

TWENTYNINE PALMS CHAMBER OF COMMERCE AND VISITORS BUREAU

MONTHLY RECAP REPORT: March 2008

VISITOR SERVICES

New information/publications available in the Visitor Center include:

- April 2008 Chamber Newsletter;
- Mural Magic coffee table book;
- Special Edition of The Mojave Desert Land Trust; ORV Postcard;
- Tax Seminar for Nonprofit and Exempt Organizations;
- National Parks America Tour brochure;
- ASYMCA Soap Box Derby brochure;
- Taxpayer Advocate booklet;
- Sky's the Limit, Sale of Century notice;
- Hilltoppers Grand Prix posters;
- High Desert Fair Housing brochure;
- SBA Day and Procurement Fair 2008;
- 29 Palms Lions Club brochure;

Gift Shop -

- Sales in Gift Shop for February 2008: \$ 93.50

March New Members: 5

Total Chamber Members: 244

Contact Statistics: March 2008:

Phone Calls: 1,159

Visitors: 470

Information Packets: 11

March stats for 29chamber.com

Successful requests: 343,376

Average Successful request per day: 11,080

Successful requests for pages: 193,228

March stats for visit29.org:

Successful requests: 76,714

Average successful request per day: 2,478

Successful requests for pages: 15,091

MARKETING

- Creating a Flower button for front of Chamber website regarding the flower season;
- Preparing and submitting informational articles regarding JTNP flower season 2008, 50th Annual Basketball Tournament, JTNP Annual Art Show, Hilltoppers and other Spring events to newspapers, magazines and websites;

Tours, Conferences & Meetings

- Chamber of Commerce General Membership Meeting 2006-2007 Annual Report, March 17, 2008;

Other Marketing

Chamber will capitalize event information regarding the following:

- Street Fair and Car Show website submissions Life after 50, Best City Guides, Culture CA Online, Road and Travel , RV Journal, 29 Palms Neighbors, Palm Springs Life, SoGoNow.com, TravelHotNews.com, West Ways-AAA California Online;
- Created Twentynine Palms Destination on SuitsOnline.net, TripAdvisor and SoGoNow.

The following articles highlighted Twentynine Palms area and events:

- Manhasset, New York, "*US Marine Corps "Cactus Brass" Performs*," February 2008;
- Leatherneck, "*Indian Wells City Council to issue proclamation thanking Marines*," February 21, 2008;
- San Francisco Chronicle, "*Marine regiment heads back for 5th Iraq tour*," February 27, 2008;
- Amazon.com, "*SuperBikes!, 29 Palms/FZ-14*," March 2008;
- Trails.com, "*Old Dale Road*," March 2008;
- Visitcalifornia.com, "*Culinary Itinerary: Desert Area*," March 2008
- AirTran Airways Inflight Magazine, "*29 Palms CA*," March 2008;
- USA Today, "*A blooming sight in the desert*," March 2008;
- Dune Magazine, "*Shed Reckoning*," March 2008;
- OutTraveler.com, "*Desert Roads and Wildfires*," Spring 2008;
- Vision Magazine, "*About the Cover Artist*," March 2008;
- Palm Springs Chamber of Commerce, "*Joshua Tree: Basic Desert Survival*," 2008 March Calendar;
- Palm Springs Chamber of Commerce, "*Joshua Tree: Plant Ecology*," 2008 March Calendar;

- California Native Plant Society, San Diego, “Sixteenth Annual Joshua Tree National Park Art Festival,” March 2008;
- SeeAmerica, “Western Splendor, Parklands & Canyons,” March 2008;
- TripAdvisor, “Fantastic Find,” Roughley Manor, March 3, 2008;
- Stars and Strips, “Marines showcase combat skills in South Korea exercise,” March 3, 2008;
- SmarterTravel.com, “Stop (paying high prices) and smell the flowers in Joshua Tree,” March 4, 2008;
- Trip Advisor, “The desert is right at your doorstep, just don’t expect to hear it,” Harmony Hotel, March 5, 2008;
- KMIR6 TV (NBC) “Joshua Tree Wildflowers,” March 6, 2008;
- Houston Photography, “Twentynine Palms Desert Trail,” March 6, 2008;
- TripAdvisor, “Perfect location in the desert,” Harmony Motel, March 7, 2008;
- Los Angeles Times, “California’s wildflowers show their true colors,” March 7, 2008;
- Museum of Contemporary Photography, “Permanent Collection Spotlight: An-My Le,” March 7, 2008;
- TripAdvisor, “A truly fantastic stay,” Roughley Manor, March 7, 2008;
- TripAdvisor, “Wonderful place,” Roughley Manor, March 9, 2008;
- TripAdvisor, “Best Bangs for Your Buck,” Motel 6, March 10, 2008;
- Military Photos, “Twentynine Palms,” March 10, 2008;
- Michael E. Gordon Photography, “California Desert Wildflowers-A Great Spring!,” March 12, 2008;
- Responsible Recreation, “Virtual Online Rally for Johnson Valley a Success,” March 12, 2008;
- Los Angeles Times, “Favorite Weekend: Eames Demetrios,” March 15, 2008;
- Tierra Del Sol Four Wheel Drive Club of San Diego, “Townhall Meeting with Congressman Hunter,” March 15, 2008;
- The Desert Sun, “Life replicates art for Navy doctor,” March 16, 2008;
- San Francisco Chronicle, “Young military wife stands by her man,” March 16, 2008;
- TripAdvisor, “Great Eats in the High Desert,” The Rib Company, March 17, 2008;
- TripAdvisor, “Adorable and Well Located,” The Roughley Manor, March 17, 2008;
- TripAdvisor, “Good place to stay in Twentynine Palms,” Sunnyvale Garden Suites Hotel, March 18, 2008;
- CNN, “Green-card Marine prepares for 3rd deployment,” March 20, 2008;
- Pacific Life Open, “Salute to Heroes,” March 21, 2008;
- Howstuffworks, “George Adamski and the Space Brothers,” March 21, 2008;
- Los Angeles Times, “Southern California deserts splashed with wildflowers,” March 22, 2008;
- TripAdvisor, “Enjoy Broadway in the High Desert at Theatre 29,” March 23, 2008;
- TripAdvisor, “Tremendous,” Sunnyvale Garden Suites Hotel, March 25, 2008;
- TripAdvisor, “Great place to stay,” El Rancho Dolores Motel, March 27, 2008;
- TripAdvisor, “Great value, clean, remodeled. Real close to Joshua Tree NP,” Motel 6, March 27, 2008.

NETWORKING

- Chamber staff attended Career Day at Twentynine Palms High School, March 7, 2008;
- Chamber Mixer co-sponsored by the Twenty Nine Palms Band of Mission Indians, March 20, 2008;

BUSINESS & ECONOMIC DEVELOPMENT

- Chamber staff attended City of Twentynine Palm’s Draft Economic Development Action Plan Review, March 13 and 14, 2008;
- Annual Membership Meeting, presentation of 2006-2007 Annual Report, March 17, 2008, Little Church of the Desert, at noon.

LEGISLATIVE AFFAIRS

None

MILITARY AFFAIRS

- Lt. Dan Band, March 16, 2008;
- M.A.C. Assistance Fund, the Chamber has continued to maintain a small fund of donated monies which has been set aside to assist military personnel and their families with urgent needs. Military personnel are eligible to apply for assistance upon referral from the Navy/Marine Corps Relief Society.

EVENTS

- Joshua Tree National Park Art Festival, April 4,5,6, 2008;
- Hilltoppers Grand Prix, April 5, 6, 2008;
- Council Connections, Chamber Conference Room, April 9, 6PM;
- Parks Across America, April 12, 2008;
- City Community Clean Up Day, 8AM – noon;
- Chamber Board of Directors meeting, April 17, 2008, 12PM, chamber conference room;
- Chamber Mixer will be sponsored Liberty Tax Service, 71757 29 Palms Hwy, (Staters Center), April 17, 2008, 5PM-7PM;
- Sale of the Century, (Sky's the Limit & Reachout MB) at Community Center, April 26, 2008, 7AM-3PM;
- Miss Twentynine Palms, Junior High School, April 26, 2008, 6PM;
- Sale of the Century, (Sky's the Limit & Reachout MB) at Community Center, April 27, 2008, 10AM-2PM;

**Twentynine Palms Chamber of Commerce
Contact Statistic Report March 2008**

Subject	Phone Calls	Walk-Ins
Action Council	0	3
Art Galleries	1	5
BLM Info.	0	4
Calendars	0	4
Camping	15	7
Casino	11	5
Chamber Business	305	65
Demographics	8	0
Developers	4	0
Directions	11	22
E-mail Inquiry	15	0
Employment	3	1
Entertainment	1	0
Gift Shop	3	5
Golf	2	3
Hilltoppers Race	4	3
Information 411	128	35
Internet	3	14
Joshua Tree N.P.	158	76
Laundromat	0	1
Lodging	46	8
Maps	2	5
Marine Base	17	2
Marketing	15	0
Miscellaneous	159	103
Mixers	20	3
Murals	13	1
Packet Requests (Relocation/Visitor)	13	3
Phone Books	24	18
Pioneer Days	2	0
Realtors	7	0
Resturants	5	12
Road Conditions	3	0
RV Park	5	12
Street Fair & Car Show	32	0
Transportation	21	2
Weather	10	0
Wild Flowers	72	22
Yoga	3	0
TOTALS	1141	444

PACKETS

11



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: April 22, 2008

SUBJECT: Ordinance No. 214 Amending Section 1.04.020 of the Twentynine Palms Municipal Code Relating to the City's Ability to Recover Attorney's Fees Incurred in Code Enforcement Proceedings.

