



**CITY OF CORNING
CITY COUNCIL AGENDA
TUESDAY, JULY 27, 2010
WOODSON ELEMENTARY SCHOOL GYMNASIUM
150 NORTH TOOMES AVENUE**

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

B. **ROLL CALL:**

Council:	Vacant
	Ross Turner
	Toni Parkins
	John Leach
Mayor:	Gary Strack

C. **PLEDGE OF ALLEGIANCE:**

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

E. **BUSINESS FROM THE FLOOR:** If there is anyone in the audience wanting to speak on an item not already on tonight's Agenda, please come to the podium, identify yourself and briefly present your information to the Council. If an item is already on the agenda, please wait until that item comes up for discussion and then obtain the Mayor's attention so you will be allowed to speak. **A three-minute time limit will apply unless the Council makes an exception due to special circumstances.** If your matter will require more time or formal action by the Council, the law requires that it be placed on the printed Agenda for a future meeting so that interested members of the public will have the 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.

1. **Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**
2. **July 21, 2010 Claim Warrant - \$175,190.41.**
3. **July 21, 2010 Business License Report.**
4. **June 2010 Wages and Salaries - \$346,082.13**
5. **June 2010 – Treasurer's Report.**
6. **Waive Recreational Use Fee for 2nd Annual Tucker Mesker Memorial Scholarship Softball Tournament Fundraiser.**
7. **Waive Lifeguard Fee for the Use of the City Pool for the High School Cross Country Running Team.**
8. **Award Bid and Authorize City Manager to Sign 3-year Landscape and Turf Maintenance Agreement with Ken Vaughan & Sons at a cost of \$10,800 per year.**

9. Approve and Accept the Notice of Completion for the Airport Runway Improvement Project.
10. Approve and Accept Landscape and Turf Maintenance Amendment #1 to add Landscaping Services at North and Fourth Streets (301 Fourth St.).
11. Authorize Staff to Seek Bids for Re-roofing and Energy Efficiency Improvements to Rodgers Theater.
12. Authorization to fill Maintenance Worker Vacancy.

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

H. **PUBLIC HEARINGS AND MEETINGS:** Any person may speak on items scheduled for hearing at the time the Mayor declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

13. Consider Extending Interim Ordinance No. 637; Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives within any Zoning District in the City of Corning for 1 year.

I. **REGULAR AGENDA:**

14. Approve Agreement for Temporary City Manager Services between the City of Corning and Stephen J. Kimbrough.
15. Approve Part-Time Employment Agreement for Chief of Police with Anthony F. Cardenas.
16. Adoption of 2010-2011 Program of Service and Annual Budget.

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

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

L. **REPORTS FROM MAYOR AND COUNCIL MEMBERS:**

17. Turner:
18. Parkins:
19. Leach:
20. Strack:

M. **ADJOURNMENT!:**

POSTED: FRIDAY, JULY 23, 2010

THE CITY OF CORNING IS AN EQUAL OPPORTUNITY EMPLOYER



MEMORANDUM

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: LORI SIMS
ACCOUNTING TECHNICIAN

DATE: July 21, 2010

SUBJECT: Cash Disbursement Detail Report for the
Tuesday, January 27, 2010 Council Meeting

PROPOSED CASH DISBURSEMENTS FOR YOUR APPROVAL CONSIST OF THE FOLLOWING:

A.	Cash Disbursements	Ending	06-30-10	\$	14,921.52
B.	Cash Disbursements	Ending	07-21-10	\$	114,002.13
C.	Payroll Disbursements	Ending	07-13-10	\$	46,266.76
GRAND TOTAL					\$ <u>175,190.41</u>

REPORT.: Jul 21 10 Wednesday
 RUN....: Jul 21 10 Time: 15:42
 Run By.: LORI

CITY OF CORNING
 Cash Disbursement Detail Report
 Check Listing for 06-10 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	Payment Information
010191	07/08/10	WAV00	WAVING AT YOU.COM	-194.85	.00	-194.85	10974u	Ck# 010191 Reversed	
010892	06/30/10	DEP09	DEPT OF CONSERVATION	33.91	.00	33.91	100707	StrongMotion Bldg & Safet	
010893	06/30/10	AIR00	AIRGAS NCN	47.07	.00	47.07	102392940	MAT & SUPPLIES-FIRE	
010894	06/30/10	ARA02	ARAMARK UNIFORM SRV.INC.	30.96	.00	30.96	0622402	Mat/Supplies-	
				30.52	.00	30.52	0642375	Mat/Supplies-	
			Check Total.....	61.48	.00	61.48			
010895	06/30/10	CAL35	CALIFORNIA BUILDING STAND	30.60	.00	30.60	100708	SB 1473/BLD & SAFETY	
010896	06/30/10	COM01	COMPUTER LOGISTICS, INC	599.25	.00	599.25	49030	Equip.Maint.-GEN CITY	
010897	06/30/10	HOL04	HOLIDAY MARKET #32	27.60	.00	27.60	27878	MAT & SUPPLIES-FIRE	
010898	06/30/10	MOT00	MOTOROLA	2084.88	.00	2084.88	50088778	EQUIP REPLAC-FIRE	
010899	06/30/10	NOR25	NORTHERN LIGHTS ENRGY, INC	389.60	.00	389.60	23991	VEH OP/MAINT-FIRE	
010900	06/30/10	PGE03	PGE	16.81	.00	16.81	100701	Mat/Supplies-Police	
010901	06/30/10	PGE2A	PGE	113.64	.00	113.64	100630	ELECT-MARTINI, MCDONALD &	
				148.47	.00	148.47	100702	ELECT-CLELAND PROP	
			Check Total.....	262.11	.00	262.11			
010902	06/30/10	QUI02	QUILL CORPORATION	33.58	.00	33.58	6042409	Office Supplies-FIRE	
				46.75	.00	46.75	6137388	Office Supplies-FIRE	
			Check Total.....	80.33	.00	80.33			
010903	06/30/10	TON00	TONY'S REFRIGERATION, INC	405.94	.00	405.94	43207	BLD MAINT-FIRE	
010904	06/30/10	TRI02	TRI-COUNTY NEWSPAPERS	188.97	.00	188.97	99112	PROF SVCS-PW ADMIN	
				85.11	.00	85.11	99454	PROF SVCS-PLANNING	
				179.39	.00	179.39	99889	Print/Advert. City Clerk	
				75.52	.00	75.52	99891	Print/Advert. City Clerk	
				62.74	.00	62.74	99892	Print/Advert. City Clerk	
				102.70	.00	102.70	99893	PROF SVCS-PW ADMIN	
				105.90	.00	105.90	99894	PROF SVCS-PW ADMIN	
				61.14	.00	61.14	100509	Print/Advert. City Clerk	
				64.34	.00	64.34	100511	Print/Advert. City Clerk	
				67.53	.00	67.53	100512	Print/Advert. City Clerk	
			Check Total.....	993.34	.00	993.34			
010927	06/30/10	CON07	CONEXIS	30.00	.00	30.00	06100R348	MEDICAL INS-COBRA	

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CITY OF CORNING
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PAGE: 002
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010928	06/30/10	ENP01	ENPLAN	187.50	.00	187.50	071079402	GIS SUPPORT-PLANNING
010929	06/30/10	RED02	RED BLUFF POLICE DEPT	703.57	.00	703.57	100715	OTS GRANT-POLICE
010930	06/30/10	SAF05	SAFARILAND, LLC	7.89	.00	7.89	110051431	MAT & SUPPLIES-POLICE
010939	06/30/10	SWW00	SWWC SERVICES, INC.	8406.72	.00	8406.72	17320	PROF SVCS-WWTP
010940	06/30/10	TEH15	TEHAMA CO SHERIFF'S DEPT	737.77	.00	737.77	100719	OTS GRANT-POLICE
010954	06/30/10	FIR01	FIRST NATIONAL BANK	10.00	.00	10.00	100628	OFFICE SUPPLIES-PW ADMIN

Cash Account Total.....: 14921.52 .00 14921.52

Total Disbursements.....: 14921.52 .00 14921.52

REPORT.: Jul 21 10 Wednesday
 RUN...: Jul 21 10 Time: 15:44
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CITY OF CORNING
 Cash Disbursement Detail Report
 Check Listing for 07-10 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	Payment Information
010877	07/12/10	HOL09	HOLIDAY INN EXPRESS	-412.50	.00	-412.50	100705u	Ck# 010877 Reversed	
010880	07/12/10	SOU02	S.B.R.P.S.T.C.	-115.00	.00	-115.00	100705u	Ck# 010880 Reversed	
010905	07/14/10	3CO00	3CORE, INC.	3000.00	.00	3000.00	100505	TRICO EDC-ECONOMIC DEV	
010906	07/14/10	AIR00	AIRGAS NCN	110.76	.00	110.76	102399427	MAT & SUPPLIES-FIRE	
010907	07/14/10	BAS01	BASIC LABORATORY, INC	86.00	.00	86.00	1006418	ProfServices Water Dept	
010908	07/14/10	CAM02	CAMELLIA VALLEY SUPPLY	144.93	.00	144.93	0746494	MAT & SUPPLIES-WTR	
				16.11	.00	16.11	0746495	MAT & SUPPLIES-WTR	
				139.27	.00	139.27	0747051	BLD MAINT-FIRE	
			Check Total.....	300.31	.00	300.31			
010909	07/14/10	CAS07	CASE POWER & EQUIPMENT,	29.22	.00	29.22	863761	MAT & SUPPLIES-	
010910	07/14/10	CHE02	CHEM QUIP, INC.	1039.80	.00	1039.80	5027179	MAT & SUPPLIES-WTR	
010911	07/14/10	COM01	COMPUTER LOGISTICS, INC	24.00	.00	24.00	49210	COMMUNICATIONS-	
				24.00	.00	24.00	49211	COMMUNICATIONS-FIRE	
				28.00	.00	28.00	49212	COMMUNICATIONS-POLICE	
				20.00	.00	20.00	49275	Equip.Maint.-GEN CITY	
			Check Total.....	96.00	.00	96.00			
010912	07/14/10	COR12	CORNING FORD MERCURY, INC	95.07	.00	95.07	22813	Veh Opr/Maint-POLICE	
010913	07/14/10	DEPO5	CDPH-OCF, DRINKING WATER	55.00	.00	55.00	100714	MAT & SUPPLIES-WTR	
				60.00	.00	60.00	100714A	MAT & SUPPLIES-WTR	
			Check Total.....	115.00	.00	115.00			
010914	07/14/10	HOL04	HOLIDAY MARKET #32	29.94	.00	29.94	36859	Mat/Supplies BuildingMain	
010915	07/14/10	KEE00	KEENER, SHELLEY	353.09	.00	353.09	100707	TRAINING/ED-DISPATCH	
010916	07/14/10	KET10	KETCHUM MANUFACTURING CO	125.08	.00	125.08	INV091335	MAT & SUPPLIES-ACO	
010917	07/14/10	LAR03	LARKSPUR LANDING HOTEL	476.95	.00	476.95	100707	TRAINING/ED-DISPATCH	
010918	07/14/10	LEA03	LEADS SOFTWARE GROUP, INC	5040.00	.00	5040.00	10005	Equip.Maint. Policedispat	
010919	07/14/10	OFF01	OFFICE DEPOT	159.74	.00	159.74	525183498	Office Supplies-DISPATCH	
010920	07/14/10	QUI02	QUILL CORPORATION	260.72	.00	260.72	6499091	Office Supplies-	
010921	07/14/10	SAC07	SACRAMENTO POLICE DEPARTM	224.00	.00	224.00	100707	TRAINING/ED-DISPATCH	

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CITY OF CORNING
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010922	07/14/10	TEH15	TEHAMA CO SHERIFF'S DEPT	24.50	.00	24.50	100709	PROF SVCS-POLICE
010923	07/14/10	KEE00	KEENER, SHELLEY	353.09	.00	353.09	100708	TRAINING/ED-DISPATCH
010924	07/14/10	LAR03	LARKSPUR LANDING HOTEL	476.95	.00	476.95	100708	TRAINING/ED-DISPATCH
010925	07/14/10	KEE00	KEENER, SHELLEY	353.09	.00	353.09	100709	TRAINING/ED-DISPATCH
010926	07/14/10	LAR03	LARKSPUR LANDING HOTEL	476.95	.00	476.95	100709	TRAINING/ED-DISPATCH
010931	07/19/10	BAS01	BASIC LABORATORY, INC	86.00	.00	86.00	10066554	ProfServices Water Dept
010932	07/19/10	COR22	CORNING MEDICAL ASSOC	118.50	.00	118.50	17907	PROF SVCS-POLICE
010933	07/19/10	LIN01	LINCOLN EQUIPMENT, INC.	197.17	.00	197.17	SI142919	MAT & SUPPLIES-POOL
010934	07/19/10	LIN02	LINNETS TIRE SHOP	10.00	.00	10.00	52367	MAT & SUPPLIES-PARKS
010935	07/19/10	MID05	MID-VALLEY VETERINARY HOS	70.00	.00	70.00	113746	SPAY/NEUTER VOUCHER PROGR
010936	07/19/10	NEX02	NEXTEL	351.08	.00	351.08	086319104	COMMUNICATIONS-POLICE
010937	07/19/10	RON03	RON DUPRAFT FORD	320.98	.00	320.98	652112	VEH OP/MAINT-WTR
010938	07/19/10	TEH06	TEHAMA CO ENVIRON HEALTH	357.00	.00	357.00	201021333	MAT & SUPPLIES-
				139.00	.00	139.00	201021347	MAT & SUPPLIES-BLD MAINT
				279.00	.00	279.00	201021348	MAT & SUPPLIES-POOL
			Check Total.....:	775.00	.00	775.00		
010941	07/20/10	CAL07	CA RURAL WATER ASSOC.,	732.00	.00	732.00	100720	MAT & SUPPLIES-
010942	07/20/10	FED01	FEDERAL EXPRESS	88.68	.00	88.68	715820100	PROF SVCS-
010943	07/20/10	PAT02	PATTERSON ELECTRIC, INC.	1430.00	.00	1430.00	2016	RUNWAY CONSTRUCT-AIRPORT
010944	07/20/10	RED15	RED TRUCK ROCK YARD, LLC	108.25	.00	108.25	157	MAT & SUPPLIES-WTR
				113.66	.00	113.66	158	MAT & SUPPLIES-WTR
			Check Total.....:	221.91	.00	221.91		
010945	07/20/10	REX01	REXEL INC.	133.32	.00	133.32	801038486	MAT & SUPPLIES-WTR
010946	07/20/10	SWN00	SWWC SERVICES, INC.	44465.28	.00	44465.28	17333	PROF SVCS-WWTP
				2659.15	.00	2659.15	17334	PRETREATMENT PROGRAM
			Check Total.....:	47124.43	.00	47124.43		
010947	07/20/10	UNI01	UNIGARD INSURANCE COMP.	46103.00	.00	46103.00	100712	Gen.Insurance General Cit

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CITY OF CORNING
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PAGE: 003
 ID #: PY-DP
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
010948	07/20/10	UNI02	UNIFORMS, TUXEDOS & MORE	108.14	.00	108.14	99491	UNIFORMS/CLOTH-POLICE
010949	07/21/10	ATT13	AT&T	721.42	.00	721.42	100711	COMMUNICATIONS-
010950	07/21/10	BEN04	BEN TOILET RENTALS, INC.	110.23	.00	110.23	229310	MAT & SUPPLIES-PARKS
010951	07/21/10	COR20	CORNING ELECTRONICS	51.51	.00	51.51	10089331	MAT & SUPPLIES-POLICE
010952	07/21/10	JOH05	JOHNSON, DELBERT	1050.00	.00	1050.00	5179	MAT & SUPPLIES-STR
010953	07/21/10	PLA05	PLACER COUNTY DISTRICT AT	1500.00	.00	1500.00	6-10	PROF SVCS-POLICE
Cash Account Total.....:				114002.13	.00	114002.13		
Total Disbursements.....:				114002.13	.00	114002.13		
Cash Account Total.....:				.00	.00	.00		

REPORT: Jul 21 10 Wednesday
 RUN: Jul 21 10 Time: 15:44
 Run By: LORI

CITY OF CORNING
 Cash Disbursement Detail Report - Payroll Vendor Payment (s)
 Check Listing for 07-10 Bank Account.: 1025

