 C Street, Suite 500, Sacramento, CA 95816

INDIAN GAMING LOCAL COMMUNITY BENEFIT COMMITTEE MEMBERS  
COUNTY BOARD OF SUPERVISORS  
COUNTY CHIEF ADMINISTRATIVE OFFICER

January 7, 2011

-2-

If you have any questions, please contact Linda Brida in the Division of Accounting and Reporting at (916) 324-8605.

Sincerely,

MICHAEL J. HAVEY, Chief  
Division of Accounting and Reporting

Enclosure(s)

State Controller's Office  
 Division of Accounting and Reporting  
 Indian Gaming Special Distribution Fund-County and Individual Tribal Casino Accounts  
 December 1, 2010

County/Tribe	Grandfathered 01-Sep-99 Exceeding 200	95% Individual Tribal Casino Accounts	5% County Tribal Casino Accounts
<b>Amador *</b> Jackson Rancheria	<b>235</b> 235	<b>\$616,826.30</b> 616,826.30	
<b>Butte</b> Berry Creek Rancheria Mooretown Rancheria	<b>506</b> 206 300	<b>1,328,145.15</b> 460,924.00 867,221.15	
<b>Colusa</b> Colusa Rancheria	<b>323</b> 323	<b>847,808.07</b> 847,808.07	
<b>Del Norte *</b> Resighini Elk Valley Smith River			<b>\$58,195.93</b>
<b>El Dorado</b> Shingle Springs			<b>208,923.38</b>
<b>Fresno</b> Big Sandy Rancheria Table Mountain Rancheria	<b>674</b> 39 635	<b>1,769,110.33</b> 9,970.57 1,759,139.76	
<b>Humboldt</b> Bear River Blue Lake Hoopa Valley Trinidad			<b>145,974.78</b>
<b>Imperial</b> Quechan Torres-Martinez			<b>134,529.58</b>
<b>Inyo</b> Bishop Reservation	<b>73</b> 73	<b>191,609.87</b> 191,609.87	
<b>Kings</b> Santa Rosa Rancheria	<b>272</b> 272	<b>713,943.64</b> 713,943.64	
<b>Lake</b> Big Valley Rancheria Robinson Rancheria	<b>333</b> 153 180	<b>874,055.99</b> 355,243.03 518,812.96	
<b>Lassen</b> Susanville			<b>21,726.48</b>
<b>Madera</b> Picayune			<b>193,986.42</b>
<b>Mendocino *</b> Hopland Rancheria	<b>107</b> 107	<b>280,852.83</b> 280,852.83	
<b>Modoc</b> Alturas			<b>14,258.00</b>

State Controller's Office  
 Division of Accounting and Reporting  
 Indian Gaming Special Distribution Fund-County and Individual Tribal Casino Accounts  
 December 1, 2010

County/Tribe	Grandfathered 01-Sep-99 Exceeding 200	95% Individual Tribal Casino Accounts	5% County Tribal Casino Accounts
<b>Placer *</b> United Auburn			<b>288,069.84</b>
<b>Riverside</b> Agua Caliente Reservation Cabazon Reservation Cahuilla Reservation Morongo Reservation Pechanga Reservation Soboba Reservation Twenty Nine Palms Rsvtn	<b>5,392</b> 953 541 7 1,427 1,133 791 540	<b>\$14,152,882.66</b> 1,632,086.65 441,720.33 4,933.15 4,967,139.40 5,085,082.95 1,608,394.96 413,525.22	
<b>San Bernardino</b> San Manuel Reservation	<b>774</b> 774	<b>2,031,589.61</b> 2,031,589.61	
<b>San Diego</b> Barona Reservation Sycuan Reservation	<b>1,176</b> 857 319	<b>3,086,756.31</b> 2,586,389.50 500,366.81	
<b>Santa Barbara</b> Santa Ynez Reservation	<b>560</b> 560	<b>1,469,883.96</b> 1,469,883.96	
<b>Shasta</b> Redding Rancheria	<b>201</b> 201	<b>527,583.35</b> 527,583.35	
<b>Sonoma</b> Dry Creek			<b>118,816.68</b>
<b>Tehama</b> Paskenta			<b>78,855.48</b>
<b>Tulare</b> Tule River Reservation	<b>208</b> 208	<b>545,956.90</b> 545,956.90	
<b>Tuolumne</b> Chicken Ranch Rancheria	<b>24</b> 24	<b>62,995.03</b> 62,995.03	
<b>Yolo</b> Rumsey Rancheria			<b>236,663.43</b>
<b>Total</b>	<b>10,858</b>	<b>\$ 28,500,000.00</b>	<b>\$ 1,500,000.00</b>

\* Per Government Code section 12716 (b) a county that does not provide an annual report pursuant to section 12716 (a) shall not be eligible for funding from the Indian Gaming Special Distribution Fund for the following year.