RECOMMENDATION: The City Council conduct the Public Hearing, consider public comment, direct the City Clerk to read Ordinance No. 214 by title only introducing Ordinance No. 214, and direct staff to bring the Ordinance back for adoption.

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Open Public Hearing
Close Public Hearing
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

Attachments

1. Ordinance No. 214

BACKGROUND: On average the City's Code Enforcement Department has 3 to 5 properties in various stages of the abatement process. During the abatement process the City Attorney's Office reviews the Code Enforcement Notice to Abate forms and most of the subsequent documents, including the notices of pendency, warrants, affidavits, staff reports, resolutions, nuisance abatement liens, and voluntary abatement agreements. The abovementioned review costs on average \$500.00. Currently the City has no code that allows the City to recover attorney costs and expenses.

Government Code section 38773.5 provides that a city may, by ordinance, provide for the recovery of attorneys' fees in any action, administrative proceeding, or special proceeding to abate a nuisance.

To ensure that the City of Twentynine Palms may abate public nuisances and enforce provisions of the Municipal Code at minimal public expense, and to recover its attorney fees and costs when the City prevails in judicial actions relating to nuisance abatement and code enforcement, staff has prepared the attached Ordinance.

Review of Staff Report:

_____ City Manager

_____ City Attorney

_____ City Engineer

_____ Department Head

ALTERNATIVES: The Council can choose not to recover attorney costs and expenses.

FISCAL IMPACT: It is anticipated that this Ordinance, if approved, will save the City approximately \$6,000 per year.

ORDINANCE NO. 214

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, AMENDING SECTION 1.04.020 OF THE TWENTYNINE PALMS MUNICIPAL CODE RELATING TO THE CITY'S ABILITY TO RECOVER ATTORNEYS' FEES INCURRED IN CODE ENFORCEMENT PROCEEDINGS

WHEREAS, California Code of Civil Procedure section 685.040 permits the City to recover attorneys' fees where such recovery is provided by law;

WHEREAS, Government Code section 38773.5 provides that, "[a] city may, by ordinance, provide for the recovery of attorneys' fees in any action, administrative proceeding, or special proceeding to abate a nuisance."

WHEREAS, in the recent case of *City of Santa Paula v. Narula* (2003) 114 Cal. App. 4th 485, the California Court of Appeal (a) generally upheld the validity of municipal ordinances permitting a city, as a prevailing party in litigation related to code enforcement proceedings, to recover its attorneys' fees, and (b) held that Government Code section 38773.5 specifically permits cities to provide, by ordinance, for the recovery of attorneys' fees in all nuisance abatement actions.

WHEREAS, to ensure that the City may abate public nuisances and enforce provisions of the Municipal Code of the City of Twentynine Palms at minimal public expense and in furtherance of public health, safety and welfare, the City desires to amend the Twentynine Palms Municipal Code to permit the City to recover its attorneys fees and costs when the City prevails in judicial actions relating to nuisance abatement and code enforcement. The amendments adopted herein are in recognition of existing State law as set forth in Government Code section 38773.5 which states that, in order to be valid, an ordinance providing for recovery of attorneys' fees incurred in connection with a code enforcement action must provide that the prevailing party of any such action or proceeding shall be entitled to attorneys' fees.

NOW, THEREFORE, the City Council of the City of Twentynine Palms hereby ordains as follows:

Section 1: Section 1.04.020, subdivision (e), of the Code of the City of Twentynine Palms is hereby amended to read in its entirety as follows:

- (e) Nuisances: Recovery of Abatement Expenses.
 - (1) Whenever any person creating, causing, committing, or maintaining a public nuisance, as referred to in Section 1.04.020(d), or other public nuisance, as defined under State law or other ordinance of regulation, has been sent notice, by or on behalf of the City Attorney or by any other City officer, employee or policing agent authorized to give such notice, to abate

such nuisance or cease and desist from continuing such nuisance or violation of law, and such person who was sent a notice fails, refuses, or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such noncomplying person shall be liable to the City for any and all costs and expenses incurred by the City involved in abating the nuisance and/or in obtaining compliance with or enforcing the law as referred to or encompassed in the said notice.

- (2) Costs and expenses, as referred to in Subsection (e)(1) of this Section may include, but are not limited to, any and all direct costs and expenses related to such things as personnel salaries and benefits, operational overhead, rent, interest, fees for experts or consultants, legal costs or expenses, including attorneys' fees, claims against the City arising as a consequence of the nuisance or violation, and procedures associated with collecting moneys due hereunder. With respect to attorneys' fees only, the City may opt at the initiation of any such action or proceeding to pursue recovery of attorneys' fees incurred in connection therewith. When the City so opts to pursue recovery of attorneys' fees, the prevailing party of any such action or proceeding relating to the abatement of public nuisances shall be entitled to attorneys' fees, to the fullest extent allowable under law.
- (3) The provisions of Subsection (e)(1) of this Section shall also apply to any person who was sent a notice, as specified therein, and thereafter the nuisance or violation was abated, but such person subsequently allowed or was responsible for a recurrence of the nuisance or violation.
- (4) The liability of any person for the payment of the costs and expenses provided for in Subsection (e)(1) of this Section may be waived in whole or in part by the City Attorney in any case wherein he/she determines, in his/her sole discretion, that the failure or refusal of such persons to comply with the notice therein involved was based upon a good faith and bona fide issue of law or fact specially involved in the circumstances of the case. Any determination or decision of the City Attorney in this regard shall be final and conclusive and shall not be subject to appeal to the City Council.
- (5) Moneys due to the City pursuant to this Section may be recovered in an appropriate civil action. Alternatively, such liability may be enforced by special assessment or lien proceedings against the parcel of land upon which the nuisance existed or any other available legal means.

Section 2: The City Clerk certifies to the passage of this Ordinance and the same will take effect as provided by law and shall be posted as required by law.

Section 3: If any court of competent jurisdiction holds any section, subsection, sentence, phrase, or portion of this ordinance invalid or unconstitutional, such determination

shall not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have enacted this ordinance and each section, subsection, sentence, clause or phrase hereof irrespective of any determination of invalidity.

Section 4: The adoption of this ordinance is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Section 15273 of the State CEQA Guidelines (14 C.C.R. § 15273), and is additionally and independently exempt from CEQA analysis pursuant to State CEQA Guidelines Section 15061(b)(3) (14 C.C.R. § 15061(b)(3)) which sets forth the 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.”

Section 5: This ordinance shall become effective thirty (30) days after its passage and adoption. Within fifteen (15) days of the date of adoption of this ordinance, the City Clerk shall post a copy of said ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

APPROVED, ADOPTED AND SIGNED this ____ day of _____, 2008.

ATTEST:

CITY CLERK of the City of Twentynine Palms, California

MAYOR of the City of Twentynine Palms, California

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)ss

CITY OF TWENTYNINE PALMS)

I, _____, City Clerk of the City of Twentynine Palms, California, do hereby certify that Ordinance No. ____ was regularly introduced at the meeting of _____, 2008, the reading in full thereof unanimously waived, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK



STAFF REPORT

TO: City Council via City Manager
FROM: Community Development Director
DATE: April 22, 2008

SUBJECT: PC 08-06 – An application by Karen Provost of Sam's Grille for a Conditional Use Permit and Letter of Public Convenience and Necessity for a restaurant and bar in the existing 2,200 sq. ft. building at 73527 Twentynine Palms Hwy (APN 617-112-12). Parking to be provided on a parking lot located on the west side of Yucca Avenue, south of Twentynine Palms Highway, located on APN 617-112-18.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, find the project Categorical Exempt pursuant to CEQA, adopt Resolution No. 08-07 and approve the project, subject to the attached Conditions of Approval.

ORDER OF PROCEDURE:

Request Staff Report (Alex Meyerhoff Presenting)
Request Public Comment
Council Questions of Staff
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

Attachments

1. Resolution No. 08-07
2. Conditions
3. Draft Letter of Public Convenience
4. Notice of Exemption CEQA

BACKGROUND:

Karen Provost requests approval of a Conditional Use Permit for a restaurant and of a Letter of Public Convenience and Necessity for a liquor license for a bar (Type 41 liquor license) in an existing 2,200 sq. ft. building at 73527 Twentynine Palms Hwy (APN 617-112-12 a 2,700 sq. ft. lot). The applicant proposes to utilize an existing public parking lot adjacent to the restaurant. A separate off-site parking area owned by the applicant and located within 140' of the site will be provided on a separate parcel, located on the west side of Yucca Avenue, south of Twentynine Palms Highway, located on APN 617-112-18.

