



---

**REGULAR MEETING OF THE  
CITY OF CONCORD  
PLANNING COMMISSION**

**Wednesday, April 16, 2014  
6:00 p.m. – Study Session – Council Chamber  
7:00 p.m. – Council Chamber  
1950 Parkside Drive, Concord**

---

Planning Commission Members:

Carlyn Obringer, Chair

John Mercurio, Vice Chair

Ernesto A. Avila, Commissioner

Robert Hoag, Commissioner

Tim McGallian, Commissioner

---

**STUDY SESSION  
6:00 p.m. – Council Chamber**

**STUDY SESSION ITEM**

1. [Concord Reuse Area Project Update](#) - Presentation updating the status of the Concord Reuse Project. The presentation will review progress in implementing the Reuse Project Area Plan, including the process of soliciting interest from potential master developers and preparing for transfer of the property from the Navy to the City. **Project Contact: Mike Wright, Concord Reuse Project Director, (925) 671-3019.**
- 

**REGULAR MEETING  
7:00 p.m. – Council Chamber**

- I. **ROLL CALL**
- II. **PLEDGE TO THE FLAG**
- III. **PUBLIC COMMENT PERIOD**
- IV. **ADDITIONS / CONTINUANCES / WITHDRAWALS**
- V. **CONSENT CALENDAR**
  1. **4/02/14 Meeting Minutes**

## VI. PUBLIC HEARINGS

1. [De La Salle Academy](#) (PL140040 – UP ) – Application for a Use Permit to establish a private, independent, non-sectarian middle school for economically disadvantaged boys and girls in grades five through eight from an existing 27,151 sq. ft. building at 1380 Galaxy Way. The General Plan designation is West Concord Mixed Use; Zoning classification is WMX (West Concord Mixed Use); APN 126-451-009. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to Section 15332 “In-Fill Development Projects,” the project is classified as a Class 32 Categorical Exemption, and therefore, no further environmental review is required. **Project Planner: G. Ryan Lenhardt @ (925) 671-3162.**
  
2. [De La Salle High School Master Plan](#) (PL131368 – UP, DR) – Application for an Addendum to the 2004 Initial Study/Mitigated Negative Declaration and approving an application for Use Permit Amendment and Design Review for modifications to the De La Salle High School Master Plan for new classrooms, gymnasium, maintenance buildings, and related site improvements at 1130 Winton Drive. The General Plan designation is Public/Quasi Public; Zoning classification is PQP (Public/Quasi Public); APN 145-130-030. Pursuant to CEQA of 1970, as amended, staff prepared an Addendum to the 2004 Initial Study/Mitigated Negative Declaration (2004 IS/MND) originally approved for the De La Salle High School Master Plan project via Planning Commission Resolution No. 05-03PC. **Project Planner: Frank Abejo @ (925) 671-3128.**
  
3. [Fast Auto Loan Appeal](#) (PL140098 – AP) – Appeal of the Planning Division’s determination that a “car title loan business” is most similar to a “check cashing business” as that land use classification is defined and used in the Concord Development Code including at Section 122-1580. The Planning Division’s determination applied, and the Planning Commission’s decision will apply, to all car title loan businesses that wish to operate in the City of Concord, including Fast Auto Loans’ proposed site at 1545 Monument Boulevard, Concord CA. The General Plan designation is Commercial Mixed Use; Zoning classification is CMU (Commercial Mixed Use); APN 128-280-041. Pursuant to the California Environmental Quality Act of 1970, Public Resources Code § 21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, “CEQA”), consideration of and action on this appeal does not constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Sections 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Even if such activities did constitute a project under CEQA, staff believes the activities they fall within the “common sense” exemption set forth in 14 Cal Code Regs. Section 15061(b)(3), excluding projects 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....” **Project Planner: Carol Johnson @ (925) 671-3369.**

## VII. COMMISSION CONSIDERATIONS

## VIII. STAFF REPORTS / ANNOUNCEMENTS

## IX. COMMISSION REPORTS / ANNOUNCEMENTS

**X. FUTURE PUBLIC HEARING ITEMS****XI. ADJOURNMENT**

---

**NOTICE TO PUBLIC**

---

**ADA ACCOMMODATION**

In accordance with the Americans With Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3257, at least five (5) days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

**APPEALS**

Decisions of the Planning Commission on use permits, variances, major subdivisions, appeals taken from decisions of the Zoning Administrator or staff interpretations of the Zoning Code may be appealed to the City Council. Appeals and the required filing fee must be filed with the City Clerk within ten (10) days of the decision.

**APPLICANT'S SUBMITTAL OF INFORMATION**

Submittal of information by a project applicant subsequent to the distribution of the agenda packet but prior to the public hearing may result in a continuance of the subject agenda item to the next regularly scheduled Planning Commission meeting, if the Commission determines that such late submittal compromises its ability to fully consider and evaluate the project at the time of the public hearing.

**CONSENT CALENDAR**

All matters listed under CONSENT CALENDAR are considered by the Commission to be routing and will be enacted by one motion. There will be no separate discussion of these items unless requested by a Commissioner prior to the time Commission votes on the motion to adopt.

**CORRESPONDENCE**

Correspondence and writings received within 72 hours of the scheduled Planning Commission meeting that constitute a public record under the Public Records Act concerning any matter on the agenda is available for inspection during normal business hours at the Permit Center located at 1950 Parkside Drive, Concord. For additional information contact the Planning Division at (925) 671-3152.

**HEARINGS**

Persons who wish to speak on hearings listed on the agenda will be heard when the hearing is opened, except on hearing items previously heard and closed to public comment. Each public speaker should limit their comments to three (3) minutes or less. The Chair may grant additional time. The project applicant normally shall be the first person to make a presentation when a hearing is opened for public comment. The project applicant's presentation should not exceed ten (10) minutes unless the Chair grants permission for a longer presentation. After the public has commented, the item is closed to further public comment and brought to the Planning Commission level for discussion and action. Further comment from the audience will not be received unless requested by the Commission. No public hearing or hearing shall commence after 11:00 p.m. unless this rule is waived by majority vote of the Commission.

**MEETING RECORDS**

Cassette tapes and videotapes of each Planning Commission meeting are available for listening or viewing at the Planning Division office. Copies of the videotapes may be purchased. Contact the Planning Division Administrative Coordinator at (925) 671-3152 for further information.

**NOTICE TO THE HEARING IMPAIRED**

The Council Chamber is equipped with Easy Listener Sound Amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the Easy Listener Phonic Ear Personal Sound Amplifier from the staff for personal use during Commission meetings.

**ROUTINE AGENDA ITEMS AND CONTINUED ITEMS**

All routine and continued items will be considered by the Planning Commission at the beginning of the meeting. There will not be separate discussions of these items unless a request is made prior to the time the Planning Commission considers the motions.

**SPEAKER'S CARD**

Members of the audience who wish to address the Planning Commission should complete a speaker's card available in the lobby or at the front bench. Submit the completed card to staff before the item is called, preferably before the meeting begins.

**TELEVISED MEETINGS**

All Planning Commission meetings are broadcast live on Astound Broadband channel 29 and Comcast channel 28. The meeting is replayed on the Thursday following the meeting at 8:00 a.m., 2:00 p.m. and 8:00 p.m. Replays are also broadcast on Fridays and Saturdays. Please check the City website, <http://www.cityofconcord.org/about/citynews/tvlistings.pdf> or check the channels for broadcast times.

---

**NEXT PLANNING COMMISSION MEETINGS:**

May 7, 2014: 7:00 pm – Council Chambers

May 21, 2014: 7:00 pm – Council Chambers

---



## REPORT TO PLANNING COMMISSION

DATE: April 16, 2014

**SUBJECT: PROJECT UPDATE REGARDING CONCORD REUSE PROJECT AND AREA PLAN IMPLEMENTATION**

**Recommendation:** Staff recommends that Planning Commission hear an update on the Concord Reuse Project and provide comment on the materials presented. No action by the Commission is required.

**I. Introduction**

The staff of the Local Reuse Authority is providing an update to the Planning Commission on the Concord Reuse Project, consistent with an update presented to the City Council on February 25, 2014. In addition, staff will provide an update on the implementation planning activities that are funded by a grant from the Association of Bay Area Governments and the Metropolitan Transportation Commission (ABAG/MTC). The implementing materials are being prepared by staff in support of the first phase of development by a master developer. They will be incorporated into a draft development agreement. The master developer selection process is underway, with developer selection /negotiations by the City Council expected in the first quarter of 2015. Once a master developer is selected, detailed specific planning documents for the first phase of development will be prepared, including a full public review process with the Planning Commission and evaluation for environmental impacts according to the California Environmental Quality Act.

**II. Background**

In January 2012, the City Council sitting as the Local Reuse Authority (LRA) adopted the Concord Reuse Project Area Plan (CRP Area Plan) and consistency amendments to the Concord 2030 General Plan. The CRP-Area Plan is composed of three inter-related books. Book One presents the Vision and Standards for the CRP-Area with a focus on land use and circulation. Book Two provides technical chapters, polices, and standards specific to transportation and circulation, conservation, safety, health and noise, community facilities/parks and utilities. Book Three, the Climate Action Plan (CAP) for the CRP-Area Plan provides strategies to reduce the climate impacts associated with plan implementation.

The City Council heard an update on implementation of the CRP-Area Plan and the ongoing process of selecting a master developer on February 25, 2014. The presentation from that meeting is included in this report as Exhibit A.

PROJECT UPDATE REGARDING CONCORD REUSE PROJECT  
AND AREA PLAN IMPLEMENTATION

April 16, 2014

Page 2

Staff are currently preparing draft development agreement(s) for negotiations with the selected master developer; negotiations will happen as part of the selection process anticipated to be complete in the first quarter of 2015. The master developer will initially enter into an option agreement with the City for the first phase of development at the former weapons station. The selected master developer and the City will work together to prepare detailed planning documents, which will be subject to full public review, including detailed review by the Planning Commission, and evaluated for environmental impacts according to the California Environmental Quality Act.

In 2012, the Metropolitan Transportation Commission (MTC) awarded the City a FOCUS Station Area Planning Grant. This grant provides funding for the current work of the consultant team led by Arup to assist City staff. They will assist the City in preparing for both negotiations with a master developer and initial planning for the first phase of development. The project consists of three main parts:

**1) Phasing Strategy**

Full build-out of the Area Plan is expected to take until 2030, or longer; but the Area Plan, like any long-range planning document and the City's own 2030 General Plan, provides policy guidance for end-state development. This strategy will identify how the intent of the Area Plan will be met through phased development and approvals.

**2) Phase 1 Illustrative Diagram and Development Program**

An illustrative diagram will show where the first phase of development in the CRP area could take place, illustrating the City's expectations for scale, mix of development types, and general location of the first phase.

**3) Phase 1 Development Guidelines**

Development guidelines for public spaces will assist staff in reviewing subsequent planning documents to ensure they are consistent with the vision of the Area Plan.

**III. Discussion**

To prepare for upcoming discussions with a master developer for the first phase of development at the former weapons station, the following activities are underway:

**1) Phasing Strategy.**

To prepare the Phasing Strategies, staff and consultants will begin with identifying those portions of the plan that are likely to be implemented over time. We will then identify the key challenges relating to phasing, with a focus on supporting the City's vision of creating a world class community. Phasing strategies in response to these challenges will specify the implementation responsibilities to be borne by private and public project sponsors over time. The resulting strategies may subsequently be memorialized in a number of ways: incorporated into more detailed planning documents, such as specific plans, and/or in Development Agreements, conditions of approval or CEQA mitigation measures.

PROJECT UPDATE REGARDING CONCORD REUSE PROJECT  
AND AREA PLAN IMPLEMENTATION

April 16, 2014

Page 3

A variety of Area Plan policies need further detail to address phasing. This detail will be developed in the coming months as part of the FOCUS project. Examples are shown below.