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
4605	07/13/10	BAN03	POLICE OFFICER ASSOC.	350.00	.00	350.00	B00713	POLICE OFFICER ASSOC
4606	07/13/10	CAL37	CALIFORNIA STATE DISBURSE	138.46	.00	138.46	B00713	WITHHOLDING ORDER
4607	07/13/10	EDD01	EMPLOYMENT DEVELOPMENT	5374.98	.00	5374.98	B00713	STATE INCOME TAX
				1431.33	.00	1431.33	1B00713	SDI
			Check Total.....	6806.31	.00	6806.31		
4608	07/13/10	ICM01	ICMA RETIREMENT TRUST-457	4174.52	.00	4174.52	B00713	ICMA DEF. COMP
4609	07/13/10	OEU03	OPERATING ENGINEERS	550.00	.00	550.00	B00713	CREDIT UNION SAVINGS
4610	07/13/10	PERS1	PUBLIC EMPLOYEES RETIRE	28903.55	.00	28903.55	B00713	PERS PAYROLL REMITTANCE
4611	07/13/10	PERS4	Cal Pers 457 Def. Comp	557.25	.00	557.25	B00713	PERS DEF. COMP.
4612	07/13/10	PRE03	PREMIER WEST BANK	1891.50	.00	1891.50	B00713	HSA DEDUCTIBLE
4613	07/13/10	STAO4	STATE OF CALIFORNIA	550.00	.00	550.00	B00713	WAGEASN 1107012828
4614	07/13/10	VAL06	VALIC	2345.17	.00	2345.17	B00713	AIG VALIC P TAX
Cash Account Total.....				46266.76	.00	46266.76		
Total Disbursements.....				46266.76	.00	46266.76		

Date.: Jul 21, 2010
 Time.: 4:04 pm
 Run by: LORI

CITY OF CORNING
 NEW BUSINESSES FOR CITY COUNCIL

Page.: 1
 List.: NEWS
 Group: WTFMB

Business Name	Address	CITY/STATE/ZIP	Contact Name	Business Desc. #1	Business Start Date	Primary Telephone
CARROLL TIRE	4280 IOWA STREET	BENECIA, CA 94510	SYMONDS	LYLE WHOLESALE TIRE DISTRIBUTOR-DELIVERY ONLY	07/14/10	(877) 822-0009
CENTRAL VALLEY DINER	2120 SOUTH AVE	CORNING, CA 96021	YADAV	FAMILY RESTAURANT	07/21/10	(510) 792-3393
CLEAN AGAIN JANITOR	22311 CORNING RD	CORNING, CA 96021	COLEMAN	GREG JANITORIAL AND LANDSCAPE MAINTENANCE	07/20/10	(530) 921-9159
LARRY GLOVER TRUCKIN	319 FIRST ST	CORNING, CA 96021	GLOVER	LARRY TRUCK BROKER	07/14/10	(530) 824-4738
AURELIA MENDOZA	1522 MARIN ST	CORNING, CA 96021	MENDOZA	AURELIA DRIVING CARS	07/20/10	(530) 680-3821
NASH'S OLIVE OIL/SOU	1210B SOLANO ST	CORNING, CA 96021	DWEIK	NASH OLIVE OIL & FOOD & GIFT SHOP	07/14/10	(530) 824-5187

CITY OF CORNING**JUNE 2010****TREASURERS REPORT**

AGENCY	BALANCE	RATE	MATURES ON
LOCAL AGENCY INVESTMENT FUND	1,755,300.22	.56	
PREMIER WEST BANK	197,674.76	.85	03/28/11
PREMIER WEST BANK	177,324.31	.85	04/20/11
TRUST ACCOUNTS			
PREMIER WEST BANK RIDELL TRUST	209,965.79	.90	12/13/11

Respectfully Submitted

Pala Cantrell
City Treasurer

ITEM NO: F-6
WAIVE RECREATIONAL USE
FEE FOR 2ND ANNUAL
TUCKER MESKER MEMORIAL
SCHOLARSHIP SOFTBALL
TOURNAMENT FUNDRAISER

JULY 27, 2010

TO: HONORABLE MAROR AND COUCILMEMBERS
OF THE CITY OF CORNING

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN BREWER, AICP; DIRECTOR OF PUBLIC WORKS

STEVE
JK

SUMMARY:

Holly and Jeff Rhoads submitted a request to City Council to waive the Recreational Use Fee for the use of Yost Park for the 2nd Annual Tucker Mesker Memorial Scholarship Softball Tournament Fundraiser. The tournament is scheduled for August 14th and 15th. This is a community based, non-profit event.

BACKGROUND:

Staff requests Council approval to waive all recreational fees normally charged (\$100 refundable fees and \$166 non refundable fees) for the Tucker Mesker Memorial Scholarship Fundraiser.

\$75 Cleanup deposit
\$25 Key deposit
\$100 Refundable

\$16 Weekend Field Light Fee
\$150 Weekend Use Fee
\$166 Non-Refundable

RECOMMENDATION:

Mayor and Council waive Recreational Use Fee for 2nd Annual Tucker Mesker Memorial Scholarship Softball Tournament Fundraiser

Tri-Tip
Sandwiches



T-SHIRTS
RAFFLE PRIZES

SATURDAY, AUGUST 14TH & SUNDAY, AUGUST 15TH

**10 TEAM MEN'S SOFTBALL TOURNAMENT
YOST PARK - CORNING, CA**

\$250 ENTRY FEE PER TEAM

**ASA BATS ONLY*

**QUESTIONS OR TO RESERVE A TEAM
CONTACT HOLLY OR JEFF RHOADS
AT 824-3420 OR 321-4888**



**ALL PROCEEDS WILL BENEFIT THE
TUCKER MESKER MEMORIAL
SCHOLARSHIP**

ENJOY THE DAY & CELEBRATE TUCKER'S MEMORY WITH US!

To any interested sponsors,

My name is Holly Rhoads and I am putting together the second annual men's slow pitch softball tournament in memory of my cousin, Tucker Mesker. Tucker was an easy-going, energetic, fun-loving spirit who loved to have a good time! He was especially fond of his week night slow-pitch softball games because they incorporated three things he loved in life; friends, sports and the occasional Bud Light! Tucker passed away almost two years ago and our family started a memorial scholarship fund in his name. The Tucker Mesker scholarship goes to a local high school student who embodies academic and athletic excellence and who plans on pursuing athletics in college as Tucker did. Thanks to our communities help last year the tournament was such a success his parents were able to double the amount of scholarships they gave to local students this year.

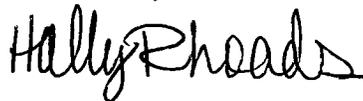
The tournament will take place August 14th and 15th in Corning at Yost Park. We are looking for sponsors interested in helping us make this event a success worthy of honoring Tucker's life.

If you are interested in helping out, we would happily accept equipment for the games, shirts, concession items, and trophies for the participating teams as well as items and services to be raffled off at the tournament. You can also make cash donations of any amount that will go toward the purchase of these items or into the scholarship fund along with the entry fees of the participating teams.

If you choose to help out this worthy cause, Tucker's family and friends will show their appreciation for your generosity by informing the community of your kindness. Your name or business will be advertised at the tournament as well as in the local paper.

If you would like to help out, you can contact me personally at 824-3420 or 321-4888. Thank you for your consideration.

Thank You,



Holly Rhoads

**ITEM NO: F-7
WAIVE LIFEGUARD FEE FOR
THE USE OF THE CITY POOL
FOR THE HIGH SCHOOL
CROSS COUNTRY RUNNING
TEAM**

JULY 27, 2010

**TO: HONORABLE MAROR AND COUCILMEMBERS
OF THE CITY OF CORNING**

**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN BREWER, AICP; DIRECTOR OF PUBLIC WORKS**

Steve
JBS

SUMMARY:

Corning High School Cross Country Coach Andrew Farrell submitted a request to City Council to waive the lifeguard fee for use of the City Pool starting Monday, August 9th through Friday, August 13th, 2010. Coach Farrell would like to add swimming into his running program. He would like to have the pool from 10am until 11am throughout the requested week.

Pool Manager Phadie Irons has indicated that it would not be a problem to accommodate this request.

BACKGROUND:

Staff requests Council approval to waive the lifeguard fees normally charged for the use of the City Pool. Coach Farrell has indicated that there would be 20 to 30 students participating, well below the 50-person limit requiring only two lifeguards to be on duty.

The rental cost of the City Pool for one hour daily for five days at \$45.00 per hour would be \$225.

RECOMMENDATION:

Mayor and Council waive lifeguard fee for the use of the City Pool for the High School Cross Country Running Team

Corning Union High School

643 Blackburn Ave.
Corning, CA 96021
(530) 824-8000
(530) 824-8005 Fax

Dear Council Member,

RECEIVED

JUL 20 2000

CITY OF CORNING

This letter serves as a written request for a waiver of City of Corning Pool Fees. My name is Andrew Farrell and I coach the Cross Country Running Team at Corning High School. The Cardinal Cross Country team runs a five kilometer race against various schools in and out of our league and division during the fall sports season. This sport has both boys and girls on the team. We have been extremely successful for quite a few years. In fact last year both the girls and boys junior varsity and the boys varsity teams were undefeated in league. Each year our team starts our training season one week before the academic school year begins. I normally will have twenty to thirty students participate in our preseason running program. This year I would like to incorporate swimming into our training. The dates I have requested are Monday August 9th through Friday August 13th from 10:00 – 11:00 am.

Thank you for your consideration,



Andrew Farrell
Head Cross Country Coach
Corning High School

Bruce Cole
District Superintendent

Charlie Troughton
Principal

Lloyd Menefee
Vice Principal

Sally Tollison
Director of
Student Support Services

Counselors

Janet Lawrence
Marsha Patrick
Clementina Torres

ITEM NO. F-8
AWARD BID AND AUTHORIZE CITY
MANAGER TO SIGN THREE-YEAR
LANDSCAPE AND TURF MAINTENANCE
AGREEMENT WITH KEN VAUGHAN &
SONS AT A COST OF \$10,800 PER
YEAR.
JULY 27, 2010

TO: HONORABLE MAYOR AND COUNCILMEMBERS
OF THE CITY OF CORNING

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN L. BREWER, AICP; DIRECTOR OF PUBLIC WORKS



SUMMARY:

Six bids were received for providing City Landscape and Turf Maintenance services. Staff recommends awarding the three-year agreement for City janitorial services to Ken Vaughan & Sons at a total cost of \$10,800 per year and authorizing the City Manager to sign the agreement on behalf of the City.

BACKGROUND:

At the May 11, 2010 City Council meeting, Council authorized Public Works to seek bids for a three-year Landscape and Turf Maintenance Agreement for service to six (6) City properties located at Martini Plaza, Corning Transportation Center, Corning Library, Corning Park & Ride, Corning City Hall and the Fire Department and (2) Landscaping and Lighting Districts, District 1, Zones 1 & 4.

The previous agreement that expires July 31st, had a monthly cost of \$800.00.

The 2010/2011 City Budget will allow for a total of \$10,825 to fund the Landscape and Turf Maintenance Agreement. This funding is budgeted in the following departments:

001-6315-6100	Landscape Maintenance/Parks	\$8,500 FY 2010/11
701-6315-3901	Landscape Maintenance/L&L, N. Alex Lane	\$ 225 FY 2010/11
704-6315-3904	Landscape Maintenance/L&L, Solado Apts.	\$2,100 FY 2010/11

RECOMMENDATION:

MAYOR AND COUNCIL AWARD BID AND AUTHORIZE CITY MANAGER TO SIGN THREE-YEAR LANDSCAPE AND TURF MAINTENANCE AGREEMENT WITH KEN VAUGHAN & SONS AT A COST OF \$10,800 PER YEAR.

**Three-year Landscape and Turf Maintenance
Bid Summary List
July 19, 2010**

<u>Company Name</u>	<u>Monthly Fee Proposal</u>	<u>Yearly Amount</u>
Ken Vaughan P.O. Box 722 Corning, CA 96021	\$900.00	\$10,800.00
Northern Services 185 Gurnsey Ave Red Bluff, CA 96080	\$1,395.00	\$1,6740.00
Tom's Lawn Care P.O. Box 714 Corning, CA 96021	\$1,600.00	\$1,9200.00
Bill Greer Landscaping 24265 Electric Ave Red Bluff, CA 96080	\$1,842.00	\$22,104.00
J. Haynes Total Landscape Care 23180 Rodeo Avenue Gerber, CA 96035	\$1,850.00	\$22,200.00
Sierra Landscape 3760 Morrow Lane Suite A Chico, CA 95928	\$1,965.00	\$23,580.00

LANDSCAPE AND TURF MAINTENANCE AGREEMENT

This agreement is entered into by and between the **City of Corning**, a Municipal Corporation, (hereinafter referred to as "City") and the person or entity identified at the end of this Agreement (hereinafter referred to as "Contractor").

Purpose of Agreement:

The purpose of this agreement is to document the arrangement worked out between the City and the Contractor for certain landscaping and turf maintenance work to be performed on City property over a three-year term.

Location of work to be performed:

The Contractor will perform Landscape and Turf Maintenance at the following eight (8) City locations.

- ◆ Martini Plaza located in the 1400 block of Solano Street.
- ◆ Corning Transportation Center located at 1081 Solano Street.
- ◆ Corning Library located at 740 Third Street.
- ◆ Corning Park and Ride area located at the corner of Solano & Third Streets.
- ◆ Corning City Hall located at 794 Third Street.
- ◆ Corning Fire Department located at 814 5th Street.
- ◆ Landscape & Lighting District 1, Zone 1, N. Alex Lane
- ◆ Landscape & Lighting District 1, Zone 4, Salado Apartments

Description of work to be performed:

The Contractor will perform the following work throughout the term of this Agreement:

- ◆ Mowing of all lawn areas on a weekly basis during the growing seasons and as needed during the fall and winter months.
- ◆ The shrub areas to be pruned and weeded at startup, and pruned and weeded as needed to insure proper growth habits and appearance.
- ◆ Trash or debris in the lawn or landscape areas to be removed weekly to maintain a neat appearance.
- ◆ Lawn areas to be fertilized on a five round program to insure optimum growth and appearance.
- ◆ Shrub areas to be fertilized on a two round program to insure optimum growth and appearance.
- ◆ Treatment for weed control in the lawn and shrub areas to be provided.
- ◆ Sprinkler system to be inspected weekly. Any general maintenance of the sprinkler system shall be included in the maintenance program.
- ◆ The maintenance program cost shall also include the needed replacement of plants and shrubs when needed.
- ◆ Repairs to the sprinkler systems that require the purchase of materials and supplies shall be completed within the terms of this maintenance agreement, with materials and supplies to be approved and purchased by the Department of Public Works.
- ◆ Contractor shall provide all the equipment required for this maintenance agreement.
- ◆ Lawn clippings and brush for shrubs shall have a City provided 96-gallon roller cart at each location for disposal.

Term of Contract:

The term of the Contract will be 3 years, beginning at signing of Contract and ending August 1, 2013.

Insurance Requirements:

- ◆ Contractor shall provide the City with Liability Insurance in the amount of \$1,000,000 and shall list the City as an Additional Insured on an Additional Insured Endorsement.
- ◆ Worker's Compensation shall be required for additional employees.

Business License Requirement:

- ◆ Contractor shall purchase and maintain a City of Corning Business License.

Amount of Compensation:

City will pay Contractor on a monthly basis at the beginning of each month for the work performed the preceding month. The monthly amount to be paid for each and every month throughout the term of this Agreement is: \$900.00.

Independent Contractor:

Contractor is an independent Contractor and is not an employee of the City. Although the City instructs the Contractor himself determines the hours to be worked, the manner in which the work is performed and how the objectives are met and the other details of the job. Contractor is not limited to performing landscape and turf maintenance work only for the City of Corning but it is assumed and agreed that the City will be one of several customers for whom Contractor performs similar services.

Attorney Fees and Costs:

In the event of a dispute arising out of this Agreement, City and contractor agree that a court or arbitrator may award a reasonable amount of attorney fees and costs to the prevailing party should such dispute be resolved through litigation or arbitration.

Entire Agreement:

This document represents the entire agreement between the parties and all commitments arising out of discussions between the parties have been fully integrated herein.

Notices to Parties:

Notices to City shall be provided to:

City of Corning
 Attn: Public Works Director
 794 Third Street
 Corning, CA 96021

Notices to Contractor shall be provided to:

Ken Vaughan & Sons
 P.O. Box 722
 Corning, CA 96021

SO AGREED.

CITY OF CORNING:

CONTRACTOR:

By: _____

By: _____

Date: _____

Date: _____

Attest:

Lisa Linnet, City Clerk

ITEM NO.: F-9
APPROVE AND ACCEPT THE NOTICE OF
COMPLETION FOR THE AIRPORT
RUNWAY IMPROVEMENT PROJECT

JULY 27, 2010

TO: HONORABLE MAYOR AND COUNCILMEMBERS
OF THE CITY OF CORNING

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN L. BREWER; AICP, DIRECTOR OF PUBLIC WORKS



SUMMARY:

The City is now ready to accept the work and issue a Notice of Completion for the Corning Municipal Airport Runway Improvement Project. All improvements associated with this project were completed and put into use on July 15, 2010.

At this time Teichert Construction is not requesting their final contract payment or retention monies. There is currently \$76,245 remaining on the contract and \$206,541.99 held in retention. Retention will not be released until Teichert Construction has submitted a request for payment and the 35 day waiting period from the time of the Notice of Completion is filed with the County has been satisfied.

BACKGROUND:

Teichert Construction has satisfactorily completed all aspects of the Original contract including Contract Change Order No. 1.

The Project Engineer and the Director of Public Works have reviewed and approved the Airport Runway Project as completed.