On April 1, 2008 the Planning Commission conducted a public hearing on this application. The Planning Commission asked a series of questions regarding parking and disabled accessibility. The Planning Commission directed staff to work with the applicant to ensure that disabled accessible parking be provided as close as possible to the business and that the path of travel from the parking spaces to the building be designed to meet all legal requirements. The Planning Commission voted to recommend that the City Council approve the project. The draft conditions would allow the applicant to start business immediately and provide the applicant with up to six months to provide a paved parking lot for the new business.

Review of Staff Report:

_____ City Manager

_____ City Attorney

_____ City Engineer

_____ Department Head

Present zoning for the restaurant is General Commercial (CG) and the proposed parking lot is Office Commercial (CO). The proposed use, a restaurant and bar are allowed in the CG land use district subject to approval of a Conditional Use Permit. The proposed parking lot is a permitted use in the CO land use district.

CEQA Environmental Review

Pursuant to the California Environmental Quality Act (CEQA), the project was routed to the following agencies and departments for public review and comment:

- | | |
|------------------------------------|--------------------------------------|
| City Manager | Community Development Director |
| City Engineer | Twentynine Palms Water District |
| Twentynine Palms Fire Department | San Bernardino County Sheriff |
| San Bernardino Co. EHS | Morongo Unified School District |
| Southern California Edison Company | Southern California Gas Co. |
| Verizon | Time Warner Cable |
| Burrtec | Morongo Basin Transit Authority |
| Mojave Desert AQMD | Regional Water Quality Control Board |
| Joshua Tree National Park | I. & L. NREA, MCAGCC |
| I & L, FMD, MCAGCC | 29 Palms Band of Mission Indians |
| Morongo Basin Ambulance | San Bernardino, Env. Management Div. |

Input from these agencies has been reviewed, attached as Correspondence and, where appropriate, incorporated into the Conditions of Approval for the project.

Section 21084 of the Public Resources Code established a list of classes of projects which have been determined by the State of California not to have a significant effect on the environment and which are, therefore, exempt from the provisions of CEQA.

Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, Class 1 Categorical Exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features. The project consists of minor alterations to an existing building and is therefore Categorical Exempt from further environmental review under state law.

Surrounding Land Use, General Plan and Zoning Designations

	Land Use	General Plan	Zone
Site	Commercial	CG	CG
North	Commercial	CG	CG
East	Commercial	CG	CG
South	Parking	CO	CO
West	Commercial	CG	CG

General Plan

The CG land use district allows restaurants and bars with the approval of a Conditional Use Permit. The CO land use district allows parking lots as a permitted use. As designed, the project is consistent with the General Plan Land Use Element.

Zoning

The CG zone allows restaurants with alcoholic beverage sales with approval of a Conditional Use Permit. The CO zone allows parking lots as a permitted use. The applicant is proposing to utilize the both the “public” parking lots adjacent to the site, as well as a privately owned parking lot located to the south of the public lot. A total of 21 parking spaces are required for the project, one of which must be a handicap accessible space. The requirement for off street parking for the project can be met with improvement to the private lot owned by the applicant.

To meet the immediate parking needs of the project, staff recommends that the applicant be allowed to utilize the existing paved “public” parking facility. The applicant has the opportunity to apply for Redevelopment Agency (RDA) funds to improve the existing gravel parking lot on APN 0617-112-18. This improvement would serve to increase the supply of available paved public parking in the Downtown area. In the event RDA funds are not obtained, the applicant would be allowed a reasonable and specific amount of time, 180 days as determined by the Planning Commission, to construct the parking lot to city standards.

With the provision of additional parking, and with the approval of a conditional use permit, the project is consistent with the zoning ordinance.

Site Characteristics

The subject site consists of two parcels, APN 0617-112-12 an existing 2,200 sq. ft. building on a 2,700 sq. ft. lot and APN 0617-112-18, a gravel parking lot. Both sites are flat. The proposed parking lot site has been available as parking since the 1999 approval of the Bella Rouge Bakery. The Bella Rouge Bakery (a restaurant use approved in 1999 and discontinued in 2002) was previously approved and operated at this site.

Parking

Section 19.82.060,(B) of the Development Code allows off-street parking within 300’ of the land use for the use it serves. This project is located in the Downtown. Section 19.82.040, (B) of the Development Code allows a 25% reduction in the parking requirement in the Downtown where the parking facility is available to the general public. The proposed parking lot is located approximately 140’ from the site. A paved public parking lot is located to the south of the proposed business, and to the north of the unpaved lot which is proposed to be paved as part of this project.

Traffic and Circulation

Because the project will not result in the development of any new structures, a traffic impact analysis was not prepared for this project. The project will generate minimal new traffic during renovation, which is expected to be less than ten vehicles per day. Right of way dedication has been obtained on SR62 and Yucca Avenue. The applicant will be required to construct street improvements along Yucca Avenue for the parking lot (APN 0617-112-18).

Transit Service

Transit service is currently provided on SR62. The Morongo Basin Transit Authority has existing benches and signs located in the vicinity of this project and has placed no requirement on this project for the provision of additional transit facilities.

Liquor License

The applicant has applied for a Type 47 liquor license (On-Sale, General Easting Place) from the State Department of Alcoholic Beverage Control. The applicant was successful in applying for this license.

Operations

The applicant intends to initially operate as a dinner house, with hours of operation from 5-10 pm weekly, 5-11 pm on the weekends and closed on Mondays. In their initial projection, the applicant estimates that they will serve 80 meals nightly.

Conditional Use Permit

Pursuant to Section 19.30.050 of the Development Code, the Approval Authority is required to make the following findings prior to recommendation of approval to the City Council of a CUP. The required findings are:

- A. That the proposed design and location of the conditional use and the conditions under which it will be operated are in accordance with the purpose of this Development Code, the zoning regulations applicable to the site, the City of Twentynine Palms General Plan, and other applicable development policies and standards of the City; and
- B. That the proposed design and location of the conditional use and the conditions under which it will be operated will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity; and
- C. That the proposed site is adequate in size and shape to accommodate the use and integrate it with the existing and planned uses in the vicinity.

If the required findings cannot be made, the application should be denied. Staff has prepared the following findings of approval for consideration: The site is located on the Twentynine Palms Highway and will therefore not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

- A. The subject site is approximately 0.06 acres and is therefore adequate in size to Accommodate the proposed use.
- B. The shape of the parcel is typical, and allows for orderly development such as the proposed use.
- C. With the recommended conditions, the proposed project will meet the objectives of the General Plan, CG and CO land use designation.
- D. The proposed project, as conditioned, does not conflict with and is consistent with the goals and objectives of the Twentynine Palms General Plan.
- E. This project would provide for fine dining opportunities in the Downtown.
- F. This project would eliminate one vacancy in the area and add to the vitality of the Downtown.

Approval Process

The Planning Commission is the Review Authority for the Conditional Use Permit and Letter of Public Convenience and Necessity. In recommending approval, the Planning Commission found that the proposed project was consistent with the General Plan. Because the subject property has the CG and CO General Plan land use designations, development of the restaurant and parking lot are consistent the General Plan Land Use Plan.

ALTERNATIVES:

Deny the application.

FISCAL IMPACT:

None.

CITY OF TWENTYNINE PALMS
DRAFT CONDITIONS OF APPROVAL

PC 08-06

Applicant: Karen Provost

Project: 2,200 square foot restaurant

Location: 73527 Twentynine Palms Highway

APN 0617-112-12 and -18

Approved: April 22, 2008

Expire: April 21, 2009

The following Standard Conditions of Approval shall be applicable to all Conditional Use Permits in the City. Additionally, site-specific conditions will be applicable as necessary to protect the public health, safety and welfare.

Planning Division

Per Section 19.30.090 (A) of the Development Code, Conditional Use Permits shall expire one (1) year from the date the approval was granted, unless prior to the expiration date:

1. A Building Permit is issued and remains active for any approved phase of the project; or
2. A Certificate of Occupancy is issued for the use or structure; or
3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
4. The site is occupied in accordance with an approved phase as part of a phased development.

Per Section 19.30.090 (B), an approved Conditional Use Permit shall expire if the use has been commenced and then is discontinued for a period of one (1) year or more.