<b>Topic</b>	<b>Area Plan Vision</b>	<b>Phasing Challenge</b>	<b>Possible Phasing Strategy</b>
<i>Housing Diversity, Balance, and Unit Type mix</i>	A range of housing types is envisioned at all phases of the project as detailed in Sitewide and District standards.	Balance and diversity may not be achieved on every block, and is unlikely in small projects.	Establish a threshold project size (based on number of units) at which all of the Plan's diversity and mix requirements must be met. Require smaller projects to demonstrate how they contribute to requirements being met at a larger scale.
<i>Convenience Standards</i>	Daily conveniences and transportation options within walking distance of homes and workplaces	Local retail services and transportation options such as car share are unlikely to be offered during earliest project phases because of insufficient demand.	Require early project phases to include sites for retail uses and to make financial contributions to transportation options to enable future achievement of convenience standards

**2) Phase 1 Illustrative Diagram and Development Program.**

An illustrative diagram (to be included in the presentation to the Commission) will show where the first phase of development in the CRP area could take place, illustrating the scale, mix of development types, and general location of the first phase. This diagram, and an associated development program, is intended to show to potential master developers the City's expectations for a first phase. The exact boundary of the first phase is a subject of negotiation between the LRA and the Navy and will be refined through subsequent detailed planning once a master developer is selected. The City currently expects development of the first phase to begin in 2016 and extend over approximately ten years. This timeline is based on the City's understanding of when the property will be transferred from the Navy, the time required to prepare the site for urban development, and current and anticipated market conditions.

The illustrative diagram will show a potential mix of development types, consistent with the CRP-Area Plan, and will be accompanied by a development program illustrating the number and types of housing units and the square footage of non-residential uses that could be constructed consistent with the illustrative diagram. The mix of uses will balance the City's desire to begin to create transit-oriented development around the North Concord BART station with the expectation that market demand at the outset is likely to support lower-density village neighborhoods along Willow Pass Road and commercial development near Highway 4.

**3) Phase 1 Development Guidelines.**

Through the process of negotiating the terms of the first phase of development both with the Navy and the master developer, and the subsequent preparation of more detailed planning documents, staff will need to review the terms and the documents for consistency with the CRP-Area Plan. This is particularly important for the public realm portions of the site – these are the areas that all residents, employees, and visitors to the site will experience. They establish the character of the place, support the provision of basic public services, and enhance the experiences of residents, employees and visitors. The key public places in the first phase of development are:

a. Parks and Open Space

The Area Plan requires the provision of significant parks and open space, and the first phase will begin to implement that requirement. These are in addition to the Conservation Open Space areas of the property, which will be owned and operated by the East Bay Regional Parks District. The Area Plan includes standards for several types of open space, from regional park to pocket parks and plazas. The guidelines for parks and open space will build upon those standards to provide additional detail with respect to materials that support Area Plan goals for stormwater and green building; examples of features that are consistent with the Area Plan; and discussion of the relationships between parks and open space and other developed portions of the plan area.

b. Community Facilities

The Area Plan and accompanying CEQA documents identify the types of community facilities that will be required to support full build out of the project. The guidelines for community facilities now being drafted will provide more specificity as to those facilities needed to support the level of development anticipated for the first phase, based on the illustrative diagram and development program.

c. Access to BART and Complete Streets Design

The Area Plan provides policy guidance for transportation on the former weapons station and connections to the surrounding area. It also identifies the general layout of the major roadways and provides standards for the components of the new streets to be created. The guidelines will illustrate approaches to accessing

PROJECT UPDATE REGARDING CONCORD REUSE PROJECT  
AND AREA PLAN IMPLEMENTATION

April 16, 2014

Page 5

the BART station, which will ultimately be a focal point of the project. They will also illustrate the roadways through cross-sections and plan views to show how they can treat relationships between buildings and roadways, provide comfortable bicycle and pedestrian travel, and contribute to creating a green, inviting place. These guidelines will emphasize pedestrian and bicycle travel, and effective connections via all modes between the Reuse Area and the rest of Concord.

**IV. Fiscal Impact**

There is no fiscal impact from the information provided in the project update.

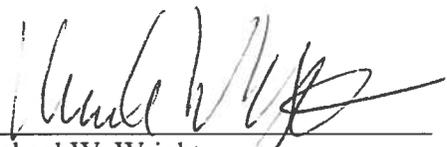
**V. Public Contact**

All appropriate public notices of this agenda item have been posted. Background materials on the Concord Reuse Project, including the Area Plan, are available for viewing/downloading on the City website ([www.concordreuseproject.org](http://www.concordreuseproject.org)).

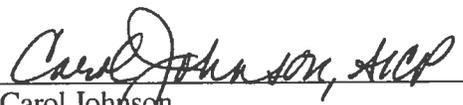
**VI. Summary and Recommendations**

There is no recommendation or call for approval for the Commission. However, staff requests that the Commission provide comments on the materials presented.

Prepared by:

  
\_\_\_\_\_  
Michael W. Wright  
Executive Director, Local Reuse  
Authority  
(925) 671-3019  
[michael.wright@cityofconcord.org](mailto:michael.wright@cityofconcord.org)

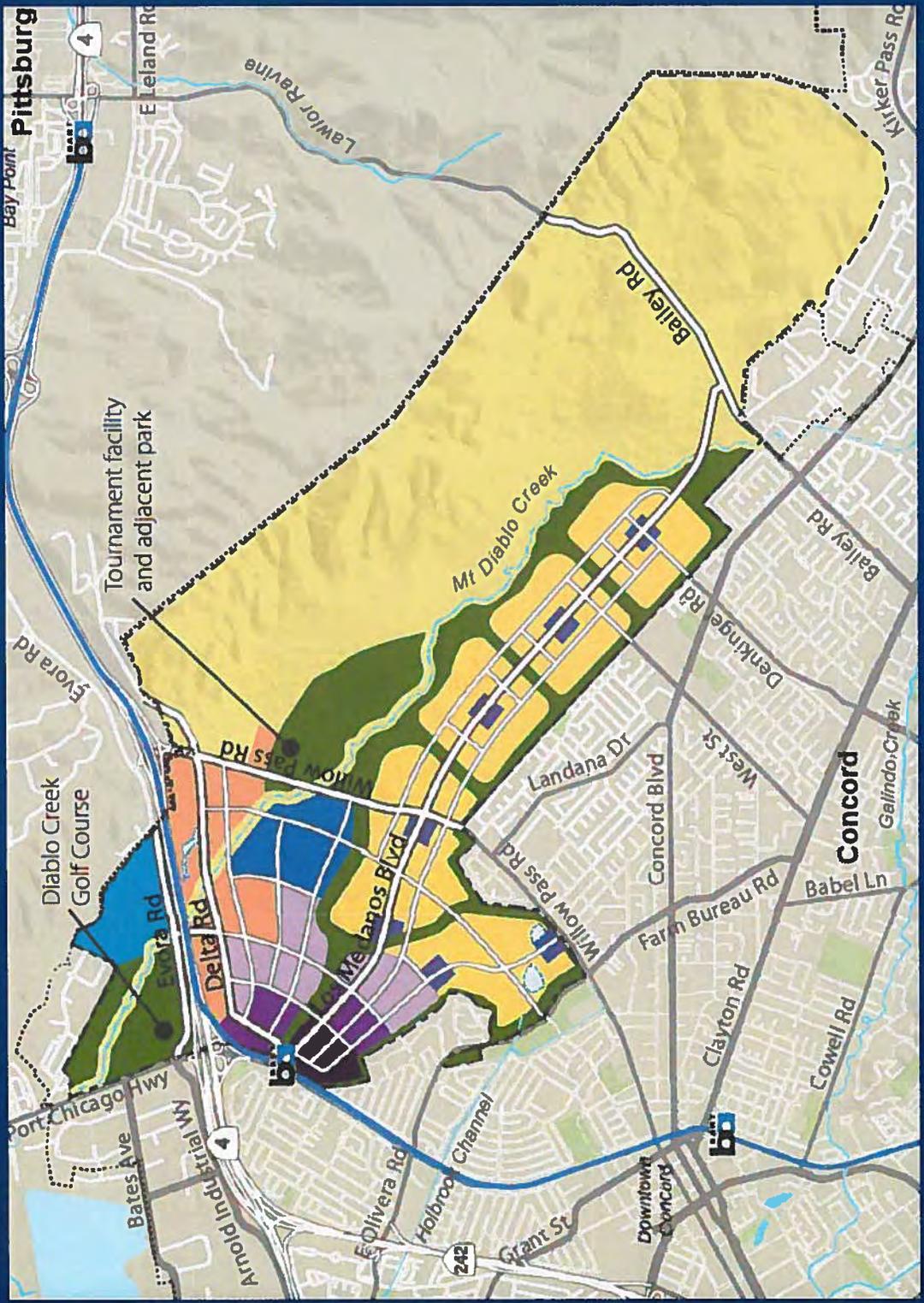
Reviewed by:

  
\_\_\_\_\_  
Carol Johnson  
Community Development Department  
(925) 671-3369  
[Carol.Johnson@cityofconcord.org](mailto:Carol.Johnson@cityofconcord.org)

Enclosures:

Exhibit A – February 25, 2014 Presentation to the City Council Regarding the Concord Community Reuse Project