<b>2010 PROPOSED</b>		
<b>INDIAN GAMING SPECIAL DISTRIBUTION FUND</b>		
<b>TEHAMA COUNTY TRIBAL CASINO ACCOUNT</b>		
		<b>PROPOSED AWARDS*</b>
<b>2010-2011 Fund Allocation to Tehama County</b>	<b>\$78,855.48</b>	
<b>Less 2% Grant Program Administration Fees *</b>	<b>\$1,577.11</b>	
<b>Total Funds Available for Grant Award</b>	<b>\$77,278.37</b>	
Tehama County Sheriff's Dept.		<b>\$57,959</b>
City of Corning		<b>\$19,320</b>
<b>Remaining Balance</b>		<b>\$0</b>

**\*Requires Tehama County Indian Gaming Local Community Benefit Committee approval**

**TEHAMA COUNTY INDIAN GAMING LOCAL COMMUNITY BENEFIT  
COMMITTEE  
INDIAN GAMING SPECIAL DISTRIBUTION FUND  
GRANT APPLICATION**

<p align="center"><b>UPON COMPLETION RETURN TO:</b>  <b>Tehama County Administration</b>  <b>Attn: Cindee Brewer</b>  <b>727 Oak Street</b>  <b>Red Bluff, CA 96080</b>  <b>(530) 527-4655 ext. 3027</b>  <b>FAX (530) 529-0980</b>  <b>cbrewer@tehamacountyadmin.org</b></p>	<p align="center">Office Use Only Date Stamp</p>
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**APPLICANT INFORMATION**

NAME OF JURISDICTION:  City of Corning		CONTACT PERSON:  Steve Kimbrough, City Manager	
LEGAL ADDRESS OF JURISDICTION:  794 Third Street		CITY:  Corning	ZIP CODE:  96021
PHONE:  (530) 824-7034	FAX:  (530) 824-2489	E-MAIL:  stevek@corning.org	FEDERAL TAX ID NUMBER:  94-6000317

*MITIGATION FUNDING IS DESIRED FOR IMPACTS ASSOCIATED WITH ROLLING HILLS CASINO*

**TYPE OF GRANT FOR WHICH YOU ARE APPLYING:**

*NON-NEXUS GRANT*

A. Local Government Jurisdiction impacted by tribal casinos not paying into the Special Distribution Fund.

AMOUNT OF MITIGATION FUNDING REQUESTED THROUGH THIS APPLICATION:    \$ 19,320

THE FOLLOWING USES ARE PRIORITIES FOR RECEIPT OF GRANT FUNDS. PLEASE CHECK THE PRIORITY(IES) YOUR GRANT PROJECT SATISFIES:

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Law Enforcement<br><input type="checkbox"/> Fire Services<br><input type="checkbox"/> Behavioral Health<br><input type="checkbox"/> Child Care Programs<br><br><input type="checkbox"/> Other (briefly describe _____) | <input type="checkbox"/> Environmental Impacts<br><input type="checkbox"/> Emergency Medical Services<br><input type="checkbox"/> Recreation & Youth Programs<br><input type="checkbox"/> Planning & Adjacent Land Uses | <input type="checkbox"/> Waste Disposal<br><input type="checkbox"/> Water Supplies<br><input type="checkbox"/> Public Health<br><input type="checkbox"/> Roads |
|--|---|--|