Planning Conditions

- P1. Conditional approval is granted by the City Council acting as Approval Authority on April 22, 2008, to permit a full service restaurant with alcoholic beverage sales at the above referenced location. All development of the site shall be in substantial conformance with the adopted site plan and shall comply with all Conditions of Approval.
- P2. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the project proposal.
- P3. The property owner shall keep the property neat, clean, and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas, and landscaping.
- P4. All outdoor lighting shall conform to Development Code Chapter 19.70, *Lighting Standards*, and shall be designed to not glare or reflect onto neighboring properties or public rights-of-way. Outdoor lighting shall be shielded and limited to that required for security and safety purposes.
- P5. Prior to rehabilitation, the applicant shall submit three sets of plans to the City's Building Official and secure a Building Permit in conformance with the Uniform Building Code.

- P6. All construction and improvements shall comply with *Encroachments into Yards or Setbacks* standards established in the Development Code for the underlying land use district.
- P7. The applicant shall defend, at its sole expense (with attorneys approved by the City), and indemnify the City against any claim, action, or proceeding brought by any third party against the City, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the City, its agents, officers or employees for any judgment, court costs and attorney's fees which the City, its agents, officers or employees may be required to pay as a result of such claim, action, or proceeding. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
- P8. The applicant shall provide a recordable instrument guaranteeing use of the parking facility for the benefit of the property and its use(s) for the duration of the use(s) for which the parking is provided. Said instrument shall be approved by the City Attorney and, upon approval, shall be recorded in the County Recorder's Office as a deed restriction on all subject properties.
- P9. The applicant may apply for Redevelopment Area funding to construct paved parking lot improvements on APN 0617-112-18.
- P10. The applicant shall provide 21 paved parking spaces (minimum 1 disabled accessible) in accordance with the Americans with Disabilities Act and Title 24 of the California Code of Regulations and City of Twentynine Palms Development Code 19.82, within 180 days of the occupancy of the site.

General Conditions

- G1. All Conditions are continuing Conditions. Failure of the Applicant and/or operator to comply with any of the said Conditions at any time may result in the revocation of the Conditional Use Permit and/or citation for code violation.
- G2. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees, including reimbursement for all City expense in ensuring compliance with the Conditions of Approval.

Building and Safety

- B1. The County of San Bernardino Environmental Health Services and the California Regional Water Quality Control Board prior to issuance of building permits shall approve the sewage disposal system.
- B2. The applicant/developer shall submit plans and obtain city building permits for all sewage disposal, structures, walls and rehabilitation work. No work is to be done prior to approvals and permit issuance.

Engineering

General

E1. The project shall comply with all applicable City ordinances and resolutions.

Improvements

E2. Sidewalks shall be constructed adjacent to the parking lot to City Standards.

E3. An encroachment permit separate from the grading onsite permit shall be obtained from the City of Twentynine Palms (760-367-6799) prior to any construction occurring within the public right-of-way.

E4. Right-of-way and improvements (including offsite) to transition traffic and drainage flows from proposed to existing shall be required as necessary.

Utilities

E5. All proposed construction of utilities adjacent to and onsite shall be underground.

Fire Department

F1. Prior to any construction, the owner shall contact the Twentynine Palms Fire Department for verification of current fire protection requirements.

F2. All construction and activities shall comply with applicable sections of the 1988 edition of the Uniform Fire Code and all other state, county, and city ordinances, rules and regulations regarding fire protection.

F3. All flammable vegetation shall be cleared a minimum distance of 30 feet, or to the property line, from any flammable building materials or finished structures.

F4. Street addresses shall be posted with numbers a minimum height of four (4) inches. Posted numbers shall contrast with their background and be visible and legible from the street.

F5. Prior to commencement of construction, an approved water supply capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings or portions of buildings are hereafter constructed. The following are the minimum requirements for the proposed development:

A: SYSTEM STANDARDS

Fire Flow: 1500 GPM @ 20 PSI Residual Pressure
Duration: 2 Hours
Hydrant Spacing: 660 Feet

B: DISTRIBUTION SYSTEM

Mains: 6-Inch Minimum
Laterals: 6-Inch Minimum
Riser: 6-Inch Minimum

C: FIRE HYDRANTS

Number: To be determined

Type: 6-Inch, with one (1) two and one half (2 ½) inch outlet and one (1) four (4) inch outlet with National Standard Threads.

Street Valve: 6-Inch Gate

- F6. The developer shall furnish the fire department with a copy of the water system improvement plans. A letter from the water purveyor stating what fire flow can be met shall be required.
- F7. The applicant shall install a Knox Box.

The undersigned applicant verifies that he/she has read the Conditions of Approval, understands each Condition, and agrees to adhere to the Conditions of Approval.

Applicant/Developer

Date

CITY OF TWENTYNINE PALMS

RESOLUTION NO. 08-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, APPROVING PC 08-06 – AN APPLICATION BY KAREN PROVOST OF SAM'S GRILLE FOR A CONDITIONAL USE PERMIT AND LETTER OF PUBLIC CONVENIENCE AND NECESSITY FOR A FULL SERVICE RESTAURANT AND BAR IN THE EXISTING 2,200 SQ. FT. BUILDING AT 73527 TWENTYNINE PALMS HWY (APN 617-112-12), AND APPROVAL OF A NEW PAVED PARKING LOT, LOCATED ON THE WEST SIDE OF YUCCA AVENUE, SOUTH OF TWENTYNINE PALMS HIGHWAY(APN 617-112-18).

WHEREAS, on January 29, 2008, an application was received from Karen Provost of Sam's Grille for a Conditional Use Permit and Letter of Public Convenience and Necessity to allow a full service restaurant with alcoholic beverage sales at 73572 Twentynine Palms Highway, APN 0617-112-12, in the CG zone; and

WHEREAS, the applicant is proposing parking on a gravel parking lot, located on the west side of Yucca Avenue, south of Twentynine Palms Highway, located on APN 617-112-18, in the CO Zone; and

WHEREAS, the location was previously approved as a restaurant on August 17, 1999 and utilized as such between August 1999 and December 2002; and

WHEREAS, the land use designation (zoning) for the subject property is General Commercial (CG) and Office Commercial (CO); and

WHEREAS, the proposed project is an existing commercial building and parking lot; and

WHEREAS, with the proposed conditions of approval, the proposed project design is consistent with the General Plan and Development Code; and

WHEREAS, Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, Class 1 Categorical Exemptions consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, therefore the project is Categorically Exempt from further environmental review under state law; and

WHEREAS, the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; and

WHEREAS, the project site has no value as habitat for endangered, rare or threatened species; and

WHEREAS, approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and

WHEREAS, the site can be adequately served by all required utilities and public services; and

WHEREAS, a public hearing notice for the Planning Commission and City Council public hearings was published in a newspaper of record and notice was mailed to all property owners located within 300 feet of the project site; and

WHEREAS, a public hearings was held by the Planning Commission on April 1, 2008; and

WHEREAS, following the public hearing, including consideration of all written and oral testimony, the Planning Commission voted to recommend approval by the City Council; and

WHEREAS, a public hearings was held by the City Council on April 22, 2008; and

WHEREAS, with respect to the Conditional Use Permit application the City Council finds the following:

- A. The proposed site is located adjacent to the Twentynine Palms Highway and will therefore not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- B. The subject site is approximately 0.06 acres and is therefore adequate in size to accommodate the proposed use.
- C. The shape of the parcel is typical, and allows for orderly development such as the proposed use.
- D. With the recommended conditions, the proposed project will meet the objectives of the General Plan and CG land use designation.
- E. The proposed project, as conditioned, does not conflict with and is consistent with the goals and objectives of the Twentynine Palms General Plan.
- F. This project would provide for fine dining opportunities in the Downtown.
- G. This project would eliminate one vacancy in the area and add to the vitality of the Downtown.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Twentynine Palms adopts the Categorical Exemption, adopts this resolution, and approves the Conditional Use Permit and Letter of Public Convenience and Necessity, subject to the attached Conditions of Approval.

APPROVED AND ADOPTED THIS 22nd DAY OF April, 2008

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

Elaine Bernal, Mayor

ATTEST:

Charlene L. Sherwood CMC, City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. 08-07 duly adopted by the City Council of the City of Twentynine Palms in a meeting held on the 22nd day of April 2008, in Twentynine Palms, California.

Dated this 22nd day of April, 2008.

Charlene L. Sherwood CMC, City Clerk

DRAFT

April 23, 2008

Department of Alcoholic Beverage Control
42-700 Bob Hope Drive
Suite 317
Rancho Mirage, CA 92270

RE: PC 08-06
Letter of Public Convenience and Necessity for Sam's Grille, 73527 Twentynine Palms Highway (Hwy 62), for a liquor license for On-Sale General Eating Place.

At their regular meeting on April 22, 2008, the Twentynine Palms City Council reviewed a request from Karen and Samuel Provost on behalf of Sam's Grille, for a Conditional Use Permit to allow the sale of alcoholic beverages in a restaurant and for the issuance of a Letter of Public Convenience and Necessity for a liquor license for On-Sale General Eating Place, at the above referenced facility in Twentynine Palms. After considering the request, the City Council approved the Conditional Use Permit and issuance of the Letter of Convenience and Necessity. This action is recorded in the official minutes of the meeting.