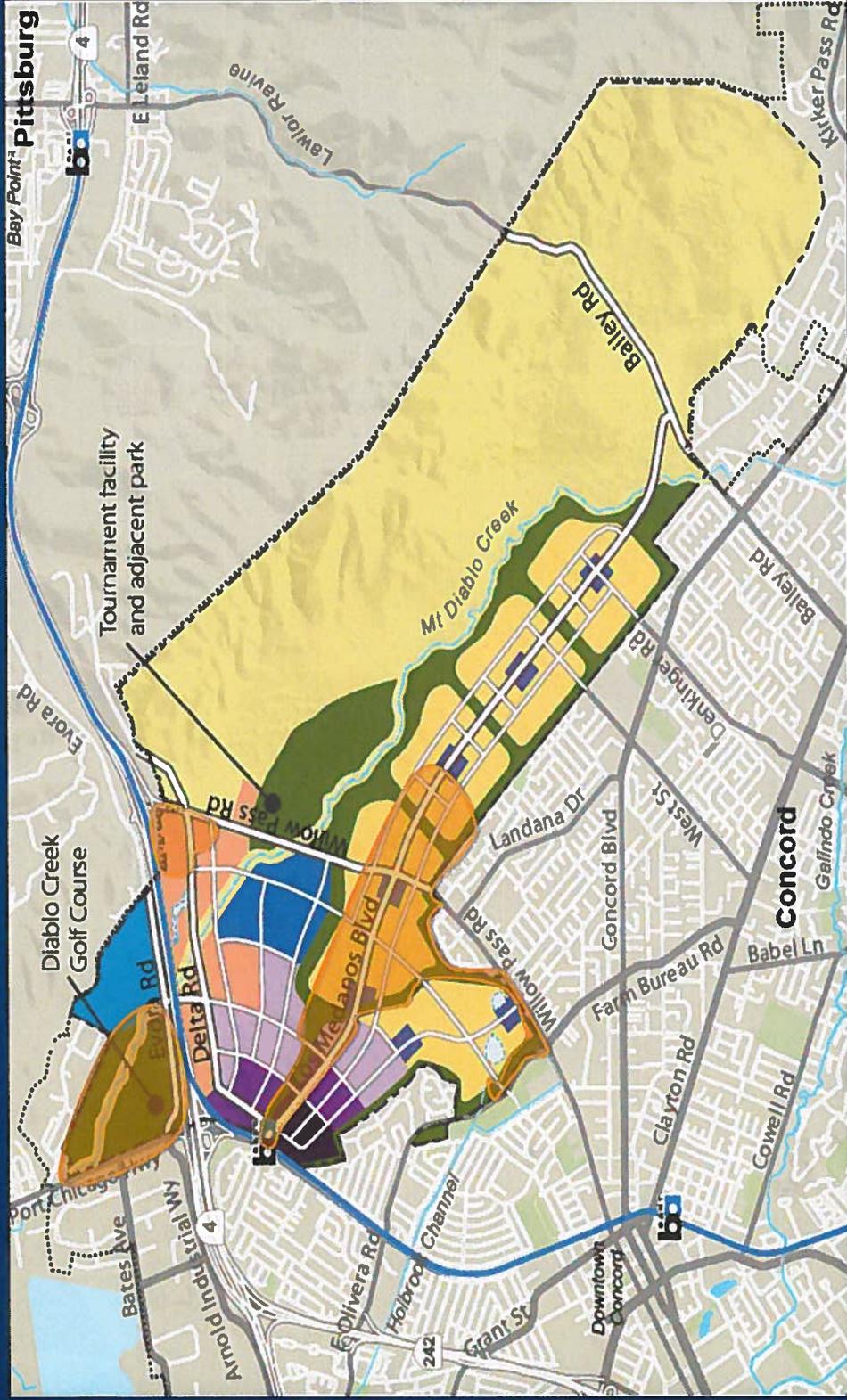
# Area Plan Diagram

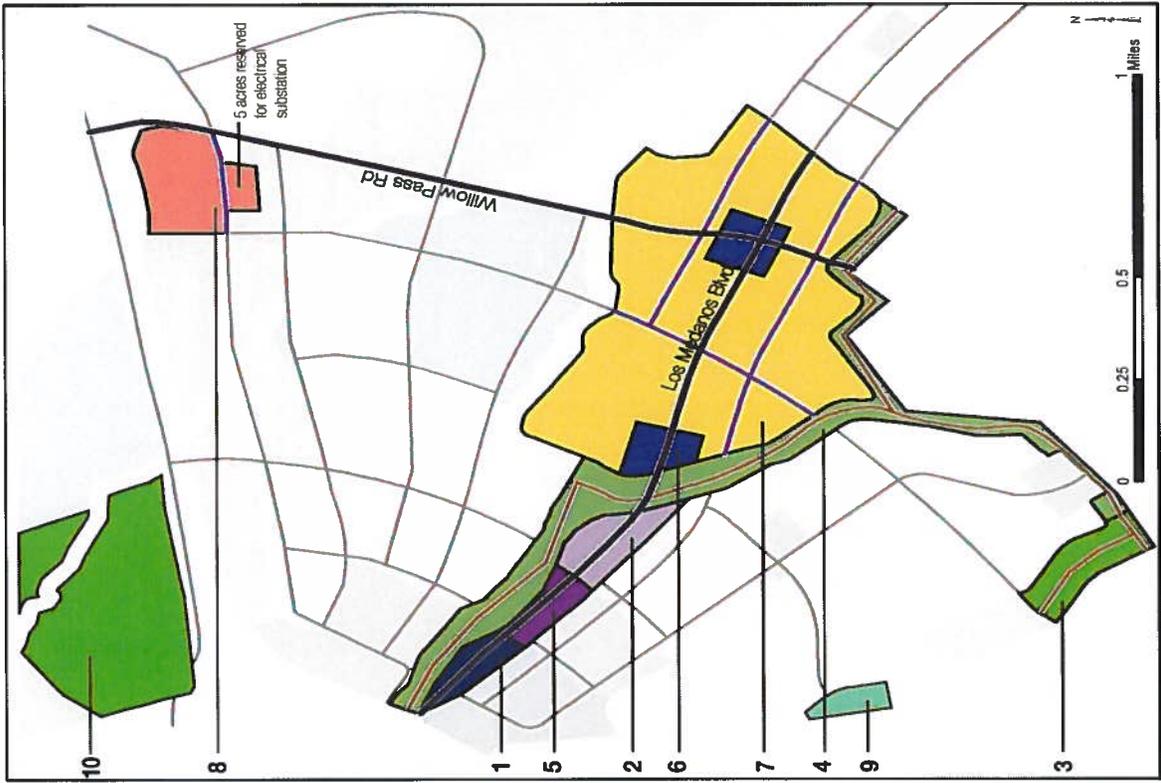


# Implementation Activities

- Environmental Protection
- Detailed Planning
- Remediation Programs
- Financing
- Site Phasing
- Economic Development/Developer Selection

# General Phase 1 Boundary





# Overview of the Master Developer Selection Process

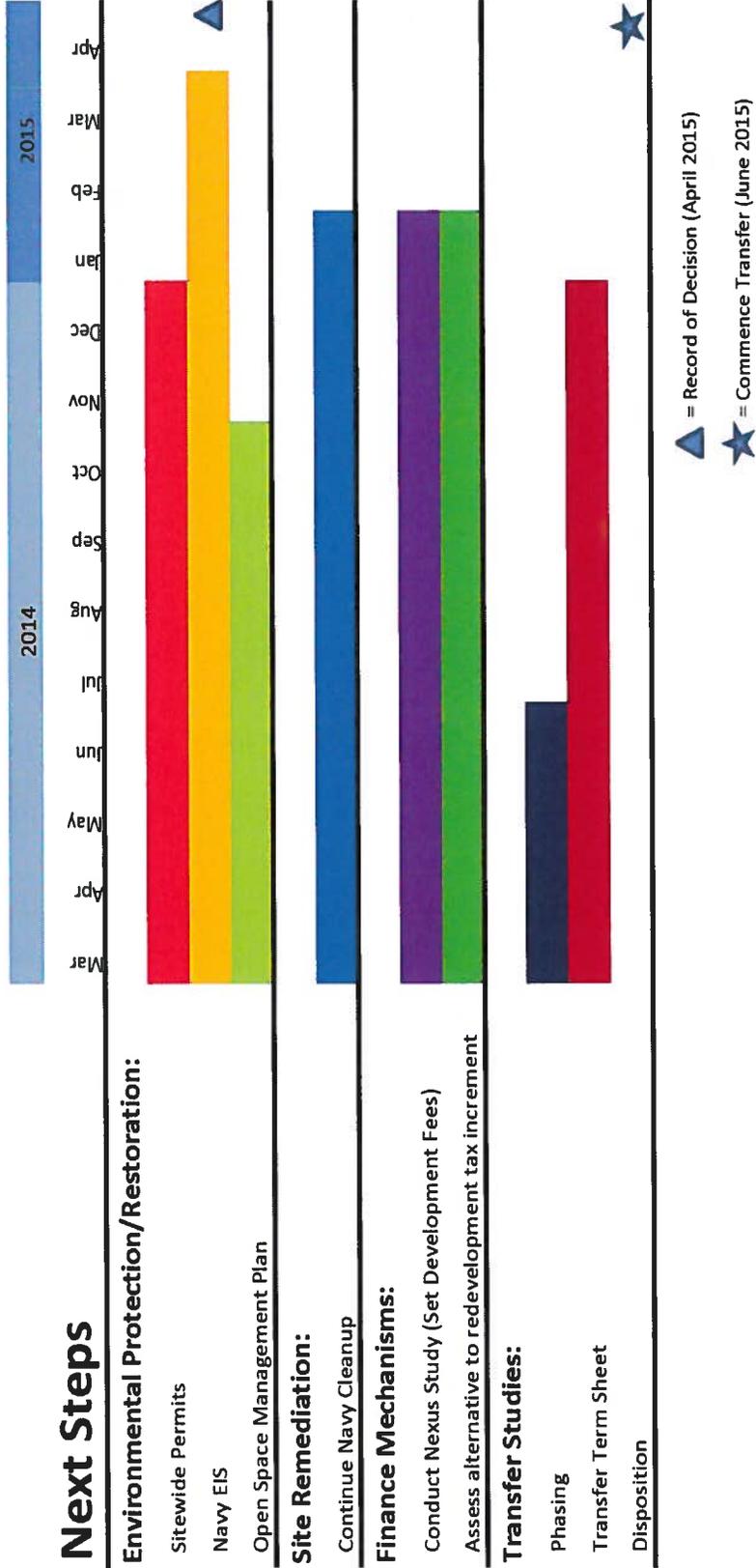
- Three step process:
  - Master Developer RFQ
  - Master Developer RFP
  - Negotiations with Finalist(s) & Final Selection
- SOQ submittal deadline – March 18, 2014 at 3:00 p.m.
- Information about Project/process can be found on the Project website at

[www.concordreuseproject.org](http://www.concordreuseproject.org)

# Navy Actions

- Prepare Environmental Impact Statement/Issuance of Record of Decision (ROD)
- Consultation with U.S. Fish Wildlife Services under Section 7 of Endangered Species Act
- Consultation with Recognized Native American Tribes under Section 106 National Historic Preservation Act
- Finding by U.S. EPA/concurrence by California Department of Toxic Substance Control (DTSC) and Regional Water Board of Suitability for Parcel Transfer (FOST)
- Review/Approval of applications for Public Benefit Conveyance/Economic Development Conveyance

## Next Steps





REPORT TO PLANNING COMMISSION

DATE: April 16, 2014

**SUBJECT:** DE LA SALLE ACADEMY (PL14040 - UP)

**Recommendation:** Adopt Resolution No. 14-10PC, approving a Use Permit (PL14040 - UP) for De La Salle Academy.

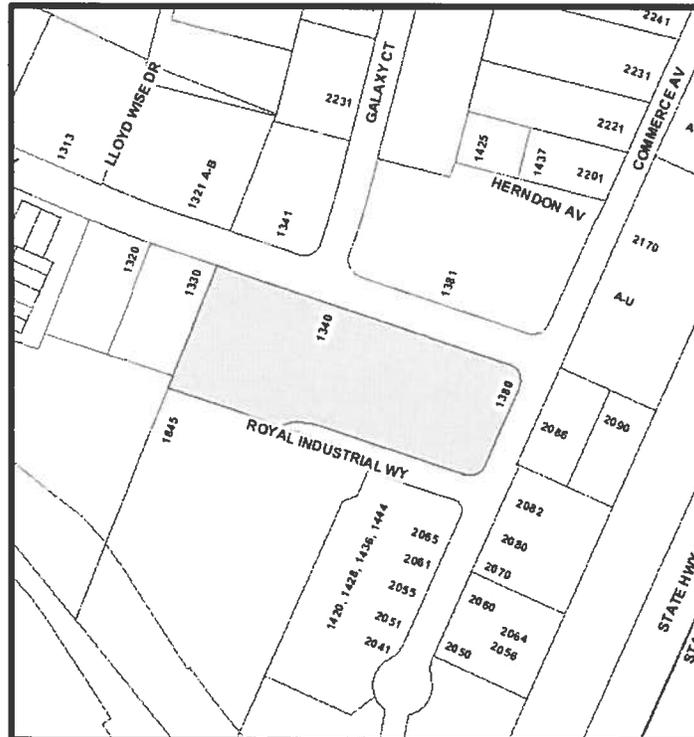
**I. Introduction**

**A. Application Request**

Application for a Use Permit to establish a private, independent, non-sectarian middle school for economically disadvantaged boys in grades five through eight from an existing 27,151 sq. ft. building on a 3.29-acre site.

**B. Location**

The project site is located at 1380 Galaxy Way, APN 126-451-009.



**C. Applicant**

The Hofmann Family Foundation  
Attn: Dennis Costanza  
2241 Galaxy Court  
Concord CA 94520  
(925) 566-7564

**Owner**

Hofmann Holdings LP  
Attn: Jonathan Kendler  
3000 Oak Road  
Walnut Creek CA 94597  
(925) 588-7450

**II. Background**

On November 12, 2013, Dennis Costanza on behalf of the Hofmann Family Foundation submitted an application for a Text Amendment to the Development Code to permit elementary, middle, and secondary schools within the West Concord Mixed Use (WMX) zoning district subject to a Use Permit. The Text Amendment was requested to accommodate the De La Salle Academy (the subject of this Use Permit) at 1380 Galaxy Way. While the text amendment was proposed for the De La Salle Academy, it would allow any other public and private school to operate in the WMX zoning district subject to a Use Permit.

On February 5, 2014, the Planning Commission held a public hearing on the proposed WMX Text Amendment to the Development Code and recommended that the City Council approve the Amendment by a 4-0 vote (Commissioner Avila abstained).

On March 11, 2014, the City Council voted to introduce Ordinance No. 14-3 amending the Concord Municipal Code by adopting the West Concord Mixed Use Text Amendment to the Development Code. The second reading of Ordinance No. 14-3 occurred on March 25, 2014. If no referendum is filed, the effective date of the Ordinance will be April 24, 2014.

On January 31, 2014, Dennis Costanza of the Hofmann Family Foundation submitted an application for a Use Permit to establish a private, independent, non-sectarian middle school for economically disadvantaged boys in grades five through eight from an existing 27,151 sq. ft. building at 1380 Galaxy Way. The Development Advisory Committee (DAC) deemed the application complete on March 28, 2014.

**III. General Information****A. General Plan**

The General Plan designation is West Concord Mixed Use.

**B. Zoning**

The site is zoned West Concord Mixed Use.