**FURTHER INSTRUCTIONS – On a separate sheet(s) of paper, provide the following:**

1. A complete description of the project: **The funds will be used to pay for front-line law enforcement Personnel costs provided by the Corning Police Department.**
2. Detail the impacts associated with the Tribal Casino and/or gaming: **Due to the proximity of Rolling Hills Casino to the City of Corning, the Corning Police Department responds to calls for service at the Casino when the Sheriff's Department personnel are unavailable, or when the Sheriff's Department requests additional backup units through a Mutual Aid Agreement.**
3. Explain how the project will mitigate impacts of the Tribal Casino: **The funds will pay for a portion of law enforcement personnel costs currently paid by the City of Corning.**
4. Describe how you intend to meet the requirement of SB 621 that grant recipients must provide notice to the public, either through a slogan, signage or other mechanism, which states that the project has received funding from the Indian Gaming Special Distribution Fund and further identifies the Paskenta Band of Nomlaki Indians/Rolling Hills Casino Account from which the grant derives: **SB 621 requirements were met when the grant application and proposed use of funds were publically noticed on the Corning City Council Agenda for January 25, 2011 (see attached copy of the Agenda posted according to law). This item was presented and approved by the Corning City Council at the public meeting held on January 25, 2011.**
5. Identify total project cost (*or, if applicable, indicate that the total project cost does not exceed the amount of the grant funds requested.*): **The personnel cost covered by this grant will not exceed \$19,320.**
6. Identify other funding sources, if any, that will be contributed to the project and the amount provided by each source: **The funding source for the remainder of the City's Police personnel costs will come from the City's General Fund.**
7. Identify the project time frame: **Fiscal Year 2010/2011**

**Stephen J. Kimbrough**  
Grant Applicant Authorized Signature

**City Manager**  
Title

**January 26, 2011**  
Date

---

**FOR OFFICE USE ONLY**

APPROVED BY COMMITTEE:       Yes       No      AMOUNT APPROVED: \_\_\_\_\_

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SPONSORED BY TRIBAL COUNCIL:       Yes       No      AMOUNT APPROVED: \_\_\_\_\_

TRIBAL RESOLUTION ATTACHED:       Yes       No

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ITEM NO: I-10  
SEATING OF ELECTED COUNCIL  
MEMBER JESSE LOPEZ  
JANUARY 25, 2011

**TO: HONORABLE MAYOR AND COUNCIL MEMBERS  
OF THE CITY OF CORNING**

**FROM: MIKE FITZPATRICK, CITY ATTORNEY**

**SUMMARY:**

As reported at the last Council meeting, in the recent City Council election Jesse Lopez was the high vote getter for a seat on the Council but he may not be eligible to serve due to a misdemeanor conviction for forgery on his record. He asked through legal counsel for time to seek a court order which would allow him to be seated. The Council was asked to decide whether (1) to seat him despite the uncertainty which surrounds his eligibility to serve; (2) declare him ineligible notwithstanding a court order which "releases him from all penalties and disabilities resulting from the offense;" or (3) to continue to leave the seat vacant to allow Mr. Lopez more time to seek a court order specifically addressing his eligibility for office. The Council chose to continue the matter until the meeting of January 25, 2011 to see if Mr. Lopez was proceeding with his efforts to have a Judge make a ruling on his eligibility to hold office. At tonight's meeting the Council is faced with the same options.

**BACKGROUND:**

**From previous staff report on January 7, 2011:**

Although Jesse Lopez was the high vote getter in the recent election for a seat on the Corning City Council, it came to the City's attention that he had a conviction on his record for forgery which appeared to make him ineligible to hold public office. Mr. Lopez explained that, following his conviction, he went to court and had what had been a felony conviction reduced to a misdemeanor and he had received an order from the court stating that he "is released from all penalties and disabilities resulting from the offense." A copy of that court order dated July 27, 2009 was provided to the City.

Although the wording of that court order on its face would seem to end the discussion, research of the applicable law on the subject soon revealed that the law is not clear on this subject. There is law which seems to hold that, notwithstanding the reduction of Mr. Lopez' conviction from a felony to a misdemeanor, the fact that he was "convicted" of forgery is enough to disqualify him from office.

There's a definite conflict between what seems very clear in the court order obtained by Mr. Lopez (the Tehama County Superior Court order dated July 27, 2009 releasing him from "all penalties and disabilities resulting from the offense") and Government Code section 1021 which states that a person convicted of "designated crimes as specified in the Constitution" (i.e. forgery under Art. 7, Sec. 8) is disqualified from holding "any office."