The case files related to this application will be retained at the Community Development Department at City Hall and are available for inspection during business hours. Any questions regarding this action should be directed to the City Clerk or the Community Development Department.

Sincerely,

Brenda Simmons
Community Development Technician

cc: Karen Provost - Applicant/Sam's Grille
Alex Meyerhoff, Community Dev. Director



STAFF REPORT

TO: City Council via City Manager
FROM: City Engineer
DATE: April 22, 2008

SUBJECT: Proposed Changes to Street Improvement Impact Fee and Introduction of Ordinance No. 212 and 213.

RECOMMENDATION: The City Council conducts the Public Hearing, considers public comment, direct the City Clerk to read Ordinance No. 212 and 213 by title only, introducing Ordinance No. 212 and 213, and direct staff to bring the Ordinances back for adoption.

ORDER OF PROCEDURE:

Request Staff Report (Richard Pedersen Presenting)
Council Questions of Staff
Open Public Hearing
Close Public Hearing
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

Attachments

1. Staff Report
2. Ordinance No. 212
3. Ordinance No. 213
4. Report of Citywide Street Improvement Impact Fee Study

BACKGROUND: At the January 22, 2008 City Council meeting the Council received a staff report on the current Street Improvement Impact Fee. At that meeting staff was directed to prepare ordinances to (1) permit the payment of an in lieu fee for the construction of Street Improvements resulting from newly constructed non-residential and multi-family residential development (2) create a Street Improvement Impact Fee, which will apply to new non-residential development projects, (3) impose an in lieu fee for new development if existing conditions include street improvements on site, due to the impact of development on a citywide basis, and (4) correct several inconsistencies in the City's present delay/deferral system for Street Improvements.

At the February 26, 2008 City Council meeting the Council discussed briefly the draft documents and then asked staff to schedule a study session to more thoroughly review the issue as a whole.

At the March 19th study session the Council received a history of the Street Improvement Impact Fee and provided comment on the draft ordinances. The City Attorney has made revisions in Ordinances 112 and 113 per the direction of the Council and will be present at the April 22nd City Council meeting to review and answer questions.

Review of Staff Report:

_____ City Manager

_____ City Attorney

_____ City Engineer

_____ Department Head

ORDINANCE NO. 212

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA TO AMEND CHAPTER 19.85 OF THE TWENTYNINE PALMS MUNICIPAL CODE TO AUTHORIZE THE IMPOSITION OF A CITYWIDE STREET IMPROVEMENT IMPACT FEE, TO DELETE DEFERRAL PROVISIONS, AND TO RENAME THE CHAPTER.

WHEREAS, pursuant to Sections 66001 et seq. of the Government Code, the City may impose a fee as a condition of approval of a development project to mitigate the impacts of such development; and

WHEREAS, the City has prepared a Street Improvement Impact Fee Study, in compliance with the provisions of Sections 66001 *et seq.* of the Government Code; and

WHEREAS, the City's Development Code presently authorizes the City to assess a local street improvement impact fee in connection with the issuance of a development permit for construction of a new single-family residence or new second dwelling unit with a kitchen; and

WHEREAS, the City Council has determined that the construction of new multi-family dwellings creates the need for storm water drainage control and increases the amount of pedestrian traffic flowing in the City as a result of increased density in residential areas from such new dwelling units, and increases traffic City-wide as a result of residents utilizing City roadway curbs, gutters and sidewalks; and

WHEREAS, the City Council has determined that new commercial, industrial, and public use development creates a need for storm water drainage control and increases the amount of traffic flowing in the City as a result of new pedestrian activity and car trips to and from the new development, and also increases residential traffic because it creates jobs for employees who are likely to live within the City; and

WHEREAS, the City Council has determined that the construction of curbs, gutters, sidewalks and connecting pavement in accordance with the City of Twentynine Palms General Plan Circulation Element has a reasonable relation to and is necessary to mitigate the impact for storm water drainage control and of such increased traffic resulting from new multi-family dwellings and commercial/industrial/public use development; and

WHEREAS, the City Council has determined that the cost of constructing curbs, gutters, sidewalks and connecting pavement along the frontage of a lot on which new

construction is to be constructed is roughly proportional to the impact of such development project, regardless of whether such improvements already exist along the frontage of such a lot because new development on such lots will create the need for storm water drainage control and increase traffic and circulation city wide; and

WHEREAS, the City Council has determined that the cost of constructing curbs, gutters, and sidewalks is approximately \$75 per linear foot of frontage and that this cost is the reasonable cost of providing the sidewalk, curb and gutter facilities; and

WHEREAS, the City Council previously established a Local Street Improvement Fund (Ordinance No. 200) to pay for the construction of curbs, gutters, and sidewalks in residential neighborhoods of the City, in accordance with the City of Twentynine Palms General Plan Circulation Element; and

WHEREAS, the City Council desires to impose a Citywide Street Improvement Fee and to establish an additional and separate fund for fees paid by new multi-family residential development and new commercial/industrial/public use development to pay for the construction of curbs, gutters, and sidewalks on streets throughout the City, in accordance with the City of Twentynine Palms General Plan Circulation Element; and

WHEREAS, the City Council desires to impose a Street Improvement Impact Fee on development projects located on streets which have already been improved, in order to mitigate the City-wide traffic impacts of such development; and

WHEREAS, the City Council desires to give the Planning Commission discretion to impose conditions of approval in lieu of requiring payment of the Street Improvement Impact Fee; and

WHEREAS, the City Council desires to eliminate the process for deferring street improvements currently permitted by Section 19.85.030 of the Twentynine Palms Municipal Code; and

WHEREAS, the City Council desires to rename the Chapter 19.85 to more accurately reflect the content of such chapter; and

WHEREAS, the City Council of the City of Twentynine Palms held a duly noticed Public Hearing on _____, ____, 2008 to receive and consider public comment.

NOW, THEREFORE, the City Council of the City of Twentynine Palms does ordain as follows:

SECTION 1: Chapter **19.85** of the Twentynine Palms Municipal Code is hereby renamed “PUBLIC IMPROVEMENTS – DELAYING, STREET IMPROVEMENT IMPACT FEE”.

SECTION 2: Section **19.85.030** is hereby deleted from the Twentynine Palms Municipal Code.

SECTION 3: Section **19.85.040** of the Twentynine Palms Municipal Code is hereby amended to read as follows:

19.85.040 Street Improvement Impact Fee

(A) Establishment. In lieu of requiring the construction of curbs, gutters, sidewalks and connecting pavement, a street improvement impact fee may be assessed, at the discretion of the City Engineer, in connection with the issuance of a development permit for new construction.

(B) Calculation of Fee. The amount of the fee shall be calculated according to the length of street frontage of the lot on which the development is to occur. The fee to be assessed in connection with the issuance of a permit for construction of a new single-family residence or new second dwelling unit with a kitchen shall be based upon the length of street frontage of the lot on which the development is to occur, up to 150 feet of frontage. For all other development, the fee shall be calculated based upon the total street frontage of the lot on which the development is to occur. Subject to the adjustment provision in subdivision “(C)” below, the fee for fiscal year 2006-2007 shall be \$75 per linear foot of street frontage.

(C) Adjustment of Fee. In order to account for increased construction costs relating to material and labor, the fee in subdivision “(B)” shall be increased by an inflation factor of three percent (3.0%) each following fiscal year after fiscal year 2006-2007.

(D) Collection. The amount of fees due hereunder shall be determined at the time of approval of a development permit for new construction. The fee shall be paid no later than the issuance of a building permit for such development and no building permits shall be issued authorizing the construction or establishment of any units without payment of the fee.

(E) Creation of Separate Funds; Purpose and Use of Street Improvement Impact Fees.

(1) Upon the effective date of this ordinance, the City Finance Director shall create a separate account (the “Local Street Improvement Fund”) into which all fees assessed in connection with the issuance of permits for construction of a new single-family residence or new second dwelling unit with a kitchen shall be placed. The Local Street Improvement Fund shall be used solely for the purpose of constructing curbs, gutters, sidewalks and connecting pavement on streets fronting residentially zoned property in accordance with the City of Twentynine Palms General Plan Circulation Element. Because development subject to this fee will have traffic impacts on a citywide basis, the fees are not required to be used to construct street improvements on the same street from which they are received.

(2) Upon the effective date of this ordinance, the City Finance Director shall create a separate account (the “Citywide Street Improvement Fund”) into which all revenue raised by this ordinance, other than that designated for the Local Street Improvement Fund, shall be placed. The Citywide Street Improvement Fund shall be used solely for the purpose of constructing curbs, gutters, sidewalks and connecting pavement on streets within the City of Twentynine Palms, in accordance with the City of Twentynine Palms General Plan Circulation Element. Because development subject to this fee will have traffic impacts on a citywide basis, the fees are not required to be used to construct street improvements on the same street from which they are received.