**C. CEQA Status**

Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to Section 15332 “In-Fill Development Projects,” the project is classified as a Class 32 Categorical Exemption, and therefore, no further environmental review is required.

**D. Site Description**

An existing multi-tenant warehouse building and office building are located at the west and east end of the property respectively. The warehouse building is oriented east toward the office building; the office building is oriented north toward Galaxy Way. The two buildings are separated by landscaping and each building has its own access from Galaxy Way and Royal Industrial Way. The parcel has perimeter landscaping with mature trees and shrubs and parking in the center and rear of the lot. The property is elevated from its three frontages on Galaxy Way, Commerce Avenue, and Royal Industrial Way.

<b>Lot Size and Dimensions</b>	142,155 sq. ft. (approx.)	585 ft. x 243 ft. (approx.)
<b>Existing Improvements</b>	27,151 sq. ft. office building, 29,700 sq. ft. multi-tenant warehouse building, parking lot, landscaping, and site lighting.	
<b>Topography</b>	The parcel is flat and is elevated above the adjacent streets and neighboring properties.	
<b>Existing Vegetation</b>	Trees, small shrubs, and lawn along the perimeter of the site and adjacent to the building.	

**E. Surrounding Land Use**

The site is surrounded by the following uses:

	<b>Land Use</b>	<b>General Plan Designation</b>	<b>Zoning</b>
<b>North, South, East</b>	Warehouse, Personal Improvement Services, Light Industrial	West Concord Mixed Use	WMX
<b>West</b>	Warehouse, Distribution, Office, and Retail	Service Commercial	SC

**IV. Detailed Project Description**

**A. Development Regulations**

The following table lists the WMX district regulations compared to the proposed project. The project complies with the development standards.

<b>Standards</b>	<b>Required</b>	<b>Provided</b>
Lot Area (minimum square feet)	25,000	142,155
FAR (maximum)	4.0	0.43
Setbacks (minimum feet)		
Front yard	10	22
Side yard	10	45
Corner side yard	10	17
Rear yard	0	30
Landscaping (% coverage)	20	23
Building Height (maximum feet)	140	28
Parking Spaces	72	136

## **B. Description of Business**

De La Salle Academy, a division of De La Salle High School, is a middle school that provides Catholic, Lasallian education to students from low-income families and prepares them for high school and college. Admission will be for boys only whose families live at less than 185 percent of the federal poverty level. Parents will pay a portion of their student's costs, on a sliding scale, as part of the "parent buy-in" program, however the school will not be "tuition-driven." Key characteristics of the school are "very low student-to-teacher ratios, extended school days and longer school years, an emphasis on core skills, careful guidance and consistent support of students, and intensive partnering with their motivated families."

The projected first-year enrollment is 15 students in fifth grade and 15 students in sixth grade and an eventual enrollment of 60 students in grades five through eight. The school will start with up to seven paid employees and five volunteers who will assist for a couple of hours each day. When the school is at capacity, up to 10 employees and 10 volunteers will be onsite. Students will have lunch onsite and attend after school activities at the Community Youth Center (CYC) on Galaxy Court adjacent to the north. Chaperones will accompany students during school hours when they visit CYC.

Business hours will be Monday through Friday. The Academy will open at 7:15 a.m. and classes will begin at 7:45 a.m. Classes will conclude at 3:00 p.m. and the Academy will close at 5:00 p.m. After school activities will occur at CYC from 5:00 p.m. to 9:00 p.m. Drop-offs will occur between 7:15 a.m. and 7:45 a.m. and pick-ups between 3:00 p.m. and 5:00 p.m. Students enrolled in activities at CYC will be picked up between 5:00 p.m. and 9:00 p.m. The majority of the students will be dropped off by parents, family members, or friends, a small percentage will carpool, and a small percentage will be picked up by vanpool beginning the second year of the academy. Half of the student population will initially be picked up at the De La Salle Academy and half will be picked up at CYC.

**V. Discussion****A. General Plan**

The site's General Plan land use designation of West Concord Mixed Use allows a mix of commercial and office uses including new auto dealers, hotels, restaurants, and showroom/warehouses. Public/Quasi-Public uses including schools are also allowed. As of the date of this staff report, colleges, universities, trade schools, and vocational training facilities are also allowed in the WMX zoning district via an Administrative Permit. Once Ordinance No. 14-3 is effective, elementary, middle, and secondary schools will be allowed in the WMX district subject to an approved Use Permit. For ease of drafting, this staff report assumes that no referendum on Ordinance No. 14-3 will be filed. It is important to note, however, that any project approval would be conditioned on the effectiveness of Ordinance No. 14-3. The maximum FAR is 4.0.

The project is consistent with policies contained in the General Plan. The private school would facilitate cultural and civic gatherings consistent with Policy LU-4.1.1, which encourages Concord to expand its role as a focal point for business, entertainment, dining, cultural, and civic gatherings. The project creates additional opportunities for elementary, middle, and secondary schools within the City, which is consistent with Policy PF-2.1.1 that encourages maintaining and improving educational opportunities. Allowing this project is consistent with Policy PF-2.1.5, which encourages the creation of vocational schools and other training programs to prepare Concord residents for employment, in addition to traditional educational opportunities. If desired, the school facilities could be used for child and adult care services in addition to the planned educational use, which supports Policy PF-2.2.4. For these reasons, staff finds the proposed project consistent with the West Concord Mixed Use land use designation and the policies within the General Plan.

**B. Site Planning/Circulation/Parking**

De La Salle Academy will occupy an existing office building with parking and two-way circulation. Vehicles with students will enter the parking lot from Royal Industrial Way, stop briefly at the courtyard on the west side of the building to unload, and exit onto Galaxy Way. Vehicles with employees and volunteers will enter the parking lot from Galaxy Way and park in the west parking lot. The south parking lot will be gated and fenced for use as an outdoor play yard. Nine parking spaces, two "landscape fingers" with trees, and approximately 10 shrubs will be removed from the south parking lot. New striping for handicap accessible parking, an accessible path of travel, and landscaping will be added in their place. A covered trash enclosure will replace two existing trash enclosures flanking the driveway on Royal Industrial Way.

### Discussion

The Transportation Division and the Fire District reviewed the site plan and circulation pattern and determined the type of facility will generate relatively few trips to and from the site and does not require changes or improvements to the parking lot. The Fire District confirmed that in the event of an emergency, they would access the site and building from the adjacent public streets. The removal of nine parking stalls will result in a surplus of 64 parking spaces between the two buildings and accommodate the planned expansion in enrollment in year two of the academy.

Half of the student population will initially be picked up at the De La Salle Academy and half will be picked up at CYC. Students at both locations will be monitored by staff prior to their departure. For those being picked up at CYC, parents or responsible parties will be instructed to park on Galaxy Court or in one of CYC's parking lots prior to picking up the student in person. Pick-up times vary by student and day of the week between 5:00 p.m. and 9:00 p.m. CYC operates the majority of the buildings on Galaxy Court and has ample parking after hours when the neighboring businesses are closed thereby avoiding parking conflicts.

Staff concludes the parking lot design, drive aisle dimensions, vehicle-turning radii, loading/unloading area, the number of parking stalls, and available parking for pick-ups both on and off site is appropriate for the project.

### **C. Building Architecture**

Minor exterior modifications are proposed such as a new building entrance in the west courtyard and two windows on the south elevation. New skylights are proposed and all rooftop equipment will remain below the existing parapet. The building will be repainted the same earth tone colors. Staff finds the scope of changes minor in nature and appropriate as proposed.

### **D. Landscaping/Walls/Fencing**

Perimeter landscaping consists of mature trees, low shrubs, and lawn. The applicant proposes to remove two landscape planters and trees from the south parking lot, approximately 10 shrubs adjacent to the south side of the building, and turf from the two outdoor courtyards. New landscaping is proposed adjacent to the handicap accessible parking spaces and adjacent to the trash enclosure. A new six-foot tall tubular steel fence and sliding gate will enclose the south parking lot for use as an outdoor play yard.

### Discussion

The applicant proposes to remove two "landscape fingers" and trees from the outdoor play yard to mitigate tripping hazards for students and "open up the space for more group play options." Staff believes there is merit to replacing the trees to provide shade for students during warm summer months. Staff is proposing a condition of approval to provide

replacement planting adjacent to the outdoor yard at a 1:1 ratio with trees of a species, size, and location mutually agreed to by the City and the applicant. The additional removal of shrubs adjacent to the building and lawn in the courtyards is appropriate to accommodate ingress and egress to the building. New landscaping will be provided adjacent to the handicap accessible parking spaces and adjacent to the trash enclosure. Staff is proposing a condition of approval that requires the applicant to provide emergency personnel with access to the fenced play yard.

#### **E. Signs**

The applicant is proposing to replace an existing freestanding sign with a new freestanding sign on Galaxy Way that reads "De La Salle Academy" including the site address with ground-mounted lighting. A second identical sign is proposed along the Commerce Avenue frontage near the intersection with Galaxy Way.

#### Discussion

The sign regulations allow freestanding signs in the WMX District. The signs are limited to 30 sq. ft. and 6 ft. in height. The proposed freestanding sign on Galaxy Way is approximately 36 sq. ft. and 4'-6" in height. The sign exceeds the allowed square footage by 6 sq. ft. and will have to be reduced in area to comply with the sign regulations. The second ground sign is not permitted because the total allowed sign area has been exceeded. The applicant may i) replace the existing freestanding sign and remove references to the proposed new sign on Commerce Avenue, ii) propose a new freestanding sign at the intersection and remove references to the existing sign on Galaxy Way, iii) keep the existing freestanding sign on Galaxy Way and add a wall sign to the building, or iv) submit a Master Sign Program to allow additional freestanding signage subject to the City's approval. Staff is proposing a condition of approval that the proposed signage be consistent with the WMX District Sign Regulations.

#### **VI. Fiscal Impact**

The proposed project would have a negligible fiscal impact on the City.

#### **VII. Public Contact**

Notification was mailed to all owners and occupants of property within three-hundred (300) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code. This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

#### **VIII. Summary and Recommendations**

The proposed De La Salle Academy is consistent with the applicable goals and policies of the Concord 2030 Urban Area General Plan concerning schools and educational opportunities for the City's residents. The proposed improvements will upgrade the site and building and will be compatible with the character of the existing buildings and other developments in the vicinity.

Furthermore, with the conditions of approval the project will not be detrimental to the health, safety and general welfare of persons residing or working in the neighborhood of such project.

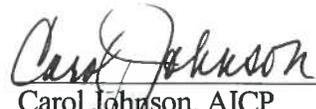
Staff recommends the Planning Commission open the public hearing, consider the staff report and presentation by the applicant, the public testimony, and close the hearing upon completion of public testimony. Staff recommends the Commission adopt Resolution No. 14-10PC approving a Use Permit for De La Salle Academy.

**IX. Motion**

**Project Approvals**

I (Comm. \_\_\_\_\_) hereby move that the Planning Commission adopt Resolution No. 14-10PC approving De La Salle Academy Use Permit (PL140040 – UP), subject to the Conditions of Approval set forth in Attachment A to Resolution 14-10PC. (Seconded by Comm. \_\_\_\_\_.)

Prepared by:   
G. Ryan Lenhardt  
Senior Planner  
(925) 671-3162  
ryan.lenhardt@cityofconcord.org

Reviewed by:   
Carol Johnson, AICP  
Planning Manager  
(925) 671-3369  
carol.johnson@cityofconcord.org

Exhibits:

- A - PC Resolution No. 14-10PC, Conditions of Approval (Attachment A)
- B - Applicant's written statement date stamp received March 28, 2014
- C - Applicant's plan sheets date stamp received March 20, 2014



1 makes the following findings:

2 CEQA

3 1. The project is not subject to additional environmental review pursuant to the provisions of the  
4 California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to Section 15332  
5 “In-Fill Development Projects,” the project is classified as a Class 32 Categorical Exemption.

6 Use Permit

7 1. Based on the Project Information, and all oral and written testimony submitted on this item,  
8 the Planning Commission makes the findings set forth below with respect to the Use Permit:

9 a. As of the effective date of Ordinance No. 14-3, the proposed school is a conditionally  
10 permitted use within the WMX (West Concord Mixed Use) Zoning District and complies with all  
11 other applicable provisions of the Development Code and City Municipal Code.