RECOMMENDATION:

Mayor and Council approve and accept the Airport Runway Improvement Project as complete and direct the City Clerk to file the Notice of Completion

WHEN RECORDED MAIL TO:

City of Corning
794 Third Street
Corning, CA 96021

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is an owner of interest or estate in the hereafter described project, the nature of which interest is: Owner of the Corning Municipal Airport.
2. The full name and address of the undersigned owner is: City of Corning, 794 Third Street, Corning, CA 96021.
3. There was completed the improvements of the Corning Municipal Airport Runway & Taxiway Paving and Lighting Improvements. Consisting in general of: 900 foot northerly relocation of the runway; runway paving; runway widening by 10 feet; replacing the parallel taxiway farther east and grading the runway safety area; construction of new apron and runway lighting improvements.
4. The work has been satisfactorily completed and is suitable to be put into use as of July 15, 2010, and has therefore accepted for ownership and operation by: The City Council of the City of Corning at a Regular Council Meeting, on July 27, 2010.
5. The name of the General Contractor was: Teichert Construction, P.O. Box 1890, Davis, CA 95616 under a contract dated: September 18, 2009.
6. The property herein referred to is situated in the City of Corning, Tehama County, and State of California and more particularly described as follows: Corning Municipal Airport, 930 N. Marguerite Avenue, Corning, CA 96021.

Stephen J. Kimbrough
City Manager, City of Corning

Date: _____

ATTEST:

Lisa M. Linnet, City Clerk

ITEM NO.: F-10
**APPROVE AND ACCEPT LANDSCAPE AND
TURF MAINTENANCE AMENDMENT #1 TO
ADD LANDSCAPING SERVICES AT NORTH
AND FOURTH STREETS (301 FOURTH ST.)**

JULY 27, 2010

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR



SUMMARY:

Staff recommends the City Council amend the Landscape and Turf Maintenance Agreement with Ken Vaughan to include the approx. 2,400 sq. ft. landscaped area within the remaining City right of way at Fourth and North Streets at an added cost of \$50 per month. This will increase the monthly compensation from \$900 to \$950.

BACKGROUND:

At the request of Bell Carter, Inc. in 2008, the City of Corning vacated that portion of North Street that separated two olive processing plant properties. The street vacation was conditioned to require Bell Carter to install landscaping within the remaining Fourth Street right of way. Since that time the City has provided water service for the 2,400 sq. ft. (approx.) crescent shaped landscaped area. However, the property has not been added to our list of properties to be maintained via our landscape and turf maintenance contract.

The purpose of this staff report is to amend the just approved "Landscape and Turf Maintenance" agreement to add maintenance of that small landscaped area. Mr. Vaughan has agreed to maintain that area for an additional \$50.00 per month. See his attached memo.

RECOMMENDATION:

That the City Council:

- **Approve and accept Landscape and Turf Maintenance Amendment #1 to add landscaping services at North and Fourth Streets (301 Fourth Street) for an additional \$50 per month.**

KENVAUGHAN&SONS

WHEN YOU WANT THE BEST

525 First St POBOX722

Corning ca 96021 PH.530/824-4991

DATE:JULY 20,2010

TO:
CITY OF CORNING
794 THIRD
CORNING, CA. 96021

FOR:
LANDSCAPING AND TURF MAINTENANCE

DESCRIPTION	AMOUNT
<p>LANDSCAPING AND TURF MAINTENANCE ADDITION TO BID</p> <p>CORNER OF FIRST STREET AND NORTH <i>Fourth</i></p> <p>RECEIVED <i>JUL 20 2010</i> CITY OF CORNING</p> <p>RESPECTFULLY SUBMITTED KEN VAUGHAN <i>Ken Vaughan</i></p>	<p>\$50.00 PER MONTH</p>
<p>TOTAL</p>	<p><i>50.00 per mo.</i></p>

AMENDMENT #1

THIS AMENDMENT #1 is entered into this 1st day of August 2010, by and between the City of Corning (hereinafter called CITY) and Ken Vaughan & Sons (hereinafter called Contractor), under the circumstances stated herein.

WHEREAS both the CITY and Contractor desire to amend the CONTRACT as set forth herein:

NOW, THEREFORE, in consideration of the promises and terms contained herein, both parties agree to amend the Landscape and Turf Maintenance Agreement dated August 1, 2010 as follows:

Location of work to be performed:

The Contractor will perform Landscape and Turf Maintenance at the following nine (9) City locations.

- ◆ Martini Plaza located in the 1400 block of Solano Street.
- ◆ Corning Transportation Center located at 1081 Solano Street.
- ◆ Corning Library located at 740 Third Street.
- ◆ Corning Park and Ride area located at the corner of Solano & Third Streets.
- ◆ Corning City Hall located at 794 Third Street.
- ◆ Corning Fire Department located at 814 5th Street.
- ◆ Landscaping & Lighting District 1, Zone 1:
 - Located at Blackburn Avenue and Alex Lane
- ◆ Landscaping & Lighting District 1, Zone 4:
 - Located at the median planter strip on Blackburn Avenue
- ◆ City Right of Way at North and Fourth Streets, 301 Fourth Street

And,

Amount of Compensation:

CITY will pay Contractor on a monthly basis at the beginning of each month for the work performed the preceding month. The monthly amount to be paid for each and every month throughout the remaining term of this Agreement is \$950.00.

In witness whereof, CITY and Contractor have caused this CONTRACT AMENDMENT to be executed by their duly authorized officers.

For the CITY OF CORNING:

CONTRACTOR:

By: _____
Stephen J. Kimbrough

By: _____
Ken Vaughan

Date: _____

Date: _____

ATTEST:

By: _____
Lisa Linnet

Date: _____

ITEM NO. F-11
AUTHORIZE STAFF TO SEEK BIDS FOR RE-
ROOFING AND ENERGY EFFICIENCY
IMPROVEMENTS TO RODGERS THEATER

JULY 27, 2010

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA
FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR



SUMMARY:

Staff seeks Council authorization to seek bids for the re-roofing and energy efficiency improvements to Rodger's Theater. A project description and summary of the specifications is attached. The Engineer's cost estimate for the work to be completed is \$131,500.00.

BACKGROUND:

The City and community volunteers have been working since 2006 to acquire funding and refurbish Rodgers Theater. The current roof leaks and the leaks continue to damage the interior of the structure. So, reroofing the structure is a priority. Contractor Richard Rezendez and Architectural Draftsman Bob Metzger have been working with the Corning Community Foundation to redesign the building interior to fit a multitude of community uses. Most recently, Richard, Bob and Structural Engineer Eric Ausmus have been working to design the new roof and the necessary structural elements to support new (and heavy) roof-mounted Heating, Ventilation and Air Conditioning (HVAC) units.

At the same time, the City and the Corning Community Foundation have been seeking funding for the renovation of this important community asset. The State Department of Parks and Recreation recently gave us the green light to expend up to \$220,000 of Park Bond funds to renovate Rodgers Theater.

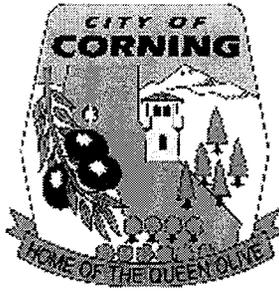
Additionally, staff has been working for several months to leverage additional funding from the California Energy Commission's Energy Efficiency and Conservation Block Grant (EECBG) Program. That agency has recently provided the Grant Agreement documents that will award an additional \$35,175 for three energy efficiency improving features that'll be included in the theater restoration project. Those features include a "Cool Roof"; i.e. a roof designed to minimize heat conductance; ceiling insulation and new furnace and ducting equipment.

Now that we know the features the EECBG grant will fund, our design team has completed the roof and roof support design and we can proceed with solicitation of bid proposals from qualified contractors.

RECOMMENDATION:

That the City Council:

- Authorize staff to solicit bids for the Re-roof and Energy Efficiency Improvements to Rodgers Theater.



CITY OF CORNING
794 THIRD STREET
CORNING, CALIFORNIA 96021

**NOTICE TO CONTRACTORS
SPECIAL PROVISIONS
PROPOSAL AND CONTRACT**

FOR

**ROGERS THEATER IMPROVEMENT PROJECT
CONTRACT NO. 10-01**

**This project is funded by American Recovery and Reinvestment
Act (ARRA) funds from the U.S. Department of Energy**



**CITY OF CORNING
STATE OF CALIFORNIA**

ROGERS THEATER IMPROVEMENT PROJECT

General Work Description: To supply and install new Heating Ventilation and Air Conditioning (HVAC) units and all related material as shown on the Rogers Theater Improvement Project Plans and Specifications in Corning, California. Work will also include, reroofing and repair, insulation, ventilation and lighting improvements, and the installation of structural support framing and minor concrete work. The contractor will have 90 calendar days to complete the project.

The total quantity of materials estimated for this contract is shown in the table below:

Bid Item	Item Description	Unit of Measure	Estimated Quantity	Estimate
1	Roofing material removal and installation of Cool Roof and roof ventilation	LS	1	\$23,000
2	20 ton HVAC package unit, ducting, testing and all appurtenances	EA	1	\$62,000
3	7.5 ton HVAC split system, ducting, testing and all appurtenances	EA	1	\$28,500
4	Structural Framing and HVAC support systems	LS	1	\$12,400
6	3-phase electrical upgrades	LS	1	\$5,600
Cost Estimate				\$131,500

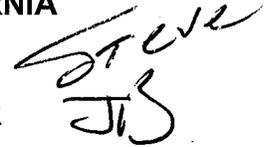
Lighting upgrades, insulation and water heater installation as part of the California Title 24 energy requirements will be performed by volunteer work and will not be a part of the bid documents.

ITEM NO. F-12
COUNCIL AUTHORIZATION TO FILL
MAINTENANCE WORKER VACANCY
RESULTING FROM AN EQUIPMENT
OPERATOR RETIREMENT AND THE
PROMOTION OF A MAINTENANCE
WORKER

JULY 27, 2010

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR



SUMMARY:

Staff seeks Council authorization to fill a vacant Equipment Operator Position that will result from the upcoming retirement of Equipment Operator Joe Galbraith and the subsequent promotion of Maintenance Worker Wayne Jobe.

BACKGROUND:

Long time Public Works Employee Joe Galbraith will be retiring from City Service on August 20, 2010. While we're saddened to lose a very valuable employee, we're very happy for Joe personally, and wish him a very long and enjoyable retirement.

The City has two Equipment Operator positions, currently held by Joe and Lee Blaylock, who was promoted in January to fill Fred McGee's position upon his retirement. Joe's retirement will leave one of those critical positions vacant.

When we tested to fill Fred's position we established an Equipment Operator Promotional List. So, in addition to Lee Blaylock who was promoted, Maintenance Worker Wayne Jobe was also determined to be qualified for the Equipment Operator position. Wayne will be promoted to fill Joe's vacated Equipment Operator position.

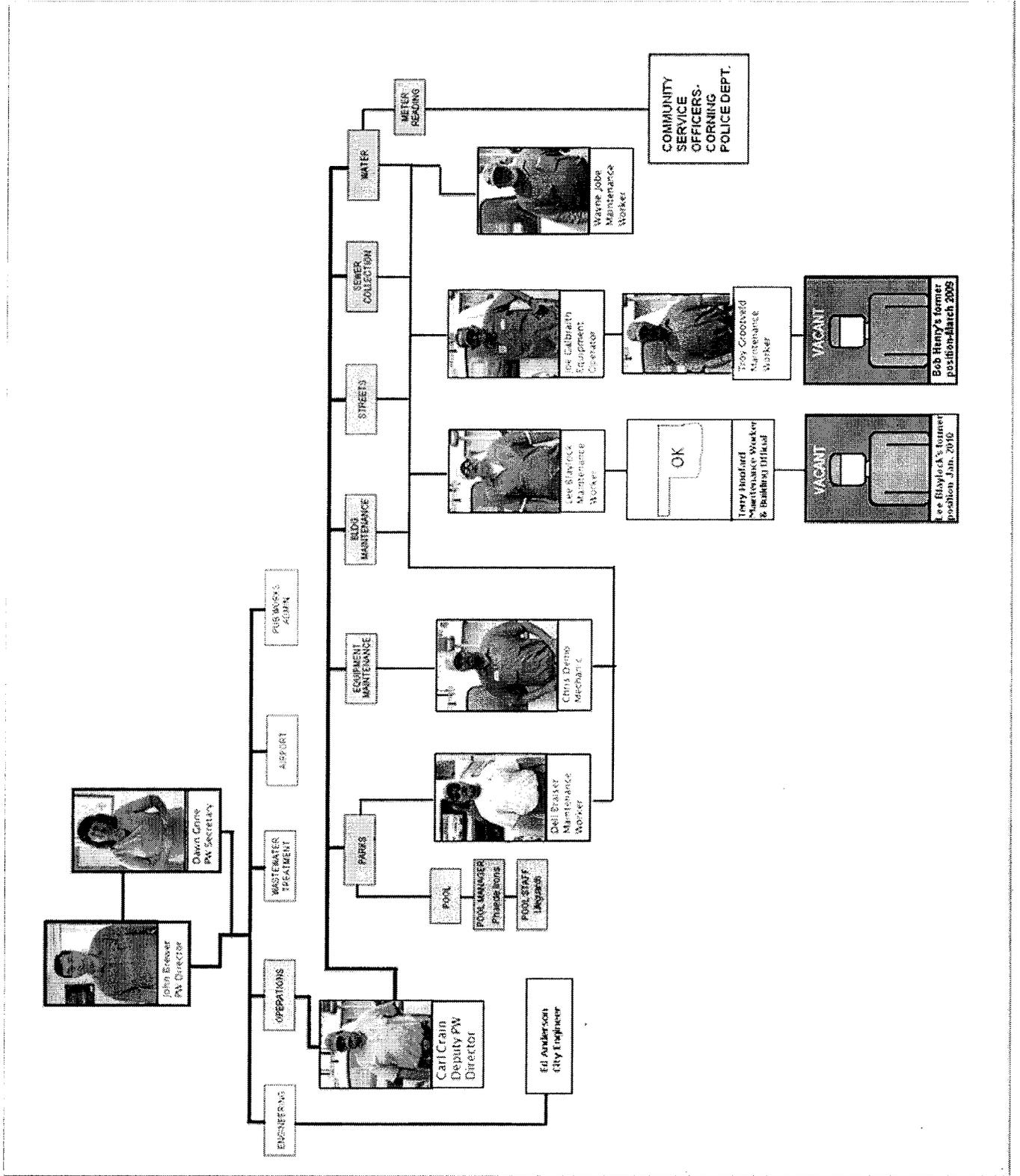
Promoting Wayne will leave a vacant Maintenance Worker position. Staff seeks Council authorization to fill that vacancy.

RECOMMENDATION:

That the City Council:

- **Authorize the Public Works Department to utilize the previous Maintenance Worker applicant rankings list to fill a vacant Maintenance Worker position resulting from the retirement of Equipment Operator Joe Galbraith and the promotion of Maintenance Worker Wayne Jobe.**

July 2010 Public Works Dept. Personnel & Operations Chart



ITEM NO.: H-13
CONSIDER EXTENDING INTERIM
ORDINANCE NO. 637, PROHIBITING
MEDICAL MARIJUANA
DISPENSARIES, COLLECTIVES OR
COOPERATIVES WITHIN ANY
ZONING DISTRICT IN THE CITY OF
CORNING FOR 1 YEAR.

JULY 27, 2010

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: JOHN STOUFER, PLANNING DIRECTOR JS

SUMMARY:

The City of Corning has been in the process of preparing a Draft Ordinance to regulate the distribution and possession of medical marijuana in order to protect the health, safety, and welfare of the citizens of Corning and prevent the distribution of medical marijuana in violation of Health and Safety Code Section 11362.5.

California Government Code Section 65858(a) (Attached as Exhibit "A") allows the adoption of an "Urgency measure": interim zoning ordinance without having to follow the procedures otherwise required prior to the adoption of a zoning ordinance. The urgency measure requires a four-fifths vote of the legislative body and will take effective immediately for a period of 45 days. In addition, Section 65858(a) states: "***After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.***"

Section 65858 (c) states: "*The legislative body shall not adopt or extend any ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.*"

Interim Ordinance No. 637 complies with applicable State Law, as well as imposes reasonable rules and regulations protecting the public health, safety and welfare of Corning residents and businesses.

BACKGROUND:

On August 11, 2009 the Corning City Council unanimously voted to adopt Interim Ordinance #637 (Attached as Exhibit "B"). As required by Ca. Gov. Code Section 65858 (c) the ordinance contains legislative findings that there was a current and immediate threat to public safety due to the operation of medical marijuana dispensaries, collectives, and cooperatives.

On September 22, 2009, prior to the expiration of the 45 days and at a duly noticed public hearing, the Council extended Interim Ordinance No. 637 for 10 months and 15 days until August 6, 2010. As previously mentioned the Council has the ability to extend the ordinance for one more year.