(3) The City's Finance Director shall file a report with the City Council no later than _____, 200_ [insert date that is 180 days after end of the next fiscal year], and at least once a year thereafter which shall contain both of the following: (i) the amount of funds collected and expended under this ordinance; and (ii) the status of any project required or authorized to be funded to carry out the purposes set forth herein.

(F) Discretionary Project Approvals. For any project for which Planning Commission approval is required, the assessment of the street improvement impact fee shall be at the discretion of the Planning Commission. The Planning Commission shall have the discretion to impose conditions of approval in lieu of requiring payment of the street improvement impact fee.

SECTION 4: The City Council finds that the Street Improvement Impact Fee Study and Citywide Street Improvement Impact Fee Study prepared in connection with the Street Impact Fee is accurate and is supported by substantial evidence in the record. The Council further finds, based on the contents of the Fee Study, the public testimony, the staff presentation and the contents of the staff report, that the imposition of the Citywide Street Impact Fee bears a rational relationship to the use and type of development on which the fee is imposed and that there is no substantial evidence to the contrary. The Citywide Street Impact Fee is the reasonable cost of providing the sidewalk, curb and gutter facilities.

SECTION 5. If any court of competent jurisdiction holds any section, subsection, sentence, phrase, or portion of this ordinance invalid or unconstitutional, such determination shall not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have enacted this ordinance and each section, subsection, sentence, clause or phrase hereof irrespective of any determination of invalidity.

SECTION 6: The adoption of this ordinance is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Section 15273 of the State CEQA Guidelines (14 C.C.R. § 15273), and is additionally and independently exempt from CEQA analysis pursuant to State CEQA Guidelines Section

15061(b)(3) (14 C.C.R. § 15061(b)(3)) which sets forth the 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.”

SECTION 7: This ordinance shall become effective thirty (30) days after its passage and adoption. Within fifteen (15) days of the date of adoption of this ordinance, the City Clerk shall post a copy of said ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

APPROVED, ADOPTED AND SIGNED this ____ day of _____,
200__.

ATTEST:

CITY CLERK of the City of Twentynine
Palms, California

MAYOR of the City of Twentynine Palms,
California

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)ss

CITY OF TWENTYNINE PALMS)

I, _____, City Clerk of the City of Twentynine Palms, California, do hereby certify that Ordinance No. _____ was regularly introduced at the meeting of _____, 2008, the reading in full thereof unanimously waived, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK

ORDINANCE NO. 213

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, AMENDING SECTIONS 19.07.060, 19.08.060, 19.09.060, 19.10.090, 19.12.090, 19.14.060 AND 19.15.050 OF THE TWENTYNINE PALMS MUNICIPAL CODE, RELATING TO STREET DEDICATIONS AND IMPROVEMENTS.

WHEREAS, the City Council has determined that the construction of new dwelling units, including new single family residences and second dwelling units with kitchens, increases the amount of vehicular traffic flowing into residential neighborhoods of the City as a result of increased density in residential areas from such new dwelling units and increases traffic city-wide as a result of residents utilizing roadways and sidewalks; and

WHEREAS, the City Council has determined that the construction of new multi-family dwellings increases the amount of vehicular traffic flowing in the City as a result of increased density in multi-family residential districts from such new dwelling units and increases traffic city-wide as a result of residents utilizing roadways and sidewalks; and

WHEREAS, the City Council has determined that new commercial, industrial, and public use development increases the amount of vehicular traffic flowing in the City as a result of new car trips to and from the new development, and also increases residential traffic because it creates jobs for employees who are likely to live within the City; and

WHEREAS, the City Council has determined that the construction of curbs, gutters, sidewalks and connecting pavement is necessary to mitigate the impact of the increased traffic resulting from the development described above; and

WHEREAS, the City Council has determined that the cost of constructing curbs, gutters, sidewalks and connecting pavement along the frontage of a lot on which new construction is to be constructed is roughly proportional to the impact, throughout the City, of such development project, regardless of whether such improvements already exist along the frontage of such a lot because new development on such lots will increase traffic and circulation city wide; and

WHEREAS, the City Council has determined that a property owner should not be required to pay for the cost of curbs, gutters, sidewalks, where the property owner has already paid such cost; and

WHEREAS, Sections 19.07.060, 19.08.060, 19.09.060, 19.10.090, 19.12.090, 19.14.060 and 19.15.050 of the City's Municipal Code currently require that certain street improvements be made as a condition of approval of development projects; and

WHEREAS, pursuant to Sections 66001 *et seq.* of the Government Code, the City may impose a fee as a condition of approval of a development project; and

WHEREAS, the City Council previously adopted Ordinance No 200, which authorized the imposition of a Local Street Improvement Impact Fee as a condition of approval on the construction of new single family residences and new second dwelling units with kitchens; and

WHEREAS, the City has prepared a Citywide Street Improvement Impact Fee Study, in compliance with the provisions of Sections 66001 *et seq.* of the Government Code, which recommends the imposition of a street improvement impact fee on multi-family, commercial, industrial, and public use; and

WHEREAS, the City Council has adopted Ordinance No ____, which authorizes the imposition of a Citywide Street Improvement Impact Fee on all new development within the City; and

WHEREAS, the City Council desires to give City staff the authority to require the payment of a Citywide Street Improvement Impact Fee, in lieu of requiring the construction of curbs, gutters, sidewalks and connecting pavement as a condition of approval for certain development projects; and

WHEREAS, the City Council desires to impose the Local or Citywide Street Improvement Impact Fee (as the case may be) on new development projects located on streets which have already been improved with funds from the Local or Citywide Street Improvements Impact Fee or other public funds, in order to mitigate the City-wide traffic impacts of such development; and

WHEREAS, the City Council of the City of Twentynine Palms held a duly noticed Public Hearing on _____, ____, 2008 to receive and consider public comment.

NOW, THEREFORE, the City Council of the City of Twentynine Palms does ordain as follows:

SECTION 1. Part (A) of Sections **19.07.060**, **19.08.060**, and **19.14.060** of the Twentynine Palms Municipal Code are hereby amended so that Part (A) of each section reads as follows:

A. Before building permits are issued for the construction of a new single-family residence or new second dwelling unit with a kitchen, the dedication of additional

right-of-way and construction of required street improvements in accordance with the General Plan Circulation Element shall be required. "Street improvements" include any or all of curb and gutter, sidewalks and connecting pavement, concrete driveway approaches, drainage structures, paving, back-filling and preparation of the road surface to rough grade, and the placement of paving, and other necessary improvements, unless otherwise approved pursuant to Chapter 19.85 *Public Improvements – Delaying, Street Improvement Impact Fee*. Property owners constructing a new single-family residence or new second dwelling unit with a kitchen shall be responsible for the construction of required improvements along the street frontage of their lot, up to a maximum of 150 feet. If street improvements existed prior to approval of the new development, the property owner shall be responsible for the payment of a Local Street Improvement Impact Fee, in accordance with Section 19.85.040. The requirements of this Section shall not apply if the property owner or the property owner's predecessor in interest previously constructed the improvements required by this Section or paid the Local Street Improvement Fee.

SECTION 2. Parts (A) and (B) of Sections **19.09.060, 19.10.090, 19.12.090** and **19.15.050** of the Twentynine Palms Municipal Code are hereby amended so that Parts (A) and (B) of each section reads as follows:

A. Before building permits are issued for the construction of a structure or improvement, the dedication of additional right-of-way and construction of required street improvements in accordance with the General Plan Circulation Element shall be required. "Street improvements" include any or all of curb and gutter, sidewalks and connecting pavement, concrete driveway approaches, drainage structures, paving, back-filling and preparation of the road surface to rough grade, and the placement of paving, and other necessary improvements, unless otherwise approved pursuant to Chapter 19.85 *Public Improvements – Delaying, Street Improvement Fee*. If street improvements existed prior to approval of the new development with funds from the Local or Citywide Street Improvement Impact Fee or other public funds, the property owner shall be responsible for the payment of a Citywide Street Improvement Impact Fee, in accordance with Section 19.85.040. The requirements of this Section shall not apply if the property owner or the property owner's predecessor in interest previously constructed the improvements required by this Section or paid the Local Street Improvement Fee.

B. Before occupancy shall be granted for any such building or improvement, the Building Official shall determine the following:

1. That all of the required dedications have been provided.
2. That all of the required street improvements have either been installed or that a cash deposit, surety bond or other form of surety acceptable to the City Council in an amount equal to the estimated cost of the street has been posted with the City to assure the installation of said street improvements. In lieu of requiring the

installation of curbs, gutters, sidewalks and connecting pavement or delaying the improvements with approved security, a Citywide Street Improvement Impact Fee may be assessed in accordance with Section 19.85.040, at the discretion of the City Engineer.

SECTION 3. If any court of competent jurisdiction holds any section, subsection, sentence, phrase, or portion of this ordinance invalid or unconstitutional, such determination shall not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have enacted this ordinance and each section, subsection, sentence, clause or phrase hereof irrespective of any determination of invalidity.