12 b. As of the effective date of Ordinance No. 14-3, the project is consistent with the  
13 General Plan and policies that support Public/Quasi-Public uses and improvements to existing  
14 properties in West Concord Mixed Use Districts. There is no applicable Specific Plan.

15 c. The design, location, size, and operating characteristics of the project are compatible  
16 with existing uses in the vicinity, including the adjacent warehouse, light industrial, personal  
17 improvement, and office uses located in the vicinity.

18 d. Properties in the vicinity are also zoned WMX, therefore the project would be  
19 compatible with future land uses in the vicinity.

20 e. The project site is physically suitable for the type, density and intensity of the proposed  
21 use, including access, utilities, and absence of physical constraints. The project site is large enough to  
22 accommodate the school and includes existing site access and utility service.

23 f. Granting the Use Permit will not be detrimental to the public health, safety, or welfare  
24 of the persons residing or working in the subject neighborhood or materially detrimental or injurious  
25

1 to property or improvements in the vicinity and Zoning District where the property is located. Project  
2 conditions and requirements will ensure on-going operations will not impact adjacent properties and  
3 maintenance of the building exteriors, parking lot, and landscaping will be secured through a separate  
4 property maintenance agreement.

5 Design Review

6 2. Based on the Project Information, and all oral and written testimony submitted on this item,  
7 the Planning Commission makes the findings set forth below with respect to the Design Review:

8 a. The project satisfies all the criteria in Section 122-908 (Design Criteria) of the  
9 Development Code.

10 Measure J

11 3. The project supports the following Growth Management Element policies and is therefore  
12 compliant with Measure "J".

13 a. Policy GM-1.1.1 because the project is an urban development located within the City's  
14 Urban Limit Line.

15 b. Policy GM-2.1.1 because the project results in urban infill development.

16 c. Policies GM-7.2.1 through GM-7.2.3 because the project's impact on public services  
17 and facilities are reduced by conditions of approval, as well as by payment of impact fees  
18 proportionate to the project's demand on public services and facilities, including traffic impact,  
19 parkland, and sewer.

20 4. The Planning Commission does hereby approve Use Permit (PL14040 - UP) subject to the  
21 Conditions of Approval.

22 Effective Date

23 Approvals, or other decisions of the Planning Commission with respect to this project shall become  
24 effective on the later of (a) the 11<sup>th</sup> calendar day following the date the decision is rendered, if no  
25

1 appeal is filed, or (b) the effective date of the WMX Amendment to the Development Code  
2 (Ordinance No. 14-3) allowing elementary, middle, and secondary schools in the WMX zoning  
3 district subject to a Use Permit (“Approval Date”).

4 **PASSED AND ADOPTED** this 16th day of April, 2014, by the following vote:

5 **AYES:**

6 **NOES:**

7 **ABSTAIN:**

8 **ABSENT:**

9  
10 

---

Carol Johnson, AICP  
Secretary to the Planning Commission

11 Attachment:

12 A – Draft Conditions of Approval

13 cc: Dan Sequeira, Public Works-Engineering Services  
14 Robert Woods, Building Division  
15 Captain Robert Marshall, Contra Costa County Fire Protection District  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8

**ATTACHMENT A**  
**DRAFT**  
**CONDITIONS OF APPROVAL**  
**DE LA SALLE ACADEMY**  
**PL14040 - UP**  
**1380 Galaxy Way**  
**APN 126-451-009**

9

**PERMIT DESCRIPTION**

- 10  
11  
12  
13
1. These Conditions apply to and constitute the approval of a **Use Permit (PL14040 - UP)** for a **private, independent, non-sectarian middle school for economically disadvantaged boys in grades five through eight from an existing 27,151 sq. ft. building on a 3.29-acre site.**
  2. Exhibits date stamped received by the City of Concord on **March 20, 2014** are approved and shall be incorporated as Conditions of Approval.

14

**GENERAL CONDITIONS**

- 15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25
3. **The project shall be deemed approved as of the Approval Date, as that term is defined in Resolution No. 14-10PC. (PLNG, CA)**
  4. **The hours of operation shall be Monday through Friday from 7:15 a.m. to 5:00 p.m. After school activities associated with De La Salle Academy that are conducted at the Community Youth Center (CYC) shall be Monday through Friday from approximately 5:00 p.m. to 9:00 p.m. (PLNG)**
  5. **Students shall be chaperoned by De La Salle Academy staff at all times in connection with all school activities and when crossing Galaxy Way and Galaxy Court during business hours. (PLNG)**
  6. **Student enrollment shall be limited to 60 students in grades five through eight. (PLNG)**
  7. **A maximum of 20 staff are permitted to operate the De La Salle Academy. (PLNG)**

1 8. **The applicant shall provide required access to the enclosed outdoor yard area adjacent to**  
2 **the south side of the building as deemed necessary by emergency personnel. (PLNG,**  
3 **BLDG, PD, CCCFPD)**

- 4 9. The Conditions are the responsibility of the applicant and all contractors. Compliance shall  
5 occur as specified in the Conditions or at one of the following project milestones:  
6 a. With the submittal of Grading, Improvement, Landscape, or Building Plans.  
7 b. Prior to issuance of Encroachment, Grading, or Building Permits, whichever comes  
8 first.  
9 c. Prior to Construction.  
10 d. On-going during Construction.  
11 e. Prior to approval of the Final Map.  
12 f. Prior to occupancy approval.

13 If timing for compliance is not specified, it shall be determined by the Divisions listed after the  
14 Condition. **(PLNG, BLDG, ENGR)**

15 10. Where a plan or further information is required, it is subject to review and approval by the  
16 applicable City Department/Division, as noted at the end of each Condition. The Division  
17 listed first shall be the primary contact for implementation of that Condition. **(PLNG, BLDG,**  
18 **ENGR)**

19 11. The project shall comply with all applicable Federal and State laws and Concord Municipal  
20 Code (CMC) requirements. **(PLNG, BLDG, ENGR)**

21 12. Minor modifications that are found to be in substantial conformance with the approved plans  
22 such as colors, plant materials, or minor lot line adjustments, may be approved  
23 administratively. Major modifications shall be approved by the applicable decision making  
24 body. **(PLNG, ENGR)**

25 13. The Conditions of Approval shall be listed on a plan sheet that is included in the construction  
26 plan set (Grading, Utility, Building, and Landscape Plans). **(PLNG, ENGR)**

- 27 14. Two annotated copies of the Conditions of Approval specifying how each applicable condition  
28 has been satisfied, shall be submitted as follows:  
a. At the time Grading, Utility, Building, and/or Landscape Plans are submitted for plan  
check, whichever comes first.  
b. Prior to occupancy approval. **(PLNG, ENGR)**

- 1 15. Submit three signed copies, one notarized, of the City's "Property Maintenance Agreement",  
2 to ensure on-going repair, replacement and maintenance of all exterior improvements  
3 including the storm drain outside of the public street right of way, parking lot lights, other  
4 privately maintained improvements, buildings, parking areas, walkways, landscaping,  
5 irrigation, signs, fences, and other improvements, prior to the issuance of a building permit.  
6 *(PLNG, ENGR, BLDG)*
- 7 16. The project site and area surrounding the site shall be maintained in a weed and litter free  
8 condition for the period prior to construction. *(BLDG, PLNG)*

## ARCHITECTURAL

- 9 17. **The applicant shall submit the final building colors to staff for review and approval prior  
10 to painting the building and prior to the issuance of a building permit. *(PLNG)***
- 11 18. Rooftop equipment (HVAC, meters, refrigeration equipment, plumbing lines, ductwork and  
12 transformers), shall not extend above the building parapet and shall be screened from view on  
13 all sides with materials architecturally compatible with the main structure. Screening details  
14 shall be shown on the Building Plans and submitted for review and approval by the Planning  
15 Division, prior to the issuance of Building Permits and installed prior to occupancy approval.  
16 *(PLNG)*
- 17 19. Vents, gutters, downspouts, flashing, electrical conduits, etc., shall be painted to match the  
18 color of the adjacent surface, unless otherwise approved by the Planning Division. *(PLNG)*
- 19 20. The trash enclosure shall be locked at all times unless access is required as part of the day-to-  
20 day operation to discourage recyclers. *(PD)*

## LANDSCAPING

- 21 21. **The applicant shall provide replacement planting of the two trees in the south parking lot  
22 adjacent to the outdoor yard at a 1:1 ratio with trees of a species, size, and location that  
23 are mutually agreed to by the City and the applicant. Replacement planting shall be  
24 referenced on the landscape plan and be approved by staff prior to the issuance of a  
25 building permit. *(PLNG)***
- 26 22. All landscaping shall be installed prior to occupancy approval. Contact the Planning Division  
27 at least two weeks prior to Occupancy, to request a site inspection of all exterior improvements  
28 including buildings, driveways, parking lots, landscaping, irrigation, lighting, and walls.  
*(PLNG)*

1 **LIGHTING**

- 2 23. Show all exterior lighting including: building fixtures, walkway lighting, parking lot lighting,  
3 and street lights on the Site, Utility, Landscape, and Building Plans, prior to the issuance of  
4 any permits. Energy-saving fixtures shall be used and noted on the plans. **(PLNG, ENGR,  
5 BLDG)**
- 6 24. All exterior building and parking lot lighting shall provide illumination for safety and shall be  
7 installed in a manner that is glare shielded and directed away from adjacent properties and  
8 right-of-ways. **(PLNG)**
- 9 25. Prior to the issuance of a site improvement permit and/or building permit, the applicant shall  
10 submit a photometric plan for review and approval by the Planning Division, Building  
11 Division, Engineering Division, and Police Department. The photometric analysis shall be  
12 reviewed by Engineering Services for the determination of streetlight spacing as applicable.  
13 **(PLNG, BLDG, ENGR)**

14 **SIGNAGE**

- 15 26. All signage shall comply with the City of Concord **Sign Regulations and the WMX District**  
16 **standards. (PLNG) CMC**
- 17 27. All freestanding signs shall be setback a minimum of five feet from a public right-of-way.  
18 **PLNG (CMC)**
- 19 28. Pennants, banners, streamers, or flags in connection with special promotions and business  
20 openings shall be permitted for a period not to exceed 30 days. The same, different, or similar  
21 pennants, banners, streamers, and flags shall not be permitted within 150 calendar days after  
22 such removal. No pennants, banners, streamers, balloons, inflatable devices, flags, or any  
23 other advertising devices shall be mounted on or above any roof or mansard, or otherwise  
24 extend above a parapet wall or ridge of a structure. **(PLNG, NS) CMC**
- 25 29. The applicant shall submit construction plans for all signage showing the details of the  
26 installation, dimensions, font, and materials and colors for review and approval prior to the  
27 issuance of a Sign Permit. **(PLNG)**

28 **PARKING**

30. Parking shall comply with Division 3 of the City's Development Code, "Parking, Loading, and  
Access" including parking spaces, drive aisle and parking space dimensions, turning radii,  
back-out dimensions, driveway clearances, landscape median dimensions, and other relevant  
information. **(ENGR, PLNG) CMC**

- 1 31. Handicapped parking spaces shall comply with Chapter 11 "Site Development Requirements  
2 for Handicapped Accessibility" of Title 24 of the California Code of Regulations, and be  
3 located as close as possible to the primary entrance. **(BLDG)**

### 4 **CONSTRUCTION PLAN REVIEW/PRE-PERMIT REQUIREMENTS**

- 5 32. Submit two copies of Preliminary Title Report, prepared within three months prior to plan  
6 submittal. Show all easements and vesting information on site plan. **(ENGR)**
- 7 33. The Improvement Plans shall show frontage improvements including but not limited to:  
8 drainage improvements, curb, gutter and sidewalk per City Standard Detail S-10, and driveway  
9 construction per City Standard Detail S-14 and repair/replacement of deficient frontage  
10 improvements as determined by the City Engineer. Any unusable existing driveway shall be  
11 replaced with standard curb, gutter, and sidewalk per S-10 above. Any trenching for utility  
12 installation shall comply with the modified City Standard Detail S-17 for pavement repair and  
13 possible slurry placement. **(ENGR)**
- 14 34. Design improvements in accordance with the City Standard Plans S-34 and S-36 for sight  
15 distance, sidewalk, back up, fencing, geometrics at intersection and corner setback  
16 requirements, prior to the Acceptance of Improvements. Plans shall be subject to review and  
17 approval by Engineering Services. **(ENGR)**
- 18 35. Obtain an Encroachment Permit from the City prior to performing any work within the public  
19 right-of-way or public easements. **(ENGR) CMC**