**New information since last meeting:**

Mr. Lopez has informed Staff that his legal action can be filed soon but will take until sometime in March to get before a Judge for a determination of his eligibility to hold office. He has also said that he wants to be sworn into office and be seated but will soon thereafter submit a resignation from office, hoping to receive a favorable ruling from a Judge and have the Council then appoint him to the position within the 60 days allowed them by law under Government Code section 36512.

## **RECOMMENDATION:**

Because of this uncertainty and because Mr. Lopez has informed the City that he is in the process of filing a motion with the court to permit him to be seated as a City Councilman, it is my recommendation that the Council now both appoint and, pursuant to the election results, seat Mr. Lopez as a member of the Corning City Council. I further recommend that the Council call for interested persons to submit applications for appointment to this Council position should Mr. Lopez resign the position as he has indicated his intent to do. If he does not resign, it's likely that a legal action will be filed by others to challenge his eligibility to serve. If he does resign and the Council waits until late March (a date within 60 days of his resignation) to make an appointment, Mr. Lopez may be considered for appointment, if he has by then received a favorable ruling from a Judge, along with the other candidates who have submitted applications. Therefore, I recommend:

- 1. Move to adopt the proposed supplemental Resolution further declaring the results of the election and appointing Jesse Lopez to the Corning City Council; and**
- 2. Move to invite interested persons to submit applications for appointment to the Corning City Council in the event of a vacancy occurring.**

**RESOLUTION NO.: 1-25-2011-01**  
**SUPPLEMENTAL RESOLUTION OF THE CITY COUNCIL**  
**OF THE CITY OF CORNING**  
**CANVASS OF VOTES AND RESULTS OF ELECTION HELD**  
**NOVEMBER 2, 2010**

**WHEREAS**, following the election of November 2, 2010 held in the City of Corning, the Corning City Council adopted Resolution No. 12-07-2010-01 at a Special Meeting held on December 7, 2010; and

**WHEREAS**, despite Jesse Lopez having received the highest number of votes with respect to being elected to a seat as a Councilmember on the Corning City Council, he was not in that resolution declared to be duly elected; and

**WHEREAS**, the reason he was not so declared was due to the City being informed that he had a misdemeanor forgery conviction on his record which made him ineligible to hold office under Article VII, Section 8 of the California Constitution and Government Code section 1021; and

**WHEREAS**, Jesse Lopez brought to the City's attention that he had in his possession a court order dated July 27, 2009 which states that "Defendant is released from all penalties and disabilities resulting from the offense;" and

**WHEREAS**, notwithstanding this court order, California Penal Code section 1203.4 and 1203.4a indicates that Jesse Lopez is still "prohibited from holding public office" even though the "accusation or information underlying a conviction" is dismissed; and

**WHEREAS**, the conflict between this court order and the statutes cited above are best resolved by a court of law and Jesse Lopez is seeking a judicial interpretation of these laws and of his eligibility to serve on the Corning City Council; and

**WHEREAS**, a judicial ruling on this issue will likely take about 40 to 50 days to be accomplished; and

**WHEREAS**, under Government Code section 36512 the City Council has only 60 days from a vacancy occurring in office to either appoint a person to that office or call a special election and the position has now been vacant for almost that length of time; and

**WHEREAS**, Jesse Lopez has requested to be sworn into office and indicated his intent to then likely resign and seek a judicial determination of his eligibility so that he might be considered a candidate for appointment to the seat along with others seeking the position; and

**WHEREAS**, the Council wishes to honor the wishes of the voters who have indicated that they want this candidate to assume office but the Council also supports Jesse Lopez' efforts to seek a judicial determination of his eligibility to serve;

**NOW, THEREFORE BE IT RESOLVED** that Jesse Lopez is hereby declared to be a duly elected officer of the City of Corning for a four-year term as a City Council Member and is appointed by the City Council to so serve.



The foregoing Resolution was passed and adopted at a regular meeting of the City Council of the City of Corning held on January 25, 2011 by the following vote:

**AYES:**

**NOES:**

**ABSTAIN OR NOT VOTING:**

\_\_\_\_\_  
**GARY R. STRACK, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**LISA M. LINNET, CITY CLERK**