SECTION 4. The adoption of this ordinance is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Section 15273 of the State CEQA Guidelines (14 C.C.R. § 15273), and is additionally and independently exempt from CEQA analysis pursuant to State CEQA Guidelines Section 15061(b)(3) (14 C.C.R. § 15061(b)(3)) which sets forth the 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.”

SECTION 5: This ordinance shall become effective thirty (30) days after its passage and adoption. Within fifteen (15) days of the date of adoption of this ordinance, the City Clerk shall post a copy of said ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

APPROVED, ADOPTED AND SIGNED this ____ day of _____, 200__.

ATTEST:

CITY CLERK of the City of Twentynine
Palms, California

MAYOR of the City of Twentynine Palms,
California

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)ss

CITY OF TWENTYNINE PALMS)

I, _____, City Clerk of the City of Twentynine Palms, California, do hereby certify that Ordinance No. _____ was regularly introduced at the meeting of _____, 2008, the reading in full thereof unanimously waived, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK

REPORT
OF
CITYWIDE STREET IMPROVEMENT IMPACT FEE STUDY
FOR

CITY OF TWENTYNINE PALMS
COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA

February 12, 2008

CITYWIDE STREET IMPROVEMENT IMPACT FEE STUDY

TABLE OF CONTENTS

SECTION 1 AUTHORITY FOR REPORT	1
SECTION 2 GOVERNMENT CODE REQUIREMENTS	1
SECTION 3 FEE STUDY	1
(1) PURPOSE OF THE FEE	2
(2) USE TO WHICH THE FEE IS TO BE PUT	2
(3) REASONABLE RELATIONSHIP BETWEEN THE FEE'S USE AND THE TYPE OF DEVELOPMENT PROJECT ON WHICH THE FEE IS IMPOSED	2
(4) REASONABLE RELATIONSHIP BETWEEN THE NEED FOR THE PUBLIC FACILITY AND THE TYPE OF DEVELOPMENT PROJECT ON WHICH THE FEE IS IMPOSED	3
APPENDIX	4
IMPROVEMENT COST ESTIMATE	5

CITY OF TWENTYNINE PALMS
COUNTY OF SAN BERNARDINO, CALIFORNIA
REPORT OF FEE STUDY
ON
CITYWIDE STREET IMPROVEMENT IMPACT FEE

SECTION 1 AUTHORITY FOR REPORT

This report is prepared pursuant to an order of the City Council of the City of Twentynine Palms at the regular meeting of January 22, 2007. It is prepared in compliance with the requirements of Section 66001 *et seq.* of the Government Code.

SECTION 2 GOVERNMENT CODE REQUIREMENTS

In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall do all of the following:

- (1) Identify the purpose of the fee.
- (2) Identify the use to which the fee is to be put.
- (3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
- (4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

SECTION 3- FEE STUDY

The City's Development Code Sections 19.10.090 (commercial), 19.09.060 (multi-family), 19.12.090 (service commercial and industrial), 19.14.060 (open space) and 19.15.050 (public) presently require the construction of Street Improvements when there is an increase or change in vehicular traffic resulting from these types of development (described in further detail below). These Street Improvements may include curbs, gutters and sidewalks, concrete driveway approaches, drainage structures, asphalt paving, connecting pavement and other street related improvements ("Street Improvements"). Further, presently, unless otherwise required to pay an in lieu fee pursuant to amendments that are being processed concurrently with this fee study, Street Improvements for these uses must be constructed adjacent to the property line along the street frontage, prior to approval of a Certificate of Occupancy of the structure.

Presently, new single-family residential development or new development of second units in the City (see Development Code sections 19.07.060, 19.08.060 and 19.14.060) must either construct Street Improvements or pay an in lieu fee (as previously established by Ordinance No. 200 and its related Street Improvement Fee Study). In connection with these developments, currently the City does not require the payment of an in lieu fee if new residential construction occurs on property that has existing Street Improvements, despite the fact that this new development utilizes Street Improvements citywide and impact pedestrian and drainage improvements outside of the immediate area of the development.

To address concerns as detailed in the January 22nd report presented by the City Engineer, expansion of the existing Local Street Improvement Impact Fee from single family residential uses to all uses (i.e., multifamily, commercial, industrial, open space and public) was recommended as an alternative that the City may impose on these use in lieu of having the applicant or owner construct Street Improvements. The standard policy is to have these improvements constructed by the developer unless it is deemed appropriate by the City Engineer to pay this fee. Further, the City Council requested that the City Engineer review the possibility of amending the Development Code to require the payment of in lieu Street Improvement fees in circumstances where new development is proposed on a site that has existing street improvements constructed with the fees collected under this ordinance or other public funds as reimbursed.

(1) PURPOSE OF THE FEE

The sole purpose of the Citywide Street Improvement Impact Fee (sometimes referred to herein as the “Fee”) is for the construction of curbs, gutters, sidewalks, and connecting pavement in the City of Twentynine Palms.

The Fee may be imposed by the City, in lieu of requiring the owner or applicant to construct such improvements, on certain development that requires the construction of street improvements under the Development Code (i.e. certain development that results in an increase or change in vehicular traffic). The developments on which this Fee may be imposed include the following:

- All new development with the exclusion of single-family residential development (the fee for single family residential is already established in Section 19.85.040 of the Development Code.)

Further, as directed by the City Council, provisions in Development Code shall be amended to impose a fee on the following:

- All new development (including single family residential development) shall pay either the Local Street Improvement Fee or Citywide Street Improvement Fee (as appropriate) in circumstances where new development is proposed on a site that has existing Street Improvements constructed with funds from the Local Street Improvement Fee, Citywide Street Improvement Fee or other public funds.

The Citywide Street Improvement Impact Fee will be charged at \$75 per linear foot of street frontage of the development, subject to adjustment for inflation as proposed in the draft ordinance. See Appendix for a detail improvement cost estimate. As further described below, the amount of the fee is a reasonable estimate of current construction cost for curb, gutter, sidewalk and connecting payment costs in 2007 dollars. The amount of the fee is based upon the length of the street frontage of the property to be developed, normally property line to property line. In the case where only a portion of the property is proposed for development, where the City Engineer approves a phasing plan, the street frontage associated with the phase will be the limitation to the street frontage fee and the remaining frontage shall be charged a fee at the time development is sought or the entire frontage will be constructed with fees credited. These improvements which are typically required to be conditions of development, is roughly proportional to the type of development on which the Citywide Street Improvement Fee is imposed and for the use to which the fee is put because non-residential development creates a need for drainage control and pedestrian improvements and increases both non-residential and residential pedestrian traffic in the City by virtue of increasing the employment base of the City as well increasing as the residential base of the City who work at these new developments; further, nonresidential development increases traffic and circulation in areas that are outside of the immediate vicinity of the proposed development.

The street improvement impact fee also applies to all developments fronting streets funded and constructed by the City with Street Improvement Impact fee funds or other public funds secured by the City. In the event that the street improvements are constructed prior to the development of the adjacent property, upon development of the property the developer is required to pay the fee.

(2) USE TO WHICH THE FEE IS TO BE PUT

The use of the Fee will be restricted exclusively for the construction of curbs, gutters, sidewalks and connecting pavement on streets fronting non-residentially zoned property in the City of Twentynine Palms or in residential areas because the nonresidential development impacts the residential areas of the City (for instance, Citywide Street Improvement Fees may be used on residential streets because commercial uses increase residential traffic for use of these developments, increase the employment base of the City, the

need for drainage control and increase pedestrian traffic in areas outside the immediate vicinity of the development and lead to employees living in the City). In order to use the collected funds efficiently and effectively, the Fee would not necessarily or immediately, be used to construct improvements on the same street from where the funds are received. Rather, the Fees deposited into the Citywide Street Improvement Fund may be used for non-single family residential street improvements or on residential streets because the nonresidential development impacts the residential areas of the City in accordance with the City of Twentynine Palms General Plan Circulation Element and Council determinations on where community needs require use of such funds. Therefore, Fees would be used on streets fronting properties that are deemed high priority based upon current maintenance costs related to drainage, vehicular and pedestrian traffic, and other cost effectiveness and safety criteria.

Under this Fee program, the funds would be used efficiently by accruing sufficient funds to construct an entire street segments. Constructing streets in this manner will result in cost savings through the design, inspection, and construction phases. Therefore, there will be the realization of certain economies of scale for constructing sidewalk, gutter, curb and connecting pavement improvements to entire segments, rather than having such improvements be constructed in a piecemeal and disorganized approach. Likewise, imposing Street Improvements Fees on new development that has existing Street Improvements (either under the existing Local Street Improvement Fee or the proposed Citywide Street Improvement Fee) would be used in the same manner.