### 20 **STREET IMPROVEMENTS**

- 21 36. Reconstruct deficient frontage improvements as determined by the City Engineer along the  
22 frontage on **Galaxy Way, Commerce Avenue, and Royal Industrial Way** including but not  
23 limited to: driveway removal; wheel chair ramps; curb, gutter and sidewalk; ADA compliant  
24 concrete driveway approach; storm drainage system; conforms to existing improvements prior  
25 to occupancy approval or Acceptance of Improvements. **(ENGR)**
- 26 37. Upgrade all existing handicap ramps along the project's **Galaxy Way, Commerce Avenue,**  
27 **and Royal Industrial Way** project frontages to current ADA standards, including the  
28 installation of cast-in-place truncated domes. **(ENGR)**
38. Any trenching for underground utilities shall comply with the modified City Standard Detail  
S-17 for pavement repair and possible slurry placement. **(ENGR)**
39. Construct all public facilities in accordance with the current Americans with Disabilities Act  
(ADA), including driveways and curb ramps. **(ENGR)**

- 1 40. Implement stop controlled operation at both project driveways accessing Royal Industrial Way  
2 and Galaxy Way by installing R1-1 sign. *(ENGR)*
- 3 41. Propose and show on the improvement plans required school area signs and markings on  
4 surrounding streets/intersections per California Manual on Uniform Traffic Control Devices  
5 (CAMUTCD) – 2012. *(ENGR)*
- 6 42. Ensure the location of trash enclosure would not create sight distance issue for drivers  
7 accessing Royal Industrial Way from the project site and comply with the requirements of City  
8 Development Code Section 122-310 (d) (2). *(ENGR)*
- 9 43. Show access route to CYC from the project site on the plan. *(ENGR)*

8 **NOISE**

- 9 44. Noise producing site preparation and construction activities shall be limited to the days and  
10 hours as set forth below:

11 **Monday through Friday** .....7:30 a.m. to 6:00 p.m.

12 Construction on Saturdays may be allowed only upon prior approval by the Building,  
13 Engineering, and Planning Divisions. No changes to these construction hours shall be allowed  
14 without the prior written consent of the City. A contact person shall be available during all  
15 construction activities in the evening and on weekends to respond to complaints and take  
16 actions necessary to reduce noise. *(BLDG, ENGR, PLNG)*

16 **CONSTRUCTION ACTIVITIES**

- 17 45. Contact Engineering Services to arrange for a Pre-Construction Meeting prior to issuance of  
18 Grading or Building Permits, whichever comes first. *(ENGR)*
- 19 46. Implement a dust and construction noise control plan. Submit the plan to Engineering  
20 Services for review and approval prior to issuance of the Grading Permit. *(ENGR)*
- 21 47. Construction equipment shall not be serviced at the site at any time. During construction, no  
22 deliveries shall be made to the site and no delivery vehicles (including gasoline tanker trucks)  
23 shall enter the site between 6:00 p.m. and 7:30 a.m. on weekdays, and between 5:00 p.m. and  
24 8:00 a.m. on weekends and federal holidays. Delivery vehicles shall have their engines turned  
25 off during unloading. *(BLDG, ENGR, PLNG)*
- 26 48. Employ the quietest construction equipment available, to muffle noise from construction  
27 equipment and keep all mufflers in good working order in accordance with State law. *(BLDG,*  
28 *ENGR, PLNG)*

- 1 49. Implement the following measures during construction:
- 2 a. Gather all construction debris on a regular basis and place them in a dumpster or other  
3 container that is emptied or removed on a weekly basis. When appropriate, use tarps  
4 on the ground to collect fallen debris or splatters that could contribute to storm water  
5 pollution.
- 6 b. Remove all dirt, gravel, rubbish, refuse, and green waste from the street pavement, and  
7 storm drains adjoining the project site. During wet weather, avoid driving vehicles off  
8 paved areas.
- 9 c. Broom sweep the public street pavement adjoining the project site on a daily basis.  
10 Caked-on mud or dirt shall be scraped from these areas before sweeping.
- 11 d. Install filter materials (e.g., sandbags and filter fabric) at the storm drain inlet nearest  
12 the downstream side of the site in order to preclude any debris or dirt from flowing into  
13 the City storm drain system. Filter materials shall be maintained and/or replaced as  
14 necessary to ensure effectiveness and to prevent street flooding. Dispose of filter  
15 particles in an approved trash receptacle.
- 16 e. Create a contained and covered area on the site for the storage of bags, cement, paints,  
17 flammable, oils, fertilizers, pesticides, or any other materials used on the site that have  
18 the potential for being discharged to the storm drain system by being windblown or in  
19 the event of a material spill.
- 20 f. Never clean items such as machinery, tools, and brushes or rinse containers in a street,  
21 gutter, or storm drain.
- 22 g. Ensure that concrete, gunite, plaster, or similar supply trucks do not discharge wash  
23 water into street gutters or drains. **(ENGR, BLDG)**
- 24
- 25 50. No equipment shall be started or staging area be established on the streets or the site before or  
26 after the specified hours of construction. **(ENGR, BLDG)**
- 27
- 28 51. Ensure that no debris or construction scrap material is placed on any adjoining lot, open space  
area, or street, and that any such material stored on an adjoining site shall be completely  
removed and the site cleaned, prior to occupancy approval. **(ENGR, BLDG)**
52. At no time shall campers, trailers, motor homes, or any other vehicle be used as living or  
sleeping quarters on the construction site unless authorized for site security. **(ENGR, BLDG)**
53. There shall be no parking of construction equipment or construction worker's vehicles on  
residential streets at any time; all vehicles shall be maintained on-site. **(ENGR, BLDG)**
54. Portable toilets used during construction shall be kept as far as possible from adjacent  
properties and shall be emptied on a regular basis as necessary to prevent odor. **(ENGR,  
BLDG)**

- 1 55. Identify truck routes for the import or export of cut/fill material and/or construction debris for  
2 review and approval by the City Engineer prior to the issuance of permits. Repair any damage  
to City streets (private and public) caused by activity associated with this project. **(ENGR)**

3 **GRADING/EROSION CONTROL/GEOLOGIC**

- 4 56. Submit a Geotechnical Report with the Grading Plans and Building Plans, pursuant to CMC  
5 Section 94-51 and Section 86-73 that addresses and provides recommendations for grading,  
drainage, walls, building foundations, and pavement structural sections. **(ENGR, BLDG)**

- 6 57. All grading shall require a Grading and Drainage Plan prepared by a registered Civil Engineer,  
7 a Soils Report prepared by a registered Geotechnical Engineer and receipt of a Grading Permit  
8 approved by the City Engineer. The Grading Plans and Soils Report shall require review by  
the City's Geotechnical consultant with all costs to be borne by the applicant. **(ENGR)**

- 9 58. Grading on adjacent properties shall require written approval from the affected property  
10 owners. **(ENGR)**

- 11 59. On-site finish grading work shall require drainage to be directed away from all building  
12 foundations at a minimum slope of 2 percent and a maximum slope of 20 percent toward  
approved drainage facilities or swales. Non-paved drainage swales shall have a minimum  
13 slope of 1 percent. **(ENGR)**

- 14 60. The project engineer shall inspect the finished grading and certify that it conforms to the  
15 compaction and elevations shown on the Grading Plan and Soils Report. **(ENGR, BLDG)**  
**CMC**

- 16 61. Erosion control measures shall be implemented per plans approved by the City Engineer for all  
17 grading work not completed before October 15<sup>th</sup>. At the time of approval of the Improvement  
and/or Grading Plans, an approved Erosion Control Plan prepared by a registered Civil  
18 Engineer shall be filed with the City Engineer. **(ENGR)**

- 19 62. All graded slopes and stockpiles of loose soil shall be hydromulched/hydroseeded by October  
20 15<sup>th</sup> of any given year. During grading work between October 15<sup>th</sup> and April, if rain is  
forecast, stop all grading work two days before the rain forecast and implement BMPs to  
21 insure that the site is protected from erosion. **(ENGR)**

- 22 63. Comply with the applicable provisions of the Grading Ordinance and the Storm Water  
23 Management and Discharge Control Ordinance. **(ENGR) CMC**

1 **UTILITIES**

- 2 64. No above ground utility facilities/structures shall be located between the face of curb and back  
3 of sidewalk in the public right-of-way. *(ENGR)*
- 4 65. Comply with the City of Concord sewer design flow criteria and sewer construction  
5 requirements of the Central Contra Costa Sanitary District. *(ENGR)*
- 6 66. Submit to Engineering Services sanitary sewer calculations with the Improvement Plans  
7 stamped and signed by a Registered Civil Engineer for review and approval. *(ENGR)*
- 8 67. Coordinate all facility adjustments, relocations, or additions to utility services with the  
9 appropriate utility companies. *(ENGR)*
- 10 68. The location of all outdoor, above-ground and/or at-grade pad mounted transformers, utility  
11 equipment, electrical and gas meters, vaults, irrigation control boxes, back flow prevention  
12 devices, and the like shall be subject to approval by Planning and Engineering Services prior  
13 to the issuance of the Grading or Building Permit, whichever comes first. All such equipment  
14 shall be screened from view either architecturally or with landscaping and painted forest green  
15 or other approved color as approved by the Planning Division. Any changes to the approved  
16 Utility Plans, including location or screening details shall be reviewed and approved by the  
17 Planning Division. *(PLNG, ENGR)*
- 18 69. Connect all buildings to the sanitary sewer collection facilities of the City, and pay all current  
19 sewer connection and service fees prior to occupancy approval. *(ENGR) CMC*

20 **DRAINAGE/STORMWATER C.3 REQUIREMENTS**

- 21 70. Submit a Stormwater Control Plan (SWCP) prepared in accordance with the current Contra  
22 Costa Clean Water Program Stormwater C.3 Guidebook for review and approval by  
23 Engineering Services prior to issuance of any permit. The SWCP shall be prepared and  
24 certified by a Civil Engineer, registered in the State of California, demonstrating an  
25 understanding of the design of treatment measures for water quality and groundwater  
26 protection principles applicable to the project site. *(ENGR)*
- 27 71. The permit application shall be consistent with the SWCP and shall include drawings and  
28 specifications necessary to implement all measures in the approved SWCP, prior to the  
issuance of any permit. The permit application shall include a completed "Construction Plan  
C.3 Checklist" as described in the current C.3 Guidebook. *(ENGR)*
72. Construct stormwater treatment measures per the approved SWCP prior to occupancy  
approval. *(ENGR)*

- 1 73. Submit a final Stormwater BMP Operation and Maintenance Plan (O&M Plan) in accordance  
2 with City of Concord Guidelines, for review and approval by Engineering Services, prior to  
3 occupancy approval. This O&M Plan shall incorporate City comments on the draft O&M Plan  
4 and any revisions resulting from changes made during construction. *(ENGR)*
- 5 74. Execute any agreements identified in the SWCP which pertain to the transfer of ownership,  
6 right-of-entry for inspection or abatement, and/or long-term maintenance of stormwater  
7 treatment or hydrograph modification BMPs, prior to occupancy approval. Execute  
8 agreements for both property owners to ensure the perpetual operation and maintenance of the  
9 stormwater treatment systems. *(ENGR)*
- 10 75. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner.  
11 *(ENGR)*
- 12 76. Collect and convey all stormwater entering and/or originating from the site to an adequate  
13 downstream drainage facility. On-site drainage inlets shall have full capture trash devices.  
14 *(ENGR)*
- 15 77. Install City of Concord “No Dumping, Drains to Creek” curb marker (English and Spanish  
16 version) on all catch basins. *(ENGR)*
- 17 78. Include erosion control/storm water quality measures on the final Grading Plan that  
18 specifically address measures to prevent soil, dirt, and debris from entering the storm drain  
19 system. Such measures may include, but are not limited to, hydroseeding, hay bales,  
20 sandbags, and siltation fences and are subject to review and approval of the City Engineer. The  
21 applicant shall be responsible for ensuring that the contractor is aware of and implements such  
22 measures. *(ENGR, BLDG)*
- 23 79. Submit a Construction Best Management Practice (BMP) Program for review and approval by  
24 the Engineering Development Services Department prior to issuance of a Building and/or  
25 Grading Permit. The general contractor and all subcontractors and suppliers of materials and  
26 equipment shall implement these BMPs. Construction site cleanup and control of construction  
27 debris shall also be addressed in this program. Failure to comply with the approved  
28 construction BMP may result in the issuance of correction notices, citations, or a project stop  
work order. *(ENGR)*
80. Sweep or vacuum the parking lot(s) a minimum of once a month and prevent the accumulation  
of litter and debris on the site. Corners and hard to reach areas shall be swept manually. If  
sidewalks and/or the parking lot are pressure washed, debris must be trapped and collected to  
prevent entry into the storm drain system. No cleaning agent may be discharged into the storm  
drain. If any cleaning agent or degreaser is used, wash water shall be collected and discharged  
to the sanitary sewer, subject to the approval of the Central Contra Costa Sanitary District.  
*(ENGR)*