There are several court cases that have been decided upon or are in the appeals process that will be relevant to how the city attempts to regulate the distribution of medical marijuana through zoning standards. Of particular interest to the City of Corning is the case: *Qualified Patients v. City of Anaheim* Case No. G040077, 4th District Court of Appeals, Division 3, relating to the adoption of an ordinance by the City of Anaheim banning the operation of medical marijuana dispensaries. The appellate court has not yet issued a ruling in this case.

In addition to considering adopting regulations for the distribution of medical marijuana the city may have to consider adopting regulations for the distribution of marijuana for recreational use if the "Regulate, Control and Tax Cannabis Act of 2010" is passed by the electorate in November 2010. At the June 15, 2010 Planning Commission meeting and the June 22, 2010 City Council meeting a study matter relating to the extension of Interim Ordinance #637 and a review of the November 2010 ballot measure known as The Regulate, Control and Tax Cannabis Act of 2010 and it's impacts to the distribution of marijuana was discussed. It was the consensus of both the Commission and Council to hold a public hearing to consider a 1 year extension of Interim Ordinance #637 giving the City time to review the decision in the Anaheim case and also wait for the results of the November ballot measure.

Currently Interim Ordinance #637 is in effect until August 6, 2010. If the Council extends the interim ordinance for 1 year pursuant to Ca. Gov. Code Section 65858 (a), the prohibition of locating or operating profit or non-profit medical marijuana dispensaries, collectives, and cooperatives within any zoning district in the City of Corning would remain in effect until August 6, 2011. The 1 year extension would be the last extension of Interim Ordinance allowed pursuant to Section 65858 (a).

Other small communities in Northern California such as Anderson, Shasta Lake City, Dixon as well as the County of Tehama have recently passed interim ordinances similar to Interim Ordinance #637. According to the White Paper on Marijuana Dispensaries, (WPMD) issued by the California Police Chiefs Association's Task Force on Marijuana Dispensaries, "*Approximately 80 California cities, including the cities of Antioch, Brentwood, Oakley, Pinole, and Pleasant Hill, and 6 counties, including Contra Costa County, have enacted moratoria banning the existence of marijuana dispensaries.*"

At the September 22, 2009 Council meeting an AdHoc Committee was formed to work with staff to collectively prepare an ordinance regarding the cultivation and distribution of medical marijuana, that complies with existing state and federal laws, protects the health, safety and welfare of the citizens of Corning, and respects the rights of medical marijuana users pursuant to the Compassionate Use Act and Senate Bill 420. On February 9, 2010 the City Council adopted Ordinance #639, the ordinance that added Chapter 17.64, Cultivation of Medical Marijuana, to Title 17 of the Corning Municipal Code. This ordinance regulated the cultivation of medical marijuana but did not address the distribution of medical marijuana.

CRIMINAL ACTIVITY ASSOCIATED WITH MARIJUANA:

There have been several different violent incidences associated with the possession and distribution of marijuana in and around the City of Corning. On September 8, 2009, a medical marijuana patient in Stonyford, a small community southwest of Corning, was assaulted and shots were fired during the burglary of a medical marijuana garden. Previous to this incident a man in Los Molinos, a small community approximately 11 miles northeast of Corning, was killed by known gang members that entered his residence to steal medical marijuana. On May 5, 2010 at a residence in the 600 block of Toomes Avenue within the City of Corning a suspect robbed at gunpoint two pounds of medical marijuana from a patient. During the robbery the suspect fired his pistol at the victim. The suspect was later located and arrested for attempted murder, robbery, and a felon armed in the commission of a crime.

There are several other documented assaults and deaths associated with the growing and distribution of medical marijuana in states where it is legal to possess for medical use. Additionally, on or around August 30, 2009 the sculpture of an olive, constructed at the southwest corner of the Hall Rd. /South Ave. intersection to represent the olive industry in Corning area, was vandalized with vulgar graffiti supporting the cultivation and distribution of marijuana.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Extension of Interim Ordinance #637 will not have any type of physical impact to the environment and therefore exempt from CEQA pursuant to Section 15061 (b) (3) which reads as follows: *"The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."*

STAFF RECOMMENDATION:

The decision on how to regulate the distribution of medical marijuana within the City of Corning is going to be very difficult due to local support and opposition regarding the use of medical marijuana, the conflict between state and federal law, and the number of pending court cases regarding the Compassionate Use Act and regulations resulting from the passage of Senate Bill 420. Additionally, if the "Regulate, Control and Tax Cannabis Act of 2010" is passed by the electorate in November 2010 election the city may have to consider adopting regulations for the distribution of not only medical marijuana but the distribution of marijuana for recreational use. At this time staff does not know what type of impact passage of this ballot measure will have on the Compassionate Use Act and Senate Bill 420.

Due to the lack of a decision in the *Qualified Patients v. City of Anaheim* Case and the potential passage of the "Regulate, Control and Tax Cannabis Act of 2010" in November, and the unknown impacts it will have on current laws, staff recommends that the Council adopt the following subfindings and findings and extend Interim Ordinance #637 for 1 year, until August 6, 2011, pursuant to Section 65858 (a) of the CA. Gov. Code.

The Factual Subfindings and Legal Findings are recommend by staff prior to adoption of an extension for Interim Ordinance #637. The Council has the ability to modify, add to, or delete any language in the Factual Subfindings and Legal Findings if deemed appropriate by a majority of the Council members.

Factual Subfinding #1

CEQA applies jurisdictionally to activities which have the potential for causing environmental effects. Where an activity has no possibility of causing a significant effect, the activity will not be subject to CEQA.

Legal Finding #1

Extension of Interim Ordinance #637 will not have an impact on the environment and therefore is exempt from CEQA pursuant to Section 15061 (b) (3).

Factual Subfinding #2

At a regular scheduled meeting on August 11, 2009 the Corning City Council approved the adoption of Interim Ordinance #637 and at a duly noticed public hearing on September 22, 2009 the Corning City Council extended Interim Ordinance #637 for 10 months and 15 days pursuant to Ca. Gov. Code Section 65858 (a).

Legal Finding #2

Interim Ordinance #637 prohibits the establishment or operation of profit or non-profit medical marijuana dispensaries, collectives, and cooperatives within any zoning district in the City of Corning until August 6, 2010. Ca. Gov. Code Section 65858 (a).allows the Council an additional extension of the interim ordinance for 1 year until August 6, 2011.

Factual Subfinding #3

On Tuesday September 8, 2009, a medical marijuana patient in Stonyford, a small community southwest of Corning, was assaulted and shots were fired during the burglary of a medical marijuana garden. Previous to this incident a man in Los Molinos, a small community approximately 11 miles northeast of Corning, was killed by known gang members that entered his residence to steal medical marijuana. On or around August 30, 2009 the sculpture of an olive, constructed at the southwest corner of the Hall Rd. /South Ave. intersection, to represent the olive industry in the Corning area was vandalized with vulgar graffiti supporting the cultivation of marijuana. On May 5, 2010 at a residence in the 600 block of Toomes Avenue within the City of Corning a suspect robbed at gunpoint two pounds of medical marijuana from a patient. During the robbery the suspect fired his pistol at the victim. The suspect was later located and arrested for attempted murder, robbery, and a felon armed in the commission of a crime.

Legal Finding #3

Residents and property in and around the City of Corning have experienced property damage and violent assaults prior to, and since the adoption of Interim Ordinance #635. These assaults and property damage pose an immediate threat to the health, safety, and welfare of the citizens of Corning.

Factual Subfinding #4

In the State of California there have been many violent crimes committed that can be traced to the proliferation of medical marijuana dispensaries. Other adverse secondary impacts associated from the operation of medical marijuana dispensaries include street dealers lurking about dispensaries offering lower prices for marijuana to arriving patrons; marijuana smoking in public places and in front of children in the vicinity of dispensaries; loitering and nuisances; acquiring marijuana and/or money by means of robbery of patrons going to or leaving dispensaries; increase in burglaries at or near dispensaries; a loss of trade for other commercial businesses located near dispensaries; the sale at dispensaries of other illegal drugs besides marijuana, increased traffic accidents due to driving under the influence of marijuana and the failure of medical marijuana dispensary operators to report robberies to police.

Legal Finding #4

The City of Corning has known gang members residing within the city limits and has experienced violent activities associated with people gathering and loitering in and around the downtown area of the city. The continued operation of THC, Inc and proliferation of other medical marijuana dispensaries, collectives, and cooperatives within the City will increase known adverse impacts associated with these uses that will pose an immediate and continued threat to the public health, safety and welfare of the citizens of Corning.

Factual Subfinding #5

The Corning City Council and Corning Planning Commission were given a copy of the 2007-2008 Santa Barbara County Grand Jury Report regarding medical marijuana. On August 25, 2009 the Corning City Council and the Corning Planning Commission held a combined study session to discuss the need and desire to establish regulations for the cultivation and distribution of medical marijuana as recommended by the Grand Jury Report.

Legal Finding #5

The City Council and Planning Commission have reviewed and discussed regulations from other cities in California regulating or prohibiting the cultivation and distribution of medical marijuana. The Council and Commission agreed that the city should adopt an ordinance, or ordinances, that regulate the cultivation and distribution of medical marijuana in the City of Corning. On February 9, 2010 the City Council adopted Ordinance #639, the ordinance that added Chapter 17.64, Cultivation of Medical Marijuana, to Title 17 of the Corning Municipal Code. This ordinance regulated the cultivation of medical marijuana but did not address the distribution of medical marijuana.

Factual Subfinding #6

There are several court cases that have been decided upon or are in the appeals process that will be relevant to how the city attempts to regulate medical marijuana through zoning standards. Of particular interest to the City of Corning is the case: *Qualified Patients v. City of Anaheim* Case No. G040077, 4th District Court of Appeals, Division 3, relating to the adoption of an ordinance by the City of Anaheim banning the operation of medical marijuana dispensaries.

Legal Finding #6

At the February 2009 Planning Commission Meeting the Commission held a study session to review an ordinance adopted by the City of Gridley, and expressed interest in adopting a similar ordinance, banning the operation of medical marijuana dispensaries, collectives or cooperatives within any zoning district in the city. Prior to the adoption of an ordinance similar to the City of Gridley's it would be beneficial for the Planning Commission and City Council to review the appellate courts decision regarding the *Qualified Patients v. City of Anaheim* decision to determine the legality of such a ban. Additionally, if the "Regulate, Control and Tax Cannabis Act of 2010" is passed by the electorate in November 2010 election the city may have to consider adopting regulations for the distribution of not only medical marijuana but the distribution of marijuana for recreational use. At this time the city does not know what type of impact passage of this ballot measure will have on the Compassionate Use Act and Senate Bill 420.

Factual Subfinding #7

The Corning City Council has been presented with numerous articles, letters and information presented by individuals and organizations in support and opposition of the establishment of medical marijuana dispensaries, collectives and cooperatives within the city limits. At the June 15, 2010 Planning Commission meeting and the June 22, 2010 City Council meeting a study matter relating to the extension of Interim Ordinance #637 and a review of the November 2010 ballot measure known as The Regulate, Control and Tax Cannabis Act of 2010 and it's impacts to the distribution of marijuana was discussed.

Legal Finding #7

To protect the health, safety and welfare of the citizens of Corning, and at the same time respect the rights of medical marijuana users, it is in the best interest of City of Corning to extend Interim Ordinance #637 for 1 year so that the City of Corning Planning Commission and City Council can continue to review the information they have been presented and to determine the impact The Regulate, Control and Tax Cannabis Act of 2010 will have so that appropriate regulations for the distribution of medical marijuana, and possibly the recreational use of marijuana, can be adopted within the City of Corning.

ACTION:

Move to adopt the seven (7) Factual Subfindings and Legal Findings as presented in the staff report and extend Interim Ordinance #637, an Interim Ordinance of the City of Corning prohibiting the operation of profit or non-profit Medical Marijuana Dispensaries, Collectives or Cooperatives within any zoning district in the City of Corning for 1 year until August 6, 2011 pursuant to Section 65858 (a) of the California Government Code.

OR:

If the Council does not wish to extend Interim Ordinance #637 no action is required and the ordinance will no longer be in effect after August 6, 2010.

ATTACHMENTS

EXHIBIT "A" CA. GOV. CODE SECTION 65858
EXHIBIT "B" INTERIM ORDINANCE NO. 637

Exhibit "A"

proposed ordinance or amendment to applicable general and specific plans, and shall be transmitted to the legislative body in such form and manner as may be specified by the legislative body.

(Amended by Stats. 1972, Ch. 639.)

65856. Notice and hearing by legislative body

(a) Upon receipt of the recommendation of the planning commission, the legislative body shall hold a public hearing. However, if the matter under consideration is an amendment to a zoning ordinance to change property from one zone to another, and the planning commission has recommended against the adoption of such amendment, the legislative body shall not be required to take any further action on the amendment unless otherwise provided by ordinance or unless an interested party requests a hearing by filing a written request with the clerk of the legislative body within five days after the planning commission files its recommendations with the legislative body.

(b) Notice of the hearing shall be given pursuant to Section 65090.

(Amended by Stats. 1984, Ch. 1009.)

65857. Commission review of legislative body's changes

The legislative body may approve, modify or disapprove the recommendation of the planning commission; provided that any modification of the proposed ordinance or amendment by the legislative body not previously considered by the planning commission during its hearing, shall first be referred to the planning commission for report and recommendation, but the planning commission shall not be required to hold a public hearing thereon. Failure of the planning commission to report within forty (40) days after the reference, or such longer period as may be designated by the legislative body, shall be deemed to be approval of the proposed modification.

(Amended by Stats. 1973, Ch. 600.)

65858. Urgency measure: interim zoning ordinance

(a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for

10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:

(1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.

(2) The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).

(3) There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.

(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.

(f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt

another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

(g) For purposes of this section, "development of multifamily housing projects" does not include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or that will result in an increase in the price or reduction of the number of affordable units in a multifamily housing project.

(h) For purposes of this section, "projects with a significant component of multifamily housing" means projects in which multifamily housing consists of at least one-third of the total square footage of the project.

(Amended by Stats. 1982, Ch. 1108; Amended by Stats. 1984, Ch. 1009; by Stats. 1988, Ch. 1408; by Stats. 1992, Ch. 231; by Stats. 1997, Ch. 129; by Stats. 2001, Ch. 939.)

Note: Ch. 129 also reads:

In enacting this act to amend Section 65858 of the Government Code by adding subdivision (f) to that section, it is the intent of the Legislature that an ordinance that complies with that subdivision and was in existence on or before April 14, 1997, shall not be invalidated if challenged pursuant to subdivision (e) of Section 65858 of the Government Code.

65859. Prezoning

(a) A city may, pursuant to this chapter, prezone unincorporated territory to determine the zoning that will apply to that territory upon annexation to the city.

The zoning shall become effective at the same time that the annexation becomes effective.

(b) Pursuant to Section 56375, those cities subject to that provision shall complete prezoning proceedings as required by law.

(c) If a city has not prezoned territory which is annexed, it may adopt an interim ordinance pursuant to Section 65858.

(Amended by Stats. 1980, Ch. 1132; Amended by Stats. 1994, Ch. 939.)

65860. Zoning consistency with general plan

(a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974. A zoning ordinance shall be consistent with a city or county general plan only if both of the following conditions are met:

(1) The city or county has officially adopted such a plan.

(2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan.

(b) Any resident or property owner within a city or a county, as the case may be, may bring an action or proceeding in the superior court to enforce compliance with subdivision (a). Any such action or proceeding shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. No action or proceeding shall be maintained pursuant to this section by any person unless the action or proceeding is commenced and service is made on the legislative body within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance.

(c) In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.

(d) Notwithstanding Section 65803, this section shall apply in a charter city of 2,000,000 or more population to a zoning ordinance adopted prior to January 1, 1979, which zoning ordinance shall be consistent with the general plan of the city by July 1, 1982.

(Amended by Stats. 1979, Ch. 304; Amended by Stats. 1998, Ch. 689.)

65860.1. Zoning consistency with flood plan

(a) Within 36 months of the adoption Central Valley Flood Protection Plan by the Central Valley Flood Protection Board pursuant to Section 9612 of the Water Code, but not more than 12 months after the amendment of its general plan pursuant to Section 65302.9, each city and county within the Sacramento-San Joaquin Valley shall amend its zoning ordinance so that it is consistent with the general plan, as amended.

(b) Notwithstanding any other provision of law, this section applies to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

(Added by Stats. 2007, Ch. 364)

65861. Procedure without commission

When there is no planning commission, the legislative body of the city or county shall do all things required or authorized by this chapter of the planning commission.

(Added by Stats. 1965, Ch. 1880; Amended by Stats. 1995, Ch. 686.)