(3) REASONABLE RELATIONSHIP BETWEEN THE FEE'S USE AND THE TYPE OF DEVELOPMENT PROJECT ON WHICH THE FEE IS IMPOSED

There is a reasonable relationship between the use of fee for the construction of curbs, gutters, sidewalks and connecting pavement on local streets fronting non-single family residentially zoned properties, residential properties and already subdivided properties and the type of developments it is imposed on because these non-single family residential uses create the need for storm water drainage control, will cause increased or changed vehicular and pedestrian traffic that utilizes these street and sidewalk improvements (curb, gutter and sidewalks) in both non-single family residential areas and residential areas citywide. For instance, non-residential development, particularly commercial development, increases pedestrian traffic due to residents utilizing Street Improvements to reach these new non-residential uses and additionally, create the need for storm drainage control that curbs and gutters provide. Further, non-residential development increases the demand for housing and increases the City's employment base. Finally, such development utilizes other circulation routes in the city aside from those in the immediate vicinity of the development. Standards for street improvements have been adopted by the City Council as indicated by the adopted the Circulation Element of the General Plan. Pursuant to existing Development Code requirements these standard street improvements are

constructed with all new subdivisions of residential tract housing and provide benefits to each use and provide for the health, safety, and general welfare of its residents. The Fees required are based upon the current, actual cost of these improvements along the frontage of the individual property as depicted in Appendix.

With respect to new development at locations where Street Improvements already exist, and constructed with the City Street Improvement Impact Fee or with other public funds, there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed because new development increases the use of City streets on a citywide basis, even if the immediate Street Improvements are already in place. Thus, new development benefits from Street Improvement construction throughout the City.

(4) REASONABLE RELATIONSHIP BETWEEN THE NEED FOR THE PUBLIC FACILITY AND THE TYPE OF DEVELOPMENT PROJECT ON WHICH THE FEE IS IMPOSED

There is a reasonable relationship between the need for curbs, gutters, sidewalks and connecting pavement on streets fronting non-single family residentially zoned and residential properties and the type of development it is imposed on because those uses generate pedestrian traffic that will utilize sidewalks and a need for storm drainage control provided by curbs and gutters which is needed – all throughout the City. Street Improvements may be constructed with fees collected from these developments. In order to efficiently and effectively manage this program, the funds collected will not necessarily be used to construct street improvements on the same street from where the funds are received. Rather, Fees deposited into the Citywide Street Improvement Fund to be used for non-single family residential Street Improvements and certain residential Street Improvements in accordance with the City of Twentynine Palms General Plan Circulation Element. City residents utilize the entire City-wide street improvement system. It is therefore reasonable for Fees to be used on a citywide basis in conformity with the City General Plan.

There is also a reasonable relationship between the need for Street Improvements citywide and new development where Street Improvements already exist on-site. New development increases the use of sidewalks and a need for storm drainage control provided by curbs and gutters citywide at a rate that may exceed the initial development that constructed the adjacent street improvements and this fee would be used for the improvement of these public facilities.

APPENDIX

CITYWIDE STREET IMPROVEMENT IMPACT FEE

IMPROVEMENT COST ESTIMATE (PER LINEAR FOOT OF FRONTAGE)

Item Description	Quantity	Unit	Unit Cost*	Total
8" curb and gutter	1.0	LF	30.00	\$30.00
Sidewalk	6.0	SF	4.00	\$24.00
Asphalt pavement	6.5	SF	2.00	\$13.00
Design, survey, permit etc.	1.0	LS	8.00	\$8.00
Total per linear foot:				\$75.00

* Source: Current City's Engineer's Estimate Data Sheet

Note:

The Citywide Street Improvement Impact Fee will be charged at \$75 per linear foot of street frontage of the development.

Examples:

(1) The fee would be calculated at \$75 per linear foot of street frontage, the current average cost of improvements:

(2) If a property has a 70' frontage, the property owner would pay \$5,250 (70' x \$75).

(3) If a property has a 660' frontage but the owner is proposing to develop 250' of the frontage per an approved phasing plan the owner would pay \$18,750 (250' x \$75 = \$18,750). The remaining frontage would be improved along with the frontage of the first phase, a credit would be given for the fees paid for the first phase equal to the fees collected or charged at the time development occurs.

The Fee applies to the following developments:

- All uses with an increase or change in traffic with the exception of single-family residential property (which are already subject to the Local Street Improvement Fee).



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: April 22, 2008

SUBJECT: Public Arts Advisory Committee ("PAAC") Selection

RECOMMENDATION: The recommendation is that the City Council receives staff report and provides direction to staff.

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Public Comment
Council Discussion & Direction

Attachments

I. Public Arts Policy

BACKGROUND: At the March 23, 2004 City Council meeting the Council adopted a Public Arts Policy and directed staff to advertise for applicants for the five member committee so that the Council could appoint the members.

The Public Arts Policy provides a means for the Council to accept donations, loans of art and establish a committee of Twentynine Palms residents who would review art proposed to the City by donors and make recommendations to the Council regarding acceptance and the conditions of acceptance. The quality of the art, location, and purpose would be analyzed by the Committee who would make findings and a recommendation to the City Council as to the appropriateness of the art display.

At the April 27, 2004 City Council meeting the Council appointed two members to a Task Force (Benton and Spear) to review the applications that were received. On August 10, 2004 the City Council approved the following individuals to the PAAC: Cathy Allen, Don Carlos Andrade, Chuck Caplinger, Audrey Gillick, and Ray Kinsman. There was no term limit established for the members of the PAAC.

Don Carlos Andrade was replaced on the PAAC approximately one year later by Liz Meyer.

PAAC member Cathy Allen recently submitted her resignation. Staff seeks direction on whether the City Council would like to create a PAAC Selection Task Force to review and make a recommendation from applications to be received for the vacancy. It is anticipated that the vacancy will be advertised following the April 22, 2008 City Council meeting and that the PAAC Selection Task Force would bring before the Council a recommendation in May.

Review of Staff Report:

_____ City Manager

_____ City Attorney

_____ City Engineer

_____ Department Head

ALTERNATIVES: An alternative would be to have the PAAC provide a recommendation to the City Council.

FISCAL IMPACT: N/A



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: April 22, 2008

SUBJECT: Contract Award for Technical Assistance Related to the Potential Transfer of Fire Protection from the Twentynine Palms Water District to City of Twentynine Palms

RECOMMENDATION: The recommendation is that the City Council award a contract in an amount not to exceed \$18,700 to The Davis Company for technical assistance related to the potential transfer of fire protection from the Twentynine Palms Water District to the City of Twentynine Palms.

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

<i>Attachments</i>
1. Request for Proposals
2. Proposal from The Davis Company
3. Proposal from Citygate & Associates

BACKGROUND: The Joint Committee of the Twentynine Palms Water District and the City of Twentynine Palms has met on three (3) separate occasions to consider a potential transfer of the Twentynine Palms Fire Department to the City. The following are options that have been reviewed and discussed:

- A. Water District retains jurisdiction of the Fire Department
- B. Water District and City establish a Joint Powers Authority to manage the Fire Department
- C. Fire Department jurisdiction is transferred to the City within City boundaries and the Water District contracts with the City for fire service in the unincorporated areas
- D. Fire Department is annexed into the County Fire Department
- E. The Water District contracts with the County Fire Department for fire services

The desire of the Joint Committee is to recommend option C. Furthermore, it was the direction of the Joint Committee to continue to look into the impacts that such a transfer would have on the District and City. To this end a list of questions was developed that would be best answered by an independent auditor or consultant. These questions are found in Section II: Scope of

Review of Staff Report: _____
City Manager City Attorney City Engineer Department Head

Work of the attached Request for Proposals (RFP). The RFP was advertised for three weeks.

At the March 25, 2008 City Council meeting the Council gave authorization for staff to award the contract in an amount not to exceed \$17,000. Of the four firms that requested the RFP, two returned proposals.

The proposal by The Davis Company seeks to perform all tasks by qualified experts within a 10 week time period at a cost of \$17,000, not including an additional out-of-pocket expense of \$1,700 for travel, document preparation, etc.

The proposal by Citygate & Associates seeks to perform all tasks within two distinct phases, with the first phase being a more discovery/cursory overlook phase, and the second being a more detailed analysis. The firm proposes to complete the first phase at a cost of \$14,995 within approximately 6 weeks from contract. The timeline and cost of the second phase would be contingent on further negotiations.

Although both proposals were found to be excellent, staff recommends that the City Council award the work to The Davis Company due to their experience and ability to complete the full range of tasks as outlined within the RFP in the most efficient manner.

ALTERNATIVES: Staff has evaluated the scope of work to potentially reduce the cost of the project, but feels that a reduction in the scope of work will negatively impact the desired final product. As an additional alternative the City Council can decide to not hire a consultant for the technical work.

FISCAL IMPACT: The City Council has not budgeted for technical assistance related to the potential transfer of fire protection from the Twentynine Palms Water District to the City of Twentynine Palms in the FY 2007/08 year. If awarded, the costs associated with this work would come from the City's general fund reserves.