- 1 81. Ensure that the area surrounding the project such as the streets stay free and clear of  
2 construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way  
3 related to project construction. Areas that are exposed for extended periods shall be watered  
4 regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular  
5 basis. All trucks shall be covered. **(ENGR)**
- 6 82. Clean all on-site stormdrain facilities a minimum of twice a year, once immediately prior to  
7 October 15 and once in January. Additional cleaning may be required if found necessary by  
8 the City Engineer/Director of Building Inspection. **(ENGR, BLDG)**

7 **SOLID WASTE/RECYCLING**

- 8 83. Comply with CMC Chapter 82, Solid Waste, Article V, Construction and Demolition (C&D)  
9 Waste Recycling, Sections 82-114 through 82-126, as applicable. **(BLDG)**
- 10 84. Design and implement City approved Source Reduction/Recycling Plan and demonstrate that  
11 interior and exterior refuse enclosures have been sufficiently designed and located for the  
12 storage and pick up of recyclable materials in accordance with CMC Section 82-83, Source  
13 Reduction and Recycling, prior to issuance of a Building Permit. **(PW)**
- 14 85. Trash bins and refuse shall be stored within approved trash enclosure and the doors shall be  
15 closed at all times except when the bins are being emptied. **(NS)**
- 16 86. Comply with the provisions of the CMC, Central Contra Costa Sanitary District and the  
17 disposal service regarding enclosure design, access requirements, and the number of required  
18 individual refuse receptacles based upon waste pickup schedules. Trash enclosures shall  
19 incorporate the following features:
- 20 a. A concrete pad to prevent damage to asphalt paving.
  - 21 b. A roof and sanitary sewer cleanout, designed to prevent rainwater from penetrating the  
22 interior of the enclosure and preclude trash from being blown outside of the bins.
  - 23 c. The cleanout shall connect to a sanitary sewer to prevent contaminated water from  
24 entering the storm drain system.
  - 25 d. A grease separator approved by Central Contra Costa Sanitary District shall be  
26 installed on the sanitary sewer line. Hot and cold water supply shall be installed inside  
27 the trash enclosure.
  - 28 e. If any cleaning agent or degreaser is used, wash water must be collected and  
discharged to the sanitary sewer, subject to the approval of the City of Concord  
Building and Engineering Department and Central Contra Costa Sanitary District.  
**(CCCSD, BLDG, ENGR)**

- 1 87. Trash enclosures shall incorporate the same architectural treatment, and use the same exterior  
2 materials and colors as the main building and shall comply with the Community Design  
3 Guidelines, including the following:  
4 a. A solid wood trellis roof.  
5 b. CMU walls with stucco finish.  
6 c. Doors of solid metal with a metal frame with self-closing latch.  
7 d. The height of the enclosure walls and door shall be the same height or higher than the  
8 bins within the enclosure. *(PLNG)*

6 **AGREEMENTS, FEES, BONDS**

- 7 88. All fees noted below are the fees currently in effect as of July 1, 2012 per the Resolution of  
8 Fees and Charges. The fees and charges are reviewed annually as part of the budget public  
9 hearing process. Fee adjustments are based on a number of factors and vary depending on the  
10 type of fee:

10 **Service-based fees** are adjusted annually based on the San Francisco-San Jose-  
11 Oakland Area Consumer Price Index;

11 **Improvement based fees** (also called impact fees) are adjusted annually based on  
12 Engineering News Record Construction Cost Index (San Francisco Bay Area); and the

13 **Parkland Fee** is adjusted per Section 78-95 of the Concord Municipal Code.

14 The fees become effective as of the date set forth in Exhibit A of Resolution No. 78-6042,  
15 Fees and Charges for Various Municipal Services, as most recently amended and approved by  
16 the City Council. Persons interested in how a particular fee is calculated should contact the  
17 City Department administering the fee or the Finance Department. **(ENGR)**

- 17 89. Provide a **\$1,000** cash deposit to the Planning Division to cover Condition Compliance costs,  
18 at the time of submittal of plans and documents to Engineering Services or the Building  
19 Division for plan check. Planning staff's time will be charged to this deposit for work  
20 performed to implement the Conditions of Approval, from the time of project approval to  
21 occupancy approval. The deposit will be placed in a refundable account and any unused funds  
will be returned upon completion. If the initial deposit is insufficient to cover actual costs, an  
additional deposit will be required. *(PLNG)*

- 22 90. Pay a Document Imaging fee to reimburse the City for implementation of the Document  
23 Imaging and File Retention programs, prior to issuance of Grading or Building Permits.  
*(PLNG)*

1 91. All improvement agreements required in connection with said plans shall be submitted to and  
2 approved by the City and other agencies having jurisdiction over said project prior to issuance  
of the Building or Grading Permit, whichever comes first. *(ENGR)*

3 92. All required faithful performance bonds and labor materials bonds in a penal amount equal to  
4 100 percent of the approved estimates of construction costs of improvements shall be  
5 submitted to and approved by the City and other agencies having jurisdiction prior to issuance  
of the Building or Grading Permit, whichever comes first. *(ENGR)*

6 93. Encroachment Permit Application:

7 a. Pay the Filing Fee at the time of submittal of permit application, Improvement plans  
and supporting documents to City Engineering Services for review. The current fee is  
8 **\$86.00**.

9 b. Provide a restoration security before issuance of the Encroachment Permit. The  
10 security shall be in an amount sufficient to restore existing public improvements to a  
serviceable condition should development improvement activity cause damage. The  
11 amount of the security shall be determined by, and be in a form acceptable to the City  
Engineer.

12 c. Provide a **\$2,000.00** cash deposit to cover Condition Compliance costs at the time of  
13 submittal of plans and documents to Engineering Services for review. The deposit will  
be placed in a refundable account. Condition Compliance costs will be charged to this  
14 deposit over the life of the project permit and mitigation requirements. Any unused  
funds will be returned at project completion. If the initial deposit is insufficient to  
15 cover actual costs, an additional deposit in an amount determined by the City Engineer  
will be required.

16 d. Provide a **\$5,000.00** cash deposit to cover review of Improvement Plans, Grading  
17 Plans, Landscape Plans, Joint Trench Plans, Storm water Control Plans, and other  
pertinent documents at the time of first submittal of the documents to Engineering  
18 Services for review. The deposit will be placed in a refundable account. Review fees  
will be charged at the hourly rate of **\$172.00**. Any unused funds will be returned at  
19 project completion. If the initial deposit is insufficient to cover actual costs, an  
additional deposit in an amount determined by the City Engineer will be required.

20 e. Pay the construction inspection fee prior to issuance of encroachment permit. The  
current fee is based on 9% of the estimated cost of constructing the required  
21 improvements to support the development.

22 f. Provide a **\$500.00** deposit for archiving permanent records prior to issuance of the  
Building Permit. Actual fees will be charged following completion of work and any  
remaining funds will be refunded at the completion of the project. *(ENGR)*

23 94. Grading Permit Application:

24 a. Pay Grading Permit Fees at submittal of a Grading Permit application. The current fee  
is determined based on cubic yardage of cut and fill combined, or at the hourly rate of  
25 **\$172.00** if the hourly rate is used.

- 1 b. Provide a **\$2,000.00** cash deposit for Erosion Control prior to issuance of Grading  
2 Permit. The deposit will be placed in a refundable account. Any unused funds will be  
3 returned at project completion. If the initial deposit is insufficient to cover actual costs,  
4 an additional deposit in an amount determined by the City Engineer will be required.
- 5 c. Pay Stockpile and Erosion Control Monitoring fee prior to issuance of Grading Permit.  
6 The stockpile and erosion control monitoring fee is currently **\$23.00** per calendar day  
7 and is collected for the life of the Grading Permit activity. *(ENGR)*

8  
9 95. Sewer Connection Permit:

- 10 a. Pay the current sewer service fee prior to issuance of the building permit. The current  
11 fee is **\$363.00** per year and is pro-rated by the month that connection is made.  
12 Commercial locations will have remainder fees charged annually by water usage per  
13 the City's fee schedule. *(ENGR)*

14 **OTHER/MISCELLANEOUS**

15 96. Comply with the requirements of the Contra Costa County Health Department for the  
16 abandonment of existing septic tanks or wells. *(ENGR) CMC*

17 97. Comply with the requirements of the Contra Costa Fire Protection District. Submit complete  
18 sets of plans and specifications to the Fire District for review and approval at:

19  
20 Contra Costa County Fire Protection District  
21 2010 Geary Road  
22 Pleasant Hill, CA 94523

23 Plan review fees are assessed at that time. The City is not responsible for the collection of fees  
24 or enforcement of requirements imposed by the Fire District. *(CCCFPD)*

25 98. The applicant shall defend, indemnify and hold harmless the City, its agents, officials, and  
26 employees from any claim, action or proceeding brought by a third party to set aside, annul,  
27 attack or otherwise void the permit. *(PLNG)*

28 99. Approvals, or other decisions of the Planning Commission with respect to this project shall  
become effective on the later of (a) the 11<sup>th</sup> calendar day following the date the decision is  
rendered, if no appeal is filed, which is **anticipated to be April 29, 2014** or (b) the effective  
date of the WMX Amendment to the Development Code (Ordinance No. 14-3) allowing  
elementary, middle, and secondary schools in the WMX zoning district subject to a Use Permit  
("Approval Date"). The permit and approval shall expire in **one** year from the date on which  
they became effective unless a building permit is obtained and construction begun. *(PLNG)*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

100. A request for a time extension from the expiration date referenced in Condition of Approval #99 (e.g. **April 29, 2015**) can be considered if an application with required fee is filed at least 10 days before the original expiration date, otherwise a new application is required. A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved. Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require, or permit denial. *(PLNG)*

De La Salle Academy, a Catholic School is a division of De La Salle High School that combines a 330-year-long Lasallian tradition of educational excellence with the proven virtues of the innovative 40-year-long experience of the Miguel model schools. Miguel model schools such as De La Salle Academy are now breaking the cycle of poverty in dozens of communities around the U.S., including Boston, Washington, Baltimore, Chicago, Philadelphia, San Diego, San Francisco, and many other cities. De La Salle Academy provides single-sex enrollment, small classes, a rigorous curriculum, and an extended daily schedule that includes time for tutoring and for help with homework and activities, so that students can enjoy learning and can develop both a sense of individual purpose and a sense of community. The graduates of this school will feed directly into the Bishop John S. Cummins Program at De La Salle High School.

In the first year, De La Salle Academy will serve 30 fifth- and sixth-graders (roughly 15 students in each grade). The plan is to add one grade level each year, to arrive at a fifth-through eighth-grade school with a total enrollment of 60 students, while maintaining a low teacher-student ratio.

Our first criterion is that students come from families who have great economic need. The upper limit on family income is 185 percent of the Federal Poverty Level. (For example, in 2014 that would be \$43,568 for a family of four). Our second criterion is that students and families must be motivated by and committed to the college-preparatory mission of our school. We do not select students based only on their grades; rather we look, above all, for students who, regardless of their academic record, show academic promise and a desire and motivation for college.