EXHIBIT "B"

INTERIM ZONING ORDINANCE NO. 637 AN INTERIM ORDINANCE OF THE CITY OF CORNING PROHIBITING MEDICAL MARIJUANA DISPENSARIES, COLLECTIVES OR COOPERATIVES

WHEREAS, To protect the public safety, health, and welfare of the citizens of Corning, and prevent the possibility of the cultivation or distribution of medical marijuana in violation of Health and Safety Code Section 11362.5, the City of Corning has prepared a Draft Ordinance to regulate the cultivation and possession of medical marijuana. An application for a business license has been submitted to the City for the establishment of a Mutual Benefit Corporation for a Medical Cannabis Collective. In order to prevent the establishment of this business before the City Planning Commission and City Council can study these regulations, at duly noticed public hearings, the City Council determines that it is necessary to adopt an urgency measure in the form of Interim Ordinance No 637

WHEREAS, THE City has recently received additional inquiries whether any of the Zoning Districts within the City Limits of Corning would allow a Medical Marijuana Dispensary, Collective, or Cooperative to be established; and

WHEREAS, the Municipal Code does not specifically permit the location and operation of a Medical Marijuana Dispensary, Collective or Cooperative within any of the City Zoning Districts as either a Permitted or a Conditional Use; and

WHEREAS, in California Cities that have allowed the establishment of Medical Marijuana Dispensaries, Collectives and Cooperatives, issues and concerns have arisen related to their location in proximity to residential properties, Schools and Daycare Facilities and some communities have reported adverse impacts that threaten public health, safety and welfare, including an increase in crimes such as loitering, illegal drug activity, burglaries, robberies and other criminal activity within and around Dispensaries, as well as increased pedestrian and vehicle traffic, noise and parking violations, thereby generating a need for increased police response; and

WHEREAS, The establishment of a medical marijuana collective in the downtown area of the City of Corning, as proposed by Tehama Herbal Collective, will increase loitering and promote illegal drug activity by established gang members in and around the City that will cause an immediate threat to the public safety; and

WHEREAS, Interim Ordinance No. 637 complies with applicable State Law, as well as impose reasonable rules and regulations protecting the public health, safety and welfare of Corning residents and businesses.

WHEREAS, the State of California approved Proposition 215 "The Compassionate Use Act of 1996" (Health and Safety Code Section 11362.5), which was to enable persons who are in need of marijuana for medical purposes; and

WHEREAS, the State also enacted SB 420 in 2004 (Health and Safety Code Section 11362.7 et seq.) to clarify the scope of The Compassionate Use Act to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420; and

WHEREAS, State law has created a limited affirmative defense to criminal prosecution for qualifying persons who collectively gather to cultivate medical marijuana but there is no provision in State law which specifically authorizes or protects the establishment of a medical marijuana dispensary or other storefront distribution operation;

NOW, THEREFORE, BE IT ORDAINED BY THE CORNING CITY COUNCIL to adopt Interim Ordinance No. 637.

Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives.

Definition of a Medical Marijuana Dispensary
Definition of a Medical Marijuana Collective
Definition of a Medical Marijuana Cooperative
Prohibition
Public Nuisance

Definition of a Medical Marijuana Dispensary.

“Medical Marijuana Dispensary” or “Dispensary” means any facility or location where medical marijuana is made available to and/or distributed by or to three or more of the following: a primary care giver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A “medical marijuana dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; or a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including but not limited to, Health and Safety Code Section 11362.5 et. seq.

Definition of a Medical Marijuana Collective

“Medical Marijuana Collective” or “Collective” as referenced in Health and Safety Code Section 11362.775 shall be defined in accordance with State statutory and case law.

Definition of a Medical Marijuana Cooperative

“Medical Marijuana Cooperative” or “Cooperative” as referenced in Health and Safety Code Section 11362.775 shall be defined in accordance with State statutory and case law.

Medical Marijuana Dispensaries, Collectives and Cooperatives Prohibited.

It is unlawful to establish or operate a profit or nonprofit medical marijuana dispensaries, collectives or cooperatives within any zoning district in the city limits of the City of Corning.

Public Nuisance

A violation of any of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as provided by all applicable provisions of law including but not limited to California Code of Civil Procedure Section 731, et. seq.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Corning, held on _____ and adopted at a regular meeting of the City Council of the City of Corning, held _____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- Abstain:

It shall take effect immediately upon adoption of a four-fifths vote of the City Council pursuant to Cal. Gov’t Code Section 65858, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of Council persons voting for and against the same, in a newspaper of general circulation in the County of Tehama.

Gary R. Strack, Mayor

ATTEST:

City Clerk

PUBLISH: _____

ITEM NO: I-14
**APPROVE AGREEMENT FOR TEMPORARY
CITY MANAGEMENT SERVICES BETWEEN THE
CITY OF CORNING AND STEPHEN J. KIMBROUGH
JULY 27, 2010**

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

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER



SUMMARY:

The City Council has approved the City Staff Plan to reduce costs of operations in order to stabilize the City Budget and prevent the loss of valuable City Employees. As part of that plan City Manager Stephen J. Kimbrough has offered to take early retirement and return under an "Agreement for Temporary City Manager Services", an action which will save the City approximately \$93,511 annually in salary and benefits.

The attached contract is the draft shared with the City Council most recently. It replaces the model language on Indemnification in Article 6 with the much simpler version prepared by the City Attorney. This draft also removes any reference to membership in local service clubs by deleting article 4: paragraph C.

WHY GO PART-TIME:

This concept started with the question: How does the City save big dollars without losing valuable employees? The City government provides services to our customer/owners, but unlike a private sector service business, City income may drop in a recession while service demands continue at the same level. In a recession when many people are out of work, some services like law enforcement and code enforcement will actually increase. This makes the layoff of employees impractical.

The City Council and Management have been concerned that the uncertainties of the City Revenues would cause younger Police Officers and General City Employees to seek more stable employment elsewhere.

The City Manager will take early retirement to create a base income and to work part-time on an hourly basis for the City of Corning.

THE AGREEMENT:

The Agreement was structured like a model Agreement taken from another City, which identifies the City Manager as the "Retired Annuitant". State Law governing the California Public Employees Retirement System, PERS, allows retirees to return to work part-time for up to 960 hours per year. The City Attorney and the Council have thoroughly reviewed this Agreement which has been forwarded to the City Council and also placed on the City website for public review as a part of this city Council Agenda packet.

Article 1 of the Agreement clearly spells out the authority of City Manager and reaffirms that the Position is "at-will".

Article 2 identifies the services that will be performed by the City Manager, the yearly hourly limits, and work schedule flexibility. It also clarifies that this will be a three-year contract commencing October 1, 2010 and ending July 4, 2013.

Article 3 explains the compensation. His hourly rate of pay will be \$50, which is his current hourly rate of pay. He will receive no Vacation Time, Administrative Leave, Sick Leave, Performance Incentive Pay or Holiday Pay.

The City Manager is three years from his planned retirement date; the Agreement provides for him to receive coverage under the City's health insurance program with the City paying one half of the benefit amount paid to fulltime employees. He would continue to receive the group Life Insurance which costs the City \$24.50 per month, and he would continue to participate in the State Disability Insurance Plan, but the City will only pay \$6.60 per month towards such coverage; he will pay the rest. As an employee, the City will continue to pay the employers share of FICA and Medicare (combined on the attached spreadsheet that details the actual costs of each of these benefits).

This section also notes that the existing Manager's benefit package includes the provision for the City Manager, as a retiree, to receive a percentage value of his sick leave remaining "on the books" which will be used to pay a portion of his medical insurance premiums. That benefit is explained in detail in Adendum A of this Agreement.

In Article 4, Professional Benefits, the City agrees to continue to pay the membership dues in the International City Management Association and the California City Managers' Foundation in order to ensure that he can remain current on events affecting local government services. The Agreement also notes that he will receive travel expenses within the limits of the budget for attendance at these meetings.

Article 5 provides for an orderly means of termination should he or the City wish to end his employment. Steve Kimbrough is giving up considerable current income and future retirement income in order to enter into this Agreement. In exchange, this Agreement provides that he will be given 180 days notice of the City's intent to terminate his services. This section of the contract also includes a provision to void the 180 day notice should the Manager be found to have committed wrongful acts. This creates stability for both the City and the City Manager.

Article 6 treats the City Manager like any other employee and indemnifies him in accordance with state law should he or the City be sued for his actions, or actions of the City Staff while carrying out the performance of their duties.

Article 7 recognizes that he will be covered by Workers Compensation which protects both he and the City in the event of his injury or accident.

RECOMMENDATION:

MAYOR AND COUNCIL RECOGNIZE THE COMMITMENT OF CITY MANAGER STEPHEN J. KIMBROUGH TO THE CITY OF CORNING BY APPROVING THIS TEMPORARY CITY MANAGEMENT SERVICES AGREEMENT.

EMPLOYEE	**Weighted Avg. Salary	Incentive Increase	Uniform Allowance	Total Yrly Wages	FICA/ MEDICARE	ER Pers	EE Pers	Health	Life	SDI	YRLY BENES	Total/Mo W/O WC
Kimbrough	\$8,668.00	\$216.70		\$106,616.40	\$8,156.15	\$13,217.24	\$7,463.15	\$13,002.00	\$294.00	\$79.20	\$42,211.74	\$148,828.14
Kimbrough new				\$45,000.00	\$3,442.50			\$6,501.00	\$294.00	\$79.20	\$10,316.70	\$55,316.70
Kimbrough savings				\$61,616.40	\$4,713.65	\$13,217.24	\$7,463.15	\$6,501.00	\$0.00	\$0.00	\$31,895.04	\$93,511.44
Cardenas	\$7,291.00	\$364.55	\$600.00	\$91,866.60	\$7,027.79	\$38,254.36	\$8,321.99	\$13,002.00	\$294.00	\$79.20	\$66,979.35	\$158,845.95
Cardenas new				\$42,403.00	\$3,243.83			\$6,501.00	\$294.00	\$79.20	\$10,118.03	\$52,521.03
Cardenas savings				\$49,463.60	\$3,783.97	\$38,254.36	\$8,321.99	\$6,501.00	\$0.00	\$0.00	\$56,861.32	\$106,324.92

**Agreement For Temporary Employment Services
Between The City Of Corning And Stephen J. Kimbrough**

This Employment Agreement is mutually agreed to between the City of Corning, a municipal corporation, ("City") and Stephen J. Kimbrough ("Retired Annuitant") and is entered into this ____ day of _____ ~~June~~, 2010.

RECITALS

WHEREAS, the City is in financial hardship as a result of the current economic recession and will realize a major cost savings by retaining the Retired Annuitant as City Manager under the terms of this Agreement; and

WHEREAS, THE City Manager has proposed and City Council approved a Budgetary Plan to reduce operating costs and such Plan includes the reduction of the City Manager's hours of work to part-time in order to save the city approximately \$93,805 in salary and benefits, and

WHEREAS, effective October ~~August~~ 1, 2010, Stephen J. Kimbrough will retire from the City of Corning three years earlier than planned thus creating a vacancy in the position of City Manager of the City, a position which requires specialized skills; and

WHEREAS, Stephen J. Kimbrough has performed the duties of City Manager since February 24, 1993, in a competent and effective manner; and

WHEREAS, California Government Code Section 21224 and CalPERS regulations allow a benefit recipient called a "Retired Annuitant" to work up to 960 hours per fiscal year without penalty; and

WHEREAS, City desires to retain the services of Retired Annuitant to perform the services of City Manager, and if the City so desires, to assist in the recruitment process of a new City Manager at some point in the future; and

WHEREAS, the City and Retired Annuitant desire by this Employment Agreement to set forth the terms and conditions of Retired Annuitant's duties and services as City Manager for an interim period as set forth in this Agreement.

AGREEMENT

In consideration of the mutual promises, covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1: STATUS; LAWS AFFECTING TITLE.

- A. Retired Annuitant, as City Manager, shall serve at the pleasure of, and shall work for, the City Council as provided for in Chapter 2.44 of the Corning Municipal Code.
- B. In addition to those laws affecting the Retired Annuitant, the Retired Annuitant serving as

the City Manager shall have the same powers, rights and responsibilities as provided for in Chapter 2.44 of the Corning Municipal Code.

- C. City Code Section 2.44.110 provides the authority for the City Council to enter into this Agreement.
- D. The City Council, beginning with the initial employment of the Retired Annuitant in 1993, has provided the employment benefit package enumerated in the Management Memorandum of Understanding (MOU) to the City Manager.

ARTICLE 2: SERVICES TO BE PERFORMED BY EMPLOYEE.

- A. Retired Annuitant shall perform the functions and duties of the City Manager as currently in effect or as may hereafter be established by ordinance, resolution, or action of the City Council and in accordance with all applicable requirements of federal, state and local law, to commence on October ~~August~~ 1, 2010 and continue through and including July 4, 2013.
- B. Retired Annuitant shall work 900 hours Per Fiscal Year (July 1 through June 30), provided, however, that the number of hours for each Fiscal Year may be increased to a maximum of 960 by mutual agreement of both parties.
- C. Due to the type of work performed by Retired Annuitant, the parties acknowledge that the scheduling of work hours must necessarily be flexible and may be modified as necessary to accommodate the needs of the City and Retired Annuitant. The duties shall be performed at either City offices, or other appropriate locations from which to conduct official City business.
- D. To be free from conflicts during the term of this Employment Agreement, the Retired Annuitant agrees he will not directly or indirectly render any services of a business, commercial, or consulting nature, to any other person or organization, whether for compensation or otherwise, without the prior written consent of the City Council. Retired Annuitant will devote his entire productive time, ability, efforts, and attention to the business of the City during, the term of this Agreement. Notwithstanding the forgoing, the City expressly acknowledges Retired Annuitant's volunteer activities.

ARTICLE 3: COMPENSATION.

Consistent with and as required by Govt. Code Sec. 21224, **City shall pay Retired Annuitant for his services hereunder as City Manager at the base pay rate of \$50 per hour** which is not less than the minimum nor exceeding that paid by the employer for the position. Certain limited benefits will also be provided as listed below. Nothing in the Personnel Rules of the City of Corning or City Code prohibit the City from providing limited benefits to part-time employees with City Council approval.

- A. Payments shall be made in accordance with current City payroll procedures. Retired Annuitant shall submit a timesheet biweekly reflecting hours worked.
- B. In no event shall Retired Annuitant be compensated for more than nine hundred and sixty (960) hours of service during a fiscal year.

- C. The Retired Annuitant agrees that during the term of this Agreement, he shall not be entitled to accrue the benefits of additional CalPERS retirement credit, Performance Incentive Pay, Vacation time, paid Holidays, Administrative Leave nor Sick Leave.
- D. The City acknowledges that it has a long standing policy of recognizing the value of fringe benefits as a part of the "Total Compensation" of employees. The benefits to be provided to the Retired Annuitant in this agreement include:
1. The City shall allow the Retired Annuitant to participate in the City **group health, dental and optical insurance program**. In order for the Retired Annuitant to be qualified for such insurance program, the City must pay a portion of the employee insurance premium. In order for the finances of early retirement to work for the Retired Annuitant, the City shall pay fifty percent (50%) of the City contribution for the Retired Annuitant toward such coverage, and any remaining cost shall be bourn by the Retired Annuitant. Currently the monthly value of this benefit to the Retired Annuitant is \$541.75 (50% of \$1083.75 which is the amount allocated to full time employees)
 2. The Retired Annuitant will be the first employee eligible for Medicare under the City Management Benefit Plan contained in the Management Unit MOU. The retired Annuitant will be replacing the City insurance policy with the Medicare coverage on January 1, 2011. The City shall allow the monthly reimbursement for Medicare Supplement Coverage from the amount provided in Section D-1 above. To receive reimbursement, the Retired Annuitant shall turn in evidence of the insurance payment. Any unused portion of the insurance contribution shall be placed by the City in the Retired Annuitant's City "457 Plan" according to current administrative practice.
 3. As provided for the City Manager and all retirees in the Management MOU, City shall provide for the application of "**Sick Leave Conversion Upon Retirement**" to be administered as provided in Section 12.10 of the Management MOU. The "Percentage value of employee's accrued Sick Leave" for the Retired Annuitant is shall be calculated at 70% for over 16 years of service to the City. See Addendum A of this agreement for the excerpt from the MOU.
 4. The City shall allow the Retired Annuitant to participate in the City **group life insurance** program, and pay the full cost of such premium for \$75,000 Term Life. The current premium is \$24.50 per month, \$294 per year.
 5. The City shall allow the Retired Annuitant to participate in the **State Disability Insurance**, but the City will only pay \$6.60 per month toward such coverage and any remaining cost shall be bourn by the Retired Annuitant.
 6. As required by law, the City shall pay the employer's share of FICA/MEDICARE.

ARTICLE 4: PROFESSIONAL BENEFITS.

In light of the special skills, knowledge, continuing education requirements, and responsibilities required of Retired Annuitant to perform the function of City Manager, City shall provide the following benefits to Retired Annuitant for his services hereunder as City Manager in the manner set forth below:

- A. The City agrees to continue to pay the professional dues for membership in the International City Management Association and the California City Managers' Foundation on behalf of the Retired Annuitant in order to provide for the Retired Annuitant's continuation and full participation in national, state, and regional organizations necessary to insure the City's issues and needs are addressed in these forums.
- B. The City agrees to pay, within the limits of the City Budget, the travel and subsistence expenses for the Retired Annuitant to pursue official representation of the City, and for meetings and occasions for continuing education and professional development of the Retired Annuitant so that Retired Annuitant performs his duties at the same level of expertise required, and expected of, Retired Annuitant during his prior years of service to City.
- ~~C. The City recognizes the desirability of representation in and before local civic and other organizations, and the Retired Annuitant is authorized to become a member of civic clubs or organizations, for which the Retired Annuitant shall continue to pay his own membership dues and expenses.~~

ARTICLE 5: TERMINATION OF AGREEMENT

- A. If Retired Annuitant voluntarily resigns his position with the City, he shall give sixty days notice in advance, unless the parties agree otherwise.
- B. Removal of the Retired Annuitant from the position of City Manager shall be done in accordance with the provisions of Section 2.44.040 of the Corning Municipal Code and with the additional provisions as provided for in this contract. The City Code states that "Removal of the city manager shall be only by a vote of at least three members of the city council, and shall be subject to the following provisions."
 - 1. "The city manager may be removed at any time for cause (i.e., dereliction of duty, conviction of a criminal offense involving moral turpitude, gross negligence in failing to perform the duties of his or her office). Except within ninety days next succeeding any general municipal election held in the city, at which election a new mayor or member of the city council is elected, the city manager may be removed at any time without cause."
 - 2. "If the removal of the city manager is for cause, the removal shall be effective immediately, or at such other time thereafter as the city council may determine."
 - 3. "If the removal is not for cause, it shall be effective thirty days thereafter, or at such later date as may be determined by the city council."

4. "If the removal of the city manager is without cause, the city council may, in its sole option and discretion, elect to remove all of the manager's duties and responsibilities immediately, in which event the city manager shall immediately surrender his or her office. However, the city manager shall still be paid a minimum of thirty days' salary, notwithstanding the removal of his or her powers and duties. This salary shall be paid on the normal pay days of the city employees and on the last day of the period of employment, unless the city council, in its discretion, otherwise orders."
- C. Recognizing the Retired Annuitant's seventeen (17) years service and commitment to the City and to reducing city operating costs during the current economic recession by retiring three years earlier than his plan, the City agrees that in the event of involuntary termination of Retired Annuitant, City shall give one hundred eighty (180) calendar days notice in advance, unless the parties agree otherwise. This provision for "Involuntary termination" does not apply to Retired Annuitant's death, incapacity due to injury or illness (physical or mental), or dismissal for "dereliction of duty, conviction of a criminal offense involving moral turpitude, gross negligence in failing to perform the duties of his or her office".
1. The City Council may at its discretion chose to terminate the City Manager immediately and pay the remaining compensation due under this contract, at the rate of pay shown in Article 3 of this contract, either for 180 days or for the remainder of the contract, whichever is less.
 2. In the event of Retired Annuitant's incapacity due to injury or illness (physical or mental), all payments, compensation and benefits due Retired Annuitant under this contract shall be discontinued until such time that Retired Annuitant is fit for duty and returns to work. Upon Retired Annuitant's return to work, compensation and benefits shall resume.
 3. In the event of Retired Annuitant's resignation, dismissal for "dereliction of duty, conviction of a criminal offense involving moral turpitude, gross negligence in failing to perform the duties of his or her office", or Retired Annuitant's death, this contract shall terminate and no further payments or benefits shall be made to Retired Annuitant.

ARTICLE 6: INDEMNIFICATION.

CITY'S INDEMNITY OF Retired Annuitant: During the term of this Agreement, the CITY shall indemnify, defend, and hold Retired Annuitant harmless for those acts, including acts that may result in injury to another, arising during the course and within the scope of his services provided to CITY. This Section is intended to neither provide any greater nor any fewer protections than those afforded to public employees under Government Code section 820 *et seq.*

~~A. To the full extent of the law as provided by the California Torts Claims Act (Government Code Section 810 *et seq.*) and the indemnity provisions of this Agreement, whichever shall provide the greatest protection to the Retired Annuitant, the City shall defend and indemnify the Retired Annuitant against and for all losses sustained by the Retired Annuitant in direct consequences of the discharge of the Retired Annuitant's duties on the City's behalf for the period of the Retired Annuitant's employment.~~

- ~~B. The City shall defend, save harmless and indemnify the Retired Annuitant against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Retired Annuitant's duties as City Manager. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.~~
- ~~C. Whenever the Retired Annuitant shall be sued for damages arising out of the performance of the Retired Annuitant's duties, the City shall provide defense counsel for the Retired Annuitant in such suit and indemnify the Retired Annuitant from any judgment rendered against the Retired Annuitant; provided that such indemnity shall not extend to any judgment for damages arising out of any willful wrongdoing.~~
- ~~D. This indemnification shall extend beyond termination of employment and the otherwise expiration of this Agreement to provide protection for any such acts undertaken or committed in the Retired Annuitant's capacity as City Manager, regardless of whether the notice of filing of a lawsuit occurs during or following employment with the City. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies that the Retired Annuitant may have under the law.~~
- ~~E. The City and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Retired Annuitant, while acting within the scope of the Retired Annuitant's duties, from all claims, losses and liabilities arising out of or incident to activities were operations performed by or on behalf of the City or any party affiliated with or otherwise claiming under or through it, regardless of any prior, concurrent, or subsequent active or passive negligence by the Retired Annuitant.~~
- ~~F. The City hereby guarantees the performance of this indemnity obligation by the City related legal entity, and shall indemnify and hold the Retired Annuitant harmless against any failure or refusal by City related legal entity to perform its obligations under this section.~~

ARTICLE 7: WORKER'S COMPENSATION.

Retired Annuitant shall be covered as City Manager by the City's worker's compensation coverage in the event of an accident or injury which qualifies Retired Annuitant for such coverage under state and federal law.

ARTICLE 8: ENTIRE AGREEMENT.

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

ARTICLE 9: GOVERNING LAW.

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California and leave for any action concerning the terms of this Agreement shall be in the Superior Court of the County of Tehama.

ARTICLE 10: SEVERABILITY.

Should any part, term or provision of this Agreement be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and shall in no way be invalidated, impaired or effected thereby.

ARTICLE 11: ASSIGNMENT.

This Agreement shall not be assignable by Retired Annuitant.

ARTICLE 12: NOTICES. All notices hereunder must be in writing and shall be deemed validly given on the date either personally delivered to the other party or deposited with the United States Postal Service, postage pre-paid and addressed as follows:

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

Retired Annuitant: Stephen J. Kimbrough
712 Stanmar Drive
Corning, CA 96021

IN WITNESS WHEREOF, the parties hereto have caused this Employment Agreement to be executed on the dates hereinafter respectively set forth.

EXECUTED this _____ day of June 2010:

City of Corning

Retired Annuitant

Gary R. Strack
Mayor

Stephen J. Kimbrough

Approved as to Form:

Attest:

Michael Fitzpatrick
City Attorney

Lisa Linnet
City Clerk

ADDENDUM A To Agreement For Temporary Employment Services
Between The City Of Corning And Stephen J. Kimbrough

Excerpt from Management Memorandum of Understanding in effect at time of this Agreement

12.10 Sick Leave Conversion Upon Retirement. In lieu of a cash out of sick leave, an employee, upon retirement under PERS, may choose as an option to convert a percentage of the dollar value of the sick leave at the employee's current hourly base rate of pay as of the date of retirement, to pay the pre-paid health insurance premium up for a period of time up to age 65 according to the following conversion plan.

<u>Employee's years of service with City</u>	<u>Percentage value of employee's accrued Sick Leave</u>
Through 15 years	50%
16 through 19 years	70%
20 or more years	80%

(a) Following is the procedure to account for the percentage value of converted sick leave. At the written request of the retiring employee, the City Staff will compute the dollar value of the accrued sick leave according to the percentages shown above and maintain an accounting in the employee's name deducting the amount of monthly City health insurance premium from the "balance".

(b) The value of sick leave does not accrue in a cash fund for each employee, therefore no actual funds are held in trust. The City simply agrees to pay the retiree's premium for a period of time until the balance value of the conversion is depleted.

(c) Should a retired employee want to stop their insurance premium payments under the Section, the employee must notify the City Manager in writing, giving the date payments should end, and City Staff will do an accounting of the percent (50%) value provided for in the sick leave payoff provisions of this MOU and the actual dollar amount already paid out. Should this amount still be less than the fifty percent provided for in Section 17.2, the balance will be paid to the employee.

(d) Should a retired employee die prior to fully using this benefit, any dependents covered under the health insurance may, if permitted to continue insurance coverage by the insurance carrier, receive the continuation of this benefit until fully expended. The benefit shall have no cash value to the employee's estate nor can the City accept any claim for payoff by heirs.

(e) Employees not choosing to remain in the City's offered health plan may utilize the benefits set out in these sections to be applied to the cost of a private health plan. The retired employee will be reimbursed, on a quarter year basis, such amounts as provided in these sections, upon submission of a written claim and proof of a paid premium by the retired employee. The form, manner of claim and proof, will be as prescribed by the City.

ITEM NO: I-15
APPROVE PART-TIME EMPLOYMENT
AGREEMENT FOR CHIEF OF POLICE
WITH ANTHONY F. CARDENAS
JULY 27, 2010

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

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER



SUMMARY:

The City Council has approved the City Staff Plan to reduce costs of operations in order to stabilize the City Budget and prevent the loss of valuable City Employees. As part of that plan, Police Chief Tony Cardenas offered to take early retirement and return on a part-time basis as Chief of Police, an action which will save the City approximately \$106,619 annually in salary and benefits.

The attached contract is the draft shared with the City Council previously. It replaces the model language on Indemnification in Article 6 with the much simpler version prepared by the City Attorney. This draft also removes any reference to membership in local service clubs by deleting Article 4: paragraph C.

WHY GO PART-TIME:

Chief Cardenas has been concerned that the uncertainties of the City Revenues would cause younger Police Officers and Civilian Employees to seek more stable employment elsewhere. As a result, he offered to take early retirement to create a base income and to work part-time on an hourly basis for the City of Corning performing the duties of Police Chief.

THE AGREEMENT:

The Agreement was structured from a model Agreement taken from another City, which identifies the Chief as the "Retired Annuitant". State Law governing the California Public Employees Retirement System, PERS, allows retirees to return to work part-time for up to 960 hours per year.

Article 1 of the Agreement clearly spells out the authority of Chief Cardenas as it currently exists.

Article 2 identifies the services that will be performed as Chief. This will be a three-year contract commencing October 1, 2010 and ending July 4, 2013.

Article 3 explains the compensation. His hourly rate of pay will be \$44.17, which is his current hourly rate of pay. He will receive no Vacation Time, Administrative Leave, nor Sick Leave.

Because the Chief is about 3 to 4 years from his planned retirement date, and too young to be eligible for Medicare, the Agreement provides for him to receive coverage under the City's health insurance program with the City paying one half of the benefit amount paid to fulltime employees. He would continue to receive the group Life Insurance which costs the City \$24.50 per month, and he would continue to participate in the State Disability Insurance Plan, but the City will only pay \$6.60 per month towards such coverage; he will pay the rest. As an

employee, the City will continue to pay the employer's share of FICA and Medicare (combined on the attached spreadsheet).

The spreadsheet is included at the end of this report that details the actual costs of each of these benefits. This section also notes that the Chief, as a retiree, will receive a percentage value of his sick leave remaining "on the books" which will be used to pay a portion of his medical insurance premiums. That benefit is explained in detail in Adendum A of this Agreement. This sick leave benefit, available upon retirement, was put in place by the City Council to reward employees who stayed healthy and avoided the use of sick leave.

In Article 4, Professional Benefits, the City agrees to continue to pay the membership dues in the International Police Chiefs Association and the California Police Chiefs Association in order to ensure that he can remain current on events affecting law enforcement services. The Agreement also notes that he will receive travel expenses within the limits of the budget for attendance at these meetings.

Article 5 provides for an orderly means of termination should he or the City wish to end his employment. Chief Cardenas is giving up considerable current income and future retirement income in order to enter into this Agreement. In exchange, this Agreement provides that he will be given 180 days notice of the City's intent to terminate his services. This section of the contract also includes a provision to void the 180 day notice should the Chief be found to have committed wrongful acts.

Article 6 treats the Chief like any other employee and indemnifies him in accordance with state law should he or the City be sued for his actions, or actions of his department while carrying out the performance of their duties.

Article 7 recognizes that he will be covered by Workers Compensation which protects both he and the City in the event of his injury or accident.

RECOMMENDATION:

MAYOR AND COUNCIL RECOGNIZE THE COMMITMENT OF POLICE CHIEF ANTHONY CARDENAS TO THE CITY OF CORNING BY APPROVING THIS EMPLOYMENT AGREEMENT.

**Agreement For Temporary Employment Services
Between The City Of Corning And Anthony F. Cardenas**

This Employment Agreement is mutually agreed to between the City of Corning, a municipal corporation, ("City") and Anthony F. Cardenas ("Retired Annuitant") and is entered into this ___ day of _____ ~~June~~, 2010.

RECITALS

WHEREAS, the City is in financial hardship as a result of the current economic recession and will realize a major cost savings by retaining the Retired Annuitant as Police Chief under the terms of this Agreement; and

WHEREAS, THE City Manager has proposed and City Council approved a Budgetary Plan to reduce operating costs and such Plan includes the reduction of the Police Chief's hours of work to part-time in order to save the city approximately \$106,619 annually in salary and benefits, and

WHEREAS, effective October ~~August~~ 1, 2010, Anthony F. Cardenas will retire from the City of Corning four years earlier than planned thus creating a vacancy in the position of Police Chief of the City, a position which requires specialized skills; and

WHEREAS, Anthony F. Cardenas has performed the duties of Police Chief since June 30, 1992, in a competent and effective manner; and

WHEREAS, California Government Code Section 21224 and CalPERS regulations allow a benefit recipient called a "Retired Annuitant" to work up to 960 hours per fiscal year without penalty; and

WHEREAS, City desires to retain the services of Retired Annuitant to perform the services of Police Chief, and

WHEREAS, the City and Retired Annuitant desire by this Employment Agreement to set forth the terms and conditions of Retired Annuitant's duties and services as Police Chief for a limited period as set forth in this Agreement.

AGREEMENT

In consideration of the mutual promises, covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1: STATUS; LAWS AFFECTING TITLE.

- A. Retired Annuitant, as part-time temporary Police Chief, shall serve with the same employment rights as provided for the position of Police Chief in the California "Peace Officers Bill of Rights", California Government Code Sections 3300-3312.
- B. In addition to those laws affecting the Retired Annuitant, the Retired Annuitant serving as the Police Chief shall have the same powers, rights and responsibilities as a full time Chief of Police.

ARTICLE 2: SERVICES TO BE PERFORMED BY EMPLOYEE.

- A. Retired Annuitant shall perform the functions and duties of the Police Chief as directed by the City manager including those currently in effect or as may hereafter be established by ordinance, resolution, or action of the City Council and in accordance with all applicable requirements of federal, state and local law, to commence on October ~~August~~ 1, 2010 and continue through and including July 4, 2013.
- B. Retired Annuitant shall work 960 hours Per Fiscal Year (July 1 through June 30).
- C. Due to the type of work performed by Retired Annuitant, the parties acknowledge that the scheduling of work hours must necessarily be flexible and may be modified as necessary to accommodate the needs of the City and Retired Annuitant. The duties shall be performed at either City offices, or other appropriate locations from which to conduct official City business.
- D. To be free from conflicts during the term of this Employment Agreement, the Retired Annuitant agrees he will not directly or indirectly render any services of a business, commercial, or consulting nature, to any other person or organization, whether for compensation or otherwise, without the prior written consent of the City Council. Retired Annuitant will devote his entire productive time, ability, efforts, and attention to the business of the City during, the term of this Agreement. Notwithstanding the forgoing, the City expressly acknowledges Retired Annuitant's volunteer activities.

ARTICLE 3: COMPENSATION.

Consistent with and as required by Govt. Code Sec. 21224, **City shall pay Retired Annuitant for his services hereunder as Police Chief at the base pay rate of \$44.17 per hour** which is not less than the minimum nor exceeding that paid by the employer for the position. Certain limited benefits will also be provided as listed below. Nothing in the Personnel Rules of the City of Corning or City Code prohibit the City from providing limited benefits to part-time employees with City Council approval.

- A. Payments shall be made in accordance with current City payroll procedures. Retired Annuitant shall submit a timesheet biweekly.
- B. In no event shall Retired Annuitant be compensated for more than nine hundred and sixty (960) hours of service during a fiscal year.
- C. The Retired Annuitant agrees that during the term of this Agreement, he shall not be entitled to accrue the benefits of additional CalPERS retirement credit, Performance Incentive Pay, Vacation time, paid Holidays, Administrative Leave nor Sick Leave.
- D. The City acknowledges that it has a long standing policy of recognizing the value of fringe benefits as a part of the "Total Compensation" of employees. The benefits to be provided to the Retired Annuitant in this agreement include:
 - 1. The City shall allow the Retired Annuitant to participate in the City **group health, dental and optical insurance program**. In order for the Retired Annuitant to be qualified for such insurance program, the City must pay a

portion of the employee insurance premium. In Order for the finances of early retirement to work for the Retired Annuitant, the City shall pay fifty percent (50%) of the City contribution for the Retired Annuitant toward such coverage, and any remaining cost shall be bourn by the Retired Annuitant. Currently the monthly value of this benefit to the Retired Annuitant is \$541.75 (50% of \$1083.75 which is the amount allocated to full time employees)

2. As provided for the Police Chief and all retirees in the Management MOU, City shall provide for the application of “**Sick Leave Conversion Upon Retirement**” to be administered as provided in Section 12.10 of the Management MOU. The “Percentage value of employee’s accrued Sick Leave” for the Retired Annuitant is shall be calculated at 80% for over 20 years of service to the City. See Addendum A of this agreement for the excerpt from the MOU.
3. The City shall allow the Retired Annuitant to participate in the City **group life insurance** program, and pay the full cost of such premium for \$75,000 Term Life. The current premium is \$24.50 per month, \$294 per year.
4. The City shall allow the Retired Annuitant to participate in the **State Disability Insurance**, but the City will only pay \$6.60 per month toward such coverage and any remaining cost shall be bourn by the Retired Annuitant.
5. As required by law, the City shall pay the employer’s share of FICA/MEDICARE.

ARTICLE 4: PROFESSIONAL BENEFITS.

In light of the special skills, knowledge, continuing education requirements, and responsibilities required of Retired Annuitant to perform the function of Police Chief, City shall provide the following benefits to Retired Annuitant for his services hereunder as Police Chief in the manner set forth below:

- A. The City agrees to continue to pay the professional dues for membership in the International Police Chief’s Association and the California Police Chief’s Association on behalf of the Retired Annuitant in order to provide for the Retired Annuitant's continuation and full participation in national, state, and regional organizations necessary to insure the City’s issues and needs are addressed in these forums.
- B. The City agrees to pay, within the limits of the City Budget, the travel and subsistence expenses for the Retired Annuitant to pursue official representation of the City, and for meetings and occasions for continuing education and professional development of the Retired Annuitant so that Retired Annuitant performs his duties at the same level of expertise required, and expected of, Retired Annuitant during his prior years of service to City.
- ~~C. The City recognizes the desirability of representation in and before local civic and other organizations, and the Retired Annuitant is authorized to become a member of civic clubs or organizations, for which the Retired Annuitant shall continue to pay his own membership dues and expenses.~~

ARTICLE 5: TERMINATION OF AGREEMENT

- A. If Retired Annuitant voluntarily resigns his position with the City, he shall give sixty days notice in advance, unless the parties agree otherwise.
- B. Removal of the Retired Annuitant from the position of Police Chief shall be done in accordance with the Personnel Rules and Regulations Rule 18, DISCIPLINARY ACTION and Rule 19 APPEAL PROCEDURES. The Retired Annuitant, as Police Chief, shall serve with the same employment rights as provided for the position of Police Chief in the California "Peace Officers Bill of Rights", California Government Code Sections 3300-3312.
- C. Recognizing the Retired Annuitant's twenty (20) years service and commitment to the City and to reducing city operating costs during the current economic recession by retiring four years earlier than his plan, the City agrees that in the event of involuntary termination of Retired Annuitant, City shall give one hundred eighty (180) calendar days notice in advance, unless the parties agree otherwise. This provision for "Involuntary termination" does not apply to Retired Annuitant's death, incapacity due to injury or illness (physical or mental), or dismissal for "dereliction of duty, conviction of a criminal offense involving moral turpitude, gross negligence in failing to perform the duties of his or her office".
1. The City Council may at its discretion chose to terminate the Police Chief immediately and pay the remaining compensation due under this contract, at the rate of pay shown in Article 3 of this contract, either for 180 days or for the remainder of the contract, whichever is less.
 2. In the event of Retired Annuitant's incapacity due to injury or illness (physical or mental), all payments, compensation and benefits due Retired Annuitant under this contract shall be discontinued until such time that Retired Annuitant is fit for duty and returns to work. Upon Retired Annuitant's return to work, compensation and benefits shall resume.
 3. In the event of Retired Annuitant's resignation, dismissal for "dereliction of duty, conviction of a criminal offense involving moral turpitude, gross negligence in failing to perform the duties of his or her office", or Retired Annuitant's death, this contract shall terminate and no further payments or benefits shall be made to Retired Annuitant.

ARTICLE 6: INDEMNIFICATION.

CITY'S INDEMNITY OF Retired Annuitant: During the term of this Agreement, the CITY shall indemnify, defend, and hold Retired Annuitant harmless for those acts, including acts that may result in injury to another, arising during the course and within the scope of his services provided to CITY. This Section is intended to neither provide any greater nor any fewer protections than those afforded to public employees under Government Code section 820 *et seq.*

- ~~A. To the full extent of the law as provided by the California Torts Claims Act (Government Code Section 810 *et seq.*) and the indemnity provisions of this Agreement, whichever shall provide the greatest protection to the Retired Annuitant, the City shall defend and indemnify the Retired Annuitant against and for all losses sustained by the Retired Annuitant in direct consequences of the discharge of the Retired Annuitant's duties on the City's behalf for the period of the Retired Annuitant's employment.~~

- ~~B. The City shall defend, save harmless and indemnify the Retired Annuitant against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Retired Annuitant's duties as Police Chief. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.~~
- ~~C. Whenever the Retired Annuitant shall be sued for damages arising out of the performance of the Retired Annuitant's duties, the City shall provide defense counsel for the Retired Annuitant in such suit and indemnify the Retired Annuitant from any judgment rendered against the Retired Annuitant; provided that such indemnity shall not extend to any judgment for damages arising out of any willful wrongdoing.~~
- ~~D. This indemnification shall extend beyond termination of employment and the otherwise expiration of this Agreement to provide protection for any such acts undertaken or committed in the Retired Annuitant's capacity as City Manager, regardless of whether the notice of filing of a lawsuit occurs during or following employment with the City. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies that the Retired Annuitant may have under the law.~~
- ~~E. The City and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Retired Annuitant, while acting within the scope of the Retired Annuitant's duties, from all claims, losses and liabilities arising out of or incident to activities were operations performed by or on behalf of the City or any party affiliated with or otherwise claiming under or through it, regardless of any prior, concurrent, or subsequent active or passive negligence by the Retired Annuitant.~~
- ~~F. The City hereby guarantees the performance of this indemnity obligation by the City related legal entity, and shall indemnify and hold the Retired Annuitant harmless against any failure or refusal by City related legal entity to perform its obligations under this section.~~

ARTICLE 7: WORKER'S COMPENSATION.

Retired Annuitant shall be covered as Police Chief by the City's worker's compensation coverage in the event of an accident or injury which qualifies Retired Annuitant for such coverage under state and federal law.

ARTICLE 8: ENTIRE AGREEMENT.

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

ARTICLE 9: GOVERNING LAW.

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California and leave for any action concerning the terms of this Agreement shall be in the Superior Court of the County of

Tehama.

ARTICLE 10: SEVERABILITY.

Should any part, term or provision of this Agreement be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and shall in no way be invalidated, impaired or effected thereby.

ARTICLE 11: ASSIGNMENT.

This Agreement shall not be assignable by Retired Annuitant.

ARTICLE 12: NOTICES. All notices hereunder must be in writing and shall be deemed validly given on the date either personally delivered to the other party or deposited with the United States Postal Service, postage pre-paid and addressed as follows:

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

Retired Annuitant: Anthony F. Cardenas
1417 Colusa Street
Corning, CA 96021

IN WITNESS WHEREOF, the parties hereto have caused this Employment Agreement to be executed on the dates hereinafter respectively set forth.

EXECUTED this _____ day of June 2010:

City of Corning

Retired Annuitant

Gary R. Strack
Mayor

Anthony F. Cardenas

Approved as to Form:

Attest:

Michael Fitzpatrick
City Attorney

Lisa Linnet
City Clerk

ADDENDUM A To Agreement For Temporary Employment Services
Between The City Of Corning And Anthony F. Cardenas

Excerpt from Management Memorandum of Understanding in effect at time of this Agreement

12.10 Sick Leave Conversion Upon Retirement. In lieu of a cash out of sick leave, an employee, upon retirement under PERS, may choose as an option to convert a percentage of the dollar value of the sick leave at the employee's current hourly base rate of pay as of the date of retirement, to pay the pre-paid health insurance premium up for a period of time up to age 65 according to the following conversion plan.

<u>Employee's years of service with City</u>	<u>Percentage value of employee's accrued Sick Leave</u>
Through 15 years	50%
16 through 19 years	70%
20 or more years	80%

(a) Following is the procedure to account for the percentage value of converted sick leave. At the written request of the retiring employee, the City Staff will compute the dollar value of the accrued sick leave according to the percentages shown above and maintain an accounting in the employee's name deducting the amount of monthly City health insurance premium from the "balance".

(b) The value of sick leave does not accrue in a cash fund for each employee, therefore no actual funds are held in trust. The City simply agrees to pay the retiree's premium for a period of time until the balance value of the conversion is depleted.

(c) Should a retired employee want to stop their insurance premium payments under the Section, the employee must notify the City Manager in writing, giving the date payments should end, and City Staff will do an accounting of the percent (50%) value provided for in the sick leave payoff provisions of this MOU and the actual dollar amount already paid out. Should this amount still be less than the fifty percent provided for in Section 17.2, the balance will be paid to the employee.

(d) Should a retired employee die prior to fully using this benefit, any dependents covered under the health insurance may, if permitted to continue insurance coverage by the insurance carrier, receive the continuation of this benefit until fully expended. The benefit shall have no cash value to the employee's estate nor can the City accept any claim for payoff by heirs.

(e) Employees not choosing to remain in the City's offered health plan may utilize the benefits set out in these sections to be applied to the cost of a private health plan. The retired employee will be reimbursed, on a quarter year basis, such amounts as provided in these sections, upon submission of a written claim and proof of a paid premium by the retired employee. The form, manner of claim and proof, will be as prescribed by the City.



City of Corning

794 Third St. Corning, CA 96021 (530) 824-7020 Fax (530) 824-2489

**ITEM NO: I-16
APPROVE 2010-2011 PROGRAM
OF SERVICE AND ANNUAL BUDGET
ADOPT RESOLUTION NO. 7-27-2010-1
JULY 27, 2010**

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

FROM: STEPHEN J. KIMBROUGH CITY MANAGER

INTRODUCTION:

Here is the "Annual Program of Service and Proposed 2010-2011 City Budget". The City Council and City Staff have monitored the impacts all year long of the current economic recession and the effects on City General Fund revenues. Citizens interested in more background information can access past Staff Reports on the City web site.

During the public meetings in April, May and June, held to develop a Plan to reduce the Budget shortfall to a manageable level during the continued economic recession, the Council made a number of policy decisions. These decisions have either been implemented, like the furlough plan, or have been included in this budget which provides the funding limits for the "Annual Program of Service".

This Budget is based upon the savings from the 10% employees cost cuts that will come from the full year of furloughs. Also included are the part-time employment Agreements for the City Manager and Police Chief. By now sufficient facts confirm that the savings are real from moving these two Managers to 900 and 960 hours respectively per year. The annual savings from implementing these contracts is still \$199,836, but the savings for this Fiscal Year ending June 30, 2011, is reduced by one quarter due to delaying the implementation until October 1, 2010.

Only the City General Fund is currently affected by the recession, but the drop in retail sales taxes is extreme, from \$2.7 million in 2007 to \$1.6 million this year. The impact of the current recession hit the Corning City government about one year later than other cities, because our regional travel and auto oriented retail sales income had insulated us from the downturns experienced by others.

THE RECESSION

The Council and Staff recognized the coming recession and froze vacant public works positions as they occurred through attrition and retirement. There are currently four positions in Public Works and Building and Safety that will not be filled and the

Recreation Program has been suspended until the economy improves. The General Fund pays 100% of all Police and Fire salaries and portions of the salaries for most of the other employees. The City has 51 authorized permanent positions with 46 currently employed.

These City Employees are all valuable to the City; the City has invested in their training. If the City expects to continue the effective delivery of City Services, reducing the number of employees should be the last thing to consider. Part of the problem, as the City Council well knows, is that the City does not have a large employee overhead that can be cut. There are no paid firefighters, engineers, captains and battalion chiefs, no fire chief's secretary. There are no police captains and lieutenants or public works division superintendents or supervisors (foremen).

Corning was largely unaffected during the first year of the recession; while other cities were being forced to cut budgets and lay off employees, Corning enjoyed its highest year of retail sales even though the car and truck market was in a slump.

City Staff have always watched the Sales Tax income carefully since sales tax is the most important source of income for City operations. Some forecasters were warning that the spike in motor vehicle fuel prices in the summer of 2008, (3rd Quarter sales) would cause the public to change their driving habits.

The 3rd Quarter is reported in December 2008, and HdL, the city's sales tax analyst, warned the City Manager at a meeting in late January 2009, that a drop would occur in the March 2009, sales tax report for the 4th Quarter 2008, sales. This was the first clear warning, and the Staff and the Council began discussions of possible strategies.

The decision was made to meet and confer with the employee bargaining units to implement employee furloughs instead of lay-offs. An effective date to begin the furloughs was set for October 1, 2009, cutting the employees' hours by eight hours out of every eighty hour pay cycle thus reducing the salary and benefit costs by 10%. Furloughs have been extended for another full year.

CHANGES TO THE BUDGET FORMAT

- Technology and the expertise of our Police Administrative Services Manager have made it possible to finally put page numbers on the Budget which will make it easier to find information and use the Budget book as a reference. A table of contents is also included at the end of this cover report.
- The Swimming Pool has been separated from Parks Maintenance for easier understanding and reflects the past year's expenditures and the proposed budget.
- On each Department budget page, the Salaries and Benefits budget amounts have been combined with the salary line on each department page to simplify the budget process. The salaries and benefits expenditures continue to be reflected as before for accountability.

SOURCES OF FUNDS FOR CITY OPERATIONS

City operating income comes from a number of sources which are described fully in the Budget Book sections, tabbed as “**General Fund Revenues**” beginning on page 12 of the Budget book and “**Other Fund Revenues**” beginning on page 24. The total City revenues for this coming year are projected to reach \$8,668,921¹ from all sources.

As previously noted, the **General Fund** supports all the basic services for the City including Police, Fire, Building and Safety, Planning and Economic Development, Recreation, City Council and City Administration. The revenue sources for the General Fund include major sources like the City share of Sales Tax, Property Tax, Hotel Transient Occupancy Tax and Motor Vehicle License in Lieu Tax. These are all considered “local taxes”².

The **Other Revenues** are all restricted to specific purposes including the Gas Taxes, Water Sales, Sewer Service Charges and Solid Waste (trash) and recycling service charges.

ACTIONS THIS YEAR TO MINIMIZE THE IMPACTS OF THE RECESSION

On April 27, 2010, the City Council took action on the Staff recommended Budget Reduction Plan first presented to the public on April 13, 2010.

The Situation: The City will have used ALL of its “Available Reserve” to carry City Programs and Services through the first year and a half of the Economic Recession. All that remains is the \$800,000 “Operating Reserve” which carries monthly expenditures while awaiting the arrival of Property Taxes, Sales Taxes, and other income. At any time during the year, the City may expend \$650,000 of this reserve while awaiting the arrival of the tax income.

The Plan proposes drastic measures and has multiple objectives which are:

- ✓ General Fund expenditures must be reduced to match revenues anticipated during this continued economic recession;
- ✓ Essential services must be protected;
- ✓ The City Employees, which are the City Government’s greatest asset, must be retained if at all possible.

April 27, 2010, the City Council approved the following actions to reduce Annual General Fund budgeted expenditures for the coming fiscal year 2010-2011:

- ✓ Direct City Manager to “Meet and Confer” with four employee bargaining units to implement a second year of 10% reduction in employee compensation through furloughs, continuing the closure of City Hall and City Yard every other Friday.
- ✓ Accept offer of City Manager Stephen Kimbrough and Police Chief Tony Cardenas to work part-time on contract, no more than 960 hours per year effective in July

¹ See budget pages 22 and 44 for the General Fund total and the Other Funds total.

² The City Council can only change the amount of these Tax rates through voter approval.

2010. (The proposed effective date has been moved to October 1, and awaits final action from the Council.)

- ✓ Though the City Council initially approved a contract and request for proposals for part-time planning services, it will remain full-time. The professional and technical requirements of this discipline and our need to be ready to respond quickly to development inquiries makes this position essential. The Planning work load includes important projects like the marijuana ordinance, the potential of the Parks Grant, new Circulation Element of the General Plan and the five year review and amendment of the Development Impact Fees.
- ✓ Approve the provision of water meter reading service by the Police Community Service Officers.
- ✓ Retain the Fire Dispatch Center as currently staffed and apply \$192,602 of the "Operating Reserve" to fully fund Fire Dispatch. The annual employee cost of Fire Dispatch is \$258,807, less the contract income from the City of Orland and Capay Fire Protection District.
- ✓ Approve the preparation and submittal of a ballot measure to create a City of Corning Fire Dispatch Service Annual Assessment, and direct City Staff to prepare a report and plan to submit the issue to the voters. Research has determined that it need not be on the November Ballot and will be by mail after January 1, similar to the Prop. 218 requirements for Water, Sewer and solid waste.
- ✓ Accept the reduction of the "General Fund Operating Reserve" to \$500,000 in Fiscal Year 2010-2011.
- ✓ Transfer Park Volunteers' Fund 353 balance of \$15,993 to General Fund.

The Council decided to hold over the following two decisions for further discussion and action until May 11, 2010; when these actions occurred:

- Approved a City Council commitment of no employee layoffs in recognition of the employees voluntary acceptance of a 10% reduction in compensation through furloughs.
- Recognized that the Recreation Program is ending with the resignation of Recreation Supervisor Kimberly Beck and no funding would be provided to sustain the Program.

At the Special Council Meeting on June 9, 2010, the already approved Plan fell apart when two members of the City Council reversed themselves on the final items needed.

- On a two-to-two vote, the Council was unable to ratify the already approved terms for the employee furloughs saving 10% in personnel costs. (It is important to understand that "ratification" of a local government labor agreement is not placed on the Council agenda until the City Council accepts the terms of the Employee Agreement and directs the City Manager to place the Agreement on the public Agenda for final ratification.)

- Also on a two-to-two vote, the Council was unable to approve the part-time employment of the City Manager reducing his salary and benefits saving the City \$93,511 in salary and benefits, and of the Police Chief reducing his salary and benefits saving the City \$106,325 in salary and benefits.

The Personnel Savings for the coming year from the above listed actions including the Furloughs, the suspension of the Recreation Program and the three part-time Managers totals \$ 724,560; of that \$541,324 would have been a direct savings to the General Fund. The two part-time Agreements would have saved the City \$199,836 in employment costs.

The Council met on June 22, 2010, heard from citizens and the employee Representative and concluded that they needed a Special City Council Meeting on Thursday, June 24, 2010 to find a consensus on the Furloughs before the current employee furlough “side letter” agreements expired. Then on June 24th, the City Council approved the Furlough Plan saving the City General Fund \$275,917. **Furloughs savings for all City Funds total \$347,821.**

ANALYZING THE BUDGET DOCUMENT

Begin with a review of the summary pages in the “**Financial Projection**” Tab; go to page 2 of the Budget and review the “**General Fund Summary**”. This shows how the General Fund Balance was computed and the amount of available reserves. The General Fund has maintained an \$800,000 Operating Reserve to cover cash flow while waiting for the State to forward Sales Tax due and other revenues collected by the State. To maintain Fire Dispatch Services, the Council lowered the Operating Reserve to \$500,000 for this coming year.

In the center of this page is the heading “**Next Year’s 2010-2011 Annual Budget**”. This shows the Projected Revenue for the coming year and the Proposed Operating Expenditures total \$3,947,035, representing only the “**Essential Funding**” of City operations. The total reflects the savings from twelve (12) months of furloughs of all “Regular Full Time” employees, nine (9) months of part-time compensation for the City Manager and the Police Chief and the suspension of the entire Recreation Program. The City Manager and Police Chief are now proposed to go part-time on October 1, 2010.

To cover the projected shortfall, the Building & Public Works Construction Inspector position is held vacant along with three vacant Maintenance Worker positions. Home development activity is down and that minimizes the impact of the vacancies. The savings from these positions were used to support other positions but only where the funding source, such as water revenue, was appropriate to fund the position.

For example, the Building Official, normally funded totally by the General Fund, is assisting with Public Works project inspections. The Management position is now funded by the sources of funding for the vacant Inspector including General fund, gas taxes, water and sewer income.

A conservative forecast of **Sales Tax** estimates that the City will only receive \$1,600,000 in sales tax this year, only about \$5,000 more than last year and \$1,100,000 less than our “base year” in 2007-2008.

The State Board of Equalization projects statewide Sales Tax improvement in the four tax quarters of this budget year. Though Corning Sales Tax is slowly rising, experience makes us continue with the lower amount. There is also a good chance that the City may recover an unknown amount of past sales tax and that the new Love’s travel center will improve our sales tax income.

Now back to the “**Financial Projection**” **Tab**; go to the second page and review the “**Street Maintenance Funds Status**”. This report provides a current and projected view of the funds available for street maintenance, construction and planning. All of these funds are restricted by State law for use only on streets, related engineering and administration.

Though the “**Street Maintenance Funds Status**” report looks okay when viewing the **Projected Balance**, the problems are not readily apparent. There are four different State levied gas taxes shared with cities, 2105, 2106, 2107, and 2107.5 (the names reflect the State Code sections). These are fixed amounts levied on each gallon of motor vehicle fuel and are included in the price at the pump and distributed to cities on the basis of population. These amounts only grow when population grows or fuel consumption grows; naturally no one is willing to increase these taxes and increase the impact on the public.

Ten years ago, Gas Taxes provided \$131,925 per year for Corning street maintenance; now the expected Gas Tax will only provide \$122,243! The state allocation of gas Tax to the City is only \$17 per resident per year.

Fortunately, the Voters statewide approved Proposition 42, several years ago. It requires that the sales tax on motor fuels be dedicated to road maintenance and the City is expected to receive \$72,159 this year. Prop. 42 is known as the “State Traffic Congestion Relief Act” and adds \$10 per year per resident to our street maintenance budget. On the down side, our State Legislature added strict limits on the kinds of street maintenance that can be funded by Prop. 42 monies (can not do sidewalk and curb repair), and included a “maintenance of effort” requirement that prevents the City from reducing General Fund spending on street maintenance below \$164,337 per year

The next important reports found under “**Financial Projection**” **Tab** show the current balance of each of the **Parks Funds**, and the **Sewer Enterprise** and the **Water Enterprise**.

The **Sewer Enterprise** now has a positive cash flow and will slowly begin to build a reserve. It includes all the bond debt service for the 1999 system replacement. Included are \$18,800 per year for sewer and equipment replacement and \$55,000 set aside annually to fund system component replacement at the Waste Water Treatment Plant (WWTP). These amounts are calculated from projections of the usable life of the equipment and system replacement of worn sewer lines, vehicles and components of the

WWTP. The last of the planned rate increases will take effect April 1, 2013. After a 2013 review, City Council will need to enact modest annual inflationary increases.

The **WWTP** expansion bond debt service is funded totally by the WWTP Expansion Fund 348 with revenue coming from Development Impact Fees of \$4,000 per new home or Equivalent Dwelling Unit. The drop in new housing construction requires the transfer of funds from the Sewer Capital Improvement Fund 347.

The **Water Enterprise** implements a scheduled rate increase each April 1 with the last scheduled increase on April 1, 2014. The Water Fund is building an operating reserve which makes it possible to add new wells and to provide a water works replacement fund and well refurbishment and water line replacement as needed.

The new Clark Park Well has USDA Rural Development approval and the estimated bond debt service of \$28,000 per year is included in the spread sheet. There is not sufficient capital fund growth from Development Impact Fees to fund the debt service.

RECOMMENDATION

MAYOR AND COUNCIL APPROVE the 2010-2011 Annual Budget by adopting Resolution Number 07-27-2010- 1 setting the Fund Appropriation and Fund Authorized Expenditures for each Budget Fund and setting budget policy for the Fiscal year.

RESOLUTION NO. 07-27-10-01
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORNING
ADOPTING THE ANNUAL PROGRAM OF SERVICES AND CITY BUDGET
FOR FISCAL YEAR 2010-2011

WHEREAS, the City Council received the proposed Budget Reduction Plan on April 13, 2010, with continued public discussions and action on April 27, 2010, May 11, 2010, June 9, 2010 and finally on June 22 and June 24, 2010, and;

WHEREAS, the City Council has made various changes in the proposed Plan to implement a reduced Annual Program of Service and Budget.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Corning approves the Annual Program of Service and Budget, with changes, by adopting the Appropriations and Expenditures for each City Fund as listed in the following table:

<u>FUND DESCRIPTION</u>	<u>ESTIMATED REVENUE AND TRANSFERS</u>	<u>APPROPRIATED EXPEND. & TRANS</u>	<u>RESERVE USED / CARRY OVER</u>
001 General Fund	\$3,375,930	\$3,947,035	\$(571,105)
071 PD Equip. Replace. Fund	\$ -0-	\$ -0-	\$(-0-)
072 ACO F & A	\$ 3,100	\$ 5,500	\$(2,400)
076 Fire Equip. Replace. Fund	\$ 48,808	\$ 47,375	\$ 1,433
078 PW Equip Replace. Fund	\$ -0-	\$ -0-	\$ -0-
105 Rural Planning	\$ 29,000	\$ 32,241	\$(3,241)
107 STIP	\$ -0-	\$ 48,900	\$(48,900)
108 Federal Programs	\$ 500	\$ 57,400	\$(56,900)
109 Gas Tax	\$ 38,555	\$ 56,222	\$(17,667)
110 Gas Tax / 2106	\$ 30,292	\$ 46,443	\$(16,151)
111 Gas Tax / 2107	\$ 51,396	\$ 81,000	\$(29,604)
112 Gas Tax	\$ 2,000	\$ 2,000	\$ -0-
114 Tr. Sales Tax	\$ 500	\$ 60,507	\$(60,007)
115 Traffic Cong.	\$ 72,159	\$ 129,600	\$(57,441)
116 Traffic Mitigation Fees	\$ 44,000	\$ 268,370	\$(224,370)
117 Loleta Ave	\$ -0-	\$ -0-	\$ -0-
130 Rodger's T. Restoration	\$ 220,000	\$ 226,157	\$(6,157)
150 Planning Envir. Review	\$ -0-	\$ -0-	\$ -0-
164 Office/Traffic Safety 2	\$ 26,100	\$ 24,285	\$ 1,815
170 Abandoned Vehicles	\$ 4,300	\$ 7,000	\$(2,700)
188 SAFE Grant	\$ -0-	\$ -0-	\$ -0-
308 Housing Element Close Fund June 30, 2010	\$ -0-	\$ -0-	\$ -0-
321 Salado Home	\$ -0-	\$ -0-	\$ -0-

RESOLUTION NO. 07-27-10-01, page 2

<u>FUND DESCRIPTION</u>	<u>ESTIMATED REVENUE AND TRANSFERS</u>	<u>APPROPRIATED EXPEND. & TRANS</u>	<u>RESERVE USED / CARRY OVER</u>
322 CDBG '08	\$ -0-	\$ -0-	\$ -0-
323 Prog. Income Unrestricted	\$ -0-	\$ -0-	\$ -0-
324 Program Housing	\$ -0-	\$ -0-	\$ -0-
325 Program Income ED	\$ 1,500	\$ -0-	\$ 1,500
326 Program Income General	\$ 500	\$ -0-	\$ 500
327 Housing Acquisition RLF	\$ -0-	\$ -0-	\$ -0-
328 Housing Rehab. RLF	\$ -0-	\$ -0-	\$ -0-
329 Housing New Const. RLF	\$ -0-	\$ -0-	\$ -0-
345 Drainage	\$ 11,000	\$ 5,035	\$ 5,965
346 Water Capital Improve.	\$ 6,500	\$ 613,000 ¹	\$ (606,500)
347 Sewer Capital Improve.	\$ 2,500	\$ 2,000	\$ 500
348 WWTP Sewer	\$ 234,000	\$ 234,160	\$ (160)
352 Park & Rec. Revolving Fund	\$ -0-	\$ -0-	\$ -0-
353 Park Volunteer Fund Close Fund June 30, 2010	\$ -0-	\$ -0-	\$ -0-
355 Parkland Acquisition	\$ 2,600	\$ 41,500	\$ (38,900)
356 Trail Development	\$ -0-	\$ -0-	\$ -0-
365 Curb/Gutter-Revolving	\$ -0-	\$ -0-	\$ -0-
380 WWTP Capital Replace	\$ 60,000	\$ 295,000	\$ (235,000)
381 Sewer Capital Replace.	\$ 19,800	\$ 72,000	\$ (52,200)
383 Water Capital Replace.	\$ 75,500	\$ 22,500	\$ 53,000
401 J. T. Levy	\$ 500	\$ 500	\$ -0-
402 Rodgers Theatre Trust	\$ 500	\$ 1,500	\$ (1,000)
403 Ridell Library Trust	\$ 1,000	\$ 1,000	\$ -0-
610 Sewer Enterprise	\$ 1,460,182	\$ 1,393,022	\$ 67,160
611 Sewer Rate Coven. Fund	\$ -0-	\$ -0-	\$ -0-
615 Solid Waste	\$ 305,000	\$ 305,000	\$ -0-
620 Airport	\$ 21,979	\$ 17,500	\$ 4,479
621 Airport CIP	\$ 1,215,000	\$ 1,215,000	\$ -0-
625 Transportation Center	\$ 18,220	\$ 13,500	\$ 4,720
630 Water Enterprise	\$ 1,264,385	\$ 1,235,347	\$ 29,038
701 Lighting & Landscape Dist.	\$ 1,090	\$ 900	\$ 190
703 Lighting & Landscape Dist.	\$ 3,000	\$ 3,800	\$ (800)
704 Lighting & Landscape Dist.	\$ 4,825	\$ 4,300	\$ 525

¹ USDA Rural Development Loan Proceeds for Clark Park Well estimated at \$578,000.

RESOLUTION NO. 07-27-10-01, page 3

BE IT FURTHER RESOLVED, that the City Council hereby maintains the following policies:

1. The Annual System Replacement commitment from the Sewer Enterprise Fund as mandated in the Federal Wastewater Treatment Plant Construction Grant is committed to pay debt service for Sewer Replacement Bonds.
2. Public Safety Sales Tax, approved by the voters in Prop. 172, is distributed between the Police Equipment Replacement Fund 071 and Fire Equipment Replacement Fund 076. Upon receipt, funds shall be deposited into the General Fund Revenue Account #001-4122, and become a part of the annual transfer in support of the Fire Equipment Replacement Fund #076.
3. Should the State Indian Gaming money be received this year, it shall be deposited in the General Fund Revenue Acct. 001-4160 to be used for the funding of front-line law enforcement personnel costs.
4. From the General Fund 001, transfer \$-0- to the Police Equipment Replacement Fund 071.
5. From the General Fund 001, transfer \$22,000 to the Fire Equipment Replacement Fund 076.
6. Deposit Fire Dispatch Contract income into the General Fund revenue account #001-4671 to support the Fire dispatch center.
7. From the General Fund 001, transfer \$-0- to Public Works Equipment Replacement Fund 078.
8. \$55,000 per year for Equipment Replacement shall be transferred annually from the Sewer Enterprise Fund 610 to the Wastewater Treatment Plant Capital Replacement Fund #380.
9. \$18,800 per year for Equipment Replacement shall be transferred annually from the Sewer Enterprise Fund #610 to the Sewer Capital Replacement Fund #381.
10. \$225,000 shall be transferred from the WWTP Capital Replacement Fund #380 to the WWTP Expansion Fund 348 to pay the WWTP Bond Debt Service.
11. \$73,500 per year shall be transferred annually from the Water Enterprise Fund #630 to the Water Capital Replacement Fund #383.
12. The Annual General Fund Subsidy of the Corning Municipal Airport Enterprise Fund #620 shall be set at \$0.
13. The \$5,000 Annual rent for PAL Program Use shall be paid to the Transportation Center Fund #625 by the General Fund #001.
14. Authorize City Manager to make annual year end transfer of Unrestricted CDBG Program Income into its separate Fund, Fund #323, in order to segregate funds available for use.
15. Effective June 30, 2010, return \$87,910 from the Police Equipment Replacement Fund #071 to the General Fund #001.

RESOLUTION NO. 07-27-10-01, page 4

16. Effective June 30, 2010, return \$33,285 from the Fire Equipment Replacement Fund #076 to the General Fund #001.
17. Effective June 30, 2010, return \$46,186 from Public Works Equipment Replacement Fund #078 to the General Fund #001.
18. Transfer to the General Fund #001, prior to June 30, 2010, the excess interest earned from the Solid Waste Fund 615, equal to the June 30, 2010, Fund #615 balance less the amount payable to Waste Management, Inc.
19. Transfer the Park Volunteer Fund #353 balance of approximately \$15,993 to the General Fund #001 by June 30, 2010.
20. Transfer OTS Fund #164 balance of approximately \$10,804 to the General Fund #001 after the close of the grant period (September 30, 2010).
21. Transfer Housing Element Fund #308 deficit balance of approximately \$1,474 from the General Fund #001 by June 30, 2010.



The foregoing Resolution was adopted at a regular meeting of the City Council of the City of Corning, held on July 27, 2010, by the following vote:

AYES:
NOES:
ABSTAINING:
ABSENT:

Gary R. Strack, Mayor

ATTEST:

Lisa M. Linnet, City Clerk