Students in grades five through eight are required to successfully complete coursework in their core academic classes – i.e. Math, Science, Language Arts, Science as well as Religion. The core subject areas at De La Salle Academy are guided by the California State Curriculum. The religious education program follows the Diocese of Oakland curriculum and the requirements of the Brothers of the Christian Schools for integration of the Lasallian Heritage throughout the program. Our curriculum is demanding, engaging, and standards-based, and it addresses the development of the whole child.

The school will start with roughly 5-7 paid employees and 3-5 volunteers who will come to assist for a couple of hours throughout the day. When the school is in full operation we anticipate anywhere between 7 – 10 employees and 6-10 volunteers.

Our number one priority for community involvement is securing mentors from local businesses for each student. Mentors would come to the school once a week to have lunch with the mentee.

We anticipate the school day will be 7:30 a.m. until 5:30 p.m. operating Monday –

Friday. Students will eat their lunch at the property location. As part of their after school program they will attend activities at the Community Youth Center. Students will be supervised at all times while at the school. This includes walking across the street to use the facilities at the CYC. Ideally, a new painted cross walk from the front of the school to the front of the Big C would work well for having the students cross the street. Adult supervision will be present any time children will use the crosswalk. As an additional safety measure, we also would like to install signs on surrounding streets and intersections alerting vehicular traffic to the presence of a school.

There will be minimal site improvements required to accommodate the school needs. Vehicles will enter the site from Royal Industrial Way and exit on to Galaxy Way using existing driveway entrances and drive aisles. We will be removing a couple of parking spaces directly across from the Industrial Way entrance to improve vehicular circulation on site. *Note: We no longer have a need to remove parking spaces and landscaping from the west parking lot and widen the drive aisle to accommodate a dedicated loading/unloading zone as originally proposed in our written statement date stamp received February 3, 2014 by the City of Concord.*

To improve pedestrian access on site, we will be converting several existing parking spaces to create four new code-compliant ADA parking stalls. We will also be making minor upgrades to the existing pedestrian circulation system in order to provide a code-compliant accessible route from the ADA parking stalls and from the existing public sidewalk on Galaxy Way to a new building entry located on the west side of the building. The existing parking remaining on the site will still surpass the parking required by the City of Concord for the program. The existing pole lighting and building lighting located inside the building arcade will remain and will provide the minimum lighting requirements for egress routes from the building exits to the public way. We will be relocating and improving the trash enclosure to meet City standards. A six foot high black metal picket fence will be added around a portion of the parking area with a sliding vehicle gate to allow some secured outdoor play area for the students as well as overflow parking for use outside school operating hours.

**Student Drop-Off/Pick-Up Assumptions:**

The Academy will open at 7:15 A.M. and begin class at 7:45 A.M.  
The Academy will close at 5:00 P.M. and classes will end at 3:00 P.M.

Drop-offs will vary between 7:15 A.M. and 7:45 A.M.  
Pick-ups will vary between 5:00 P.M. and 9:00 P.M.

Year 1: 30 students - 28 Drop-Offs / 28 Pick-Ups.\*  
Year 2: 45 students - 34 Drop-Offs / 34 Pick-Ups.\*  
Year 3: and beyond 60 students - 46 Drop-Offs / 46 Pick-Ups.\*

- \* Pick-Ups will probably be less, due to students going to CYC after school and being picked up there as part of the normal operations of CYC.

**Assumptions on Modes of Transport:**

- 10% of students will car pool.
- Beginning in year 2, private Academy vans will be used for 20% of students.
- Due to the young age of students, use of public transportation is expected to be non-existent or very low.
- Primary types of vehicles will be privately owned cars of family members, friends, etc.

**Proposed Vehicular Drop-Off/Pick-Up Route:**

- Enter the parking lot from Royal Industrial Way.
- Proceed along the West Side of the building.
- Stop in far right lane of two lane, one way, Drop-Off/Pick-Up through-way to Drop-Off/Pick-Up students.
- Left lane is for access to parking spaces.
- Exit the parking lot on Galaxy Way.























## REPORT TO PLANNING COMMISSION

DATE: April 16, 2014

**SUBJECT: DE LA SALLE CAMPUS MASTER PLAN**

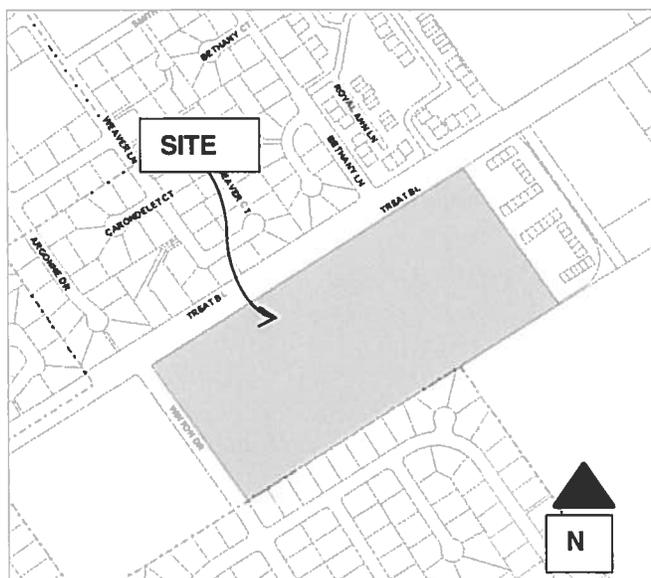
**Recommendation:** Adopt Resolution No. 14-07PC, approving and adopting an Addendum to the 2004 Initial Study/Mitigated Negative Declaration and approving an application for Use Permit Amendment and Design Review for modifications to an approved campus master plan for new classrooms, gymnasium, maintenance buildings, and related site improvements.

**I. Introduction****A. Application Request**

Application for an Addendum to the 2004 Initial Study/Mitigated Negative Declaration and Use Permit Amendment and Design Review for modifications to the De La Salle High School Master Plan for new classrooms, gymnasium, maintenance buildings, and related site improvements on the 19.24-acre De La Salle campus.

**B. Location**

The project site is located at 1130 Winton Drive; APN 145-130-030



**C. Applicant/Owner**

De La Salle High School of Concord, Inc.  
Attn: Marilyn Gardner  
1130 Winton Drive  
Concord, CA 94518  
925-288-8125

**II. Background**

**A. Prior Approvals**

In 1963, the City approved Use Permit 105-63 for De La Salle and Carondelet High schools. Subsequent use permits were approved for De La Salle as chronicled below.

- 1979 (UP 105-63 amendment) – Butler storage room addition
- 1985 (UP 105-63 amendment) – Classroom, locker room, library, swimming pool, counseling office and lighted football field additions. The amendment included a number of significant conditions of approval, including an enrollment cap of 1,000 students, limits on the use of football field lights to five home games per season, football bleacher capacity to three seats for each striped parking space on campus, and a requirement for a shared parking agreement with Carondelet for night and weekend activities.
- 2000 (UP 4-00) – Music building addition.
- 2002 (UP 02-12) – Two portable buildings; approval included conditions requiring a written complaint procedure for construction and school activity related issues, quarterly meetings with neighbors, notification of meetings and school events to all neighbors within 500 feet of the property, participation in TRANSPAC’s “SchoolPool” program, removal of the portables by Summer 2004, and an enrollment cap of 1,060 students during the 2002-2004 school years, returning to the 1,000 student cap beginning school year 2004-2005.
- 2005 (UPA 04-001) – Campus Master Plan to demolish and renovate existing facilities and construct four new buildings including a 19,834 square foot student center, 13,600 square foot gymnasium, 13,300 square foot science classroom, and 15,887 square foot administrative office building. The Master Plan was to be constructed in four phases over 20 years (hereafter referred to as “Approved Project”). The current project, referred to herein as the “Modified Project” proposes minor modifications to the Approved Project, as further detailed below.
- 2011 (UA 11-002) – Enrollment increase from 1,000 to 1,050 students.

**B. Modified Project**

De La Salle completed Phase 1 of their Approved Project with the construction of the Hoffman Student Center and parking lot improvements in 2006. Construction on the remaining phases of the Approved Project was postponed due to the Recession and fund raising challenges.

On November 22, 2013, De La Salle filed a use permit amendment to modify the scope of work and phasing of their Approved Project. The Modified Project includes larger science and gymnasium buildings, a theater renovation, and the removal of other buildings from the scope of the Approved

Project. The Development Advisory Committee (DAC) reviewed the project on December 10, 2013 and commented on information required to deem the application complete.

On December 18, 2013, De La Salle presented conceptual plans for the Modified Project to the Design Review Board. The Board encouraged De La Salle to develop their plans further and to return with minor design changes and additional information.

De La Salle held a neighborhood meeting for the project on February 6, 2014. Six neighbors attended the meeting and commented on potential aesthetics and noise impacts resulting from the maintenance and Science, Technology, Robotics, Engineering and Arts (STREAM) buildings closest to their properties south of the campus.

De La Salle presented revised plans to the Board on February 13, 2014. The Board found the plans addressed their conceptual review comments and recommended final design approval to the Planning Commission. The revised plans were reviewed by DAC and the application deemed complete on March 4, 2014.

### **III. General Information**

#### **A. General Plan**

The General Plan designation is Public/Quasi-Public.

#### **B. Zoning**

The site is zoned PQP (Public/Quasi-Public)

#### **C. CEQA Status**

Pursuant to the California Environmental Quality Act (CEQA) of 1970, Public Resources Code § 21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, "CEQA"), an Addendum to the 2004 Initial Study/Mitigated Negative Declaration (2004 IS/MND, as that term is defined in Exhibit A (PC Resolution No. 14-07PC) hereto) was prepared in April 2014 ("Addendum"). A copy of the Addendum is attached as Attachment C to Exhibit A (PC Resolution No. 14-07PC) hereto and incorporated by reference. The 2004 IS/MND was approved for the De La Salle High School Master Plan project via Planning Commission Resolution No. 05-03PC.

The Addendum evaluates whether the Modified Project which would result in any new or substantially more adverse significant effects or require any new mitigation measures not identified in the 2004 IS/MND prepared for the Approved Project. The Addendum finds that the analysis and conclusions of the 2004 IS/MND remain current and valid for the Modified Project. No substantial changes have occurred with respect to existing conditions that would cause new or substantially more severe significant environmental effects than were identified in the 2004 IS/MND. Additionally, no new meaningful information indicates that the

Modified Project would cause new or substantially more severe significant environmental effects than were analyzed in the 2004 IS/MND.

The Addendum also considers whether any substantial changes have occurred with respect to the circumstances under which the Modified Project will be undertaken which would require major revisions to the 2004 IS/MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. While there have been regulatory changes since the 2004 IS/MND (e.g., requirement for an analysis of greenhouse gas emissions), in all instances, the changes in circumstances do not result in new or substantially more severe significant effects or the need for new mitigation measures. The Addendum further finds that, notwithstanding the changes in circumstances, completion of the project would not result in new significant or substantially more severe environmental impacts than those analyzed in the 2005 IS/MND, and no additional mitigation measures are required.

#### D. Site Description

The 19.24-acre site is located on the southeast corner of Treat Boulevard and Winton Drive, just north of the City's limit line with Walnut Creek. The flat, rectangular shaped lot measures 606 feet along the Winton Drive frontage, and 1,951 feet along the Treat Boulevard frontage. The site is developed with classroom buildings, student center, administrative offices, library, theater, gymnasium, faculty residence, and maintenance buildings totaling 158,134 square feet. These buildings are located on the western half of the campus clustered around a central quad. The eastern half of the campus is developed with athletic facilities including a football field and running track, baseball and soccer field, batting cages and related improvements such as bleachers and storage.

#### E. Surrounding Land Use

	Land Use	General Plan Designation	Zoning
North	Single-family residential and condominiums	Low Density Residential, Medium Density Residential	RS-8, PD
South	Single family residential in Walnut Creek	N/A	N/A
East	Condominiums	Medium Density Residential	PD
West	Carondelet High School	Public/Quasi-Public	PQP

#### IV. Detailed Project Description & Analysis

De La Salle proposes to modify the scope and phasing of their Approved Project. The Modified Project includes larger science and gymnasium buildings than originally approved, and a theater renovation that was not a part of the Approved Project. Although the STREAM and gymnasium buildings will be larger, the Modified Project will eliminate an athletics building expansion, administration building, and student services buildings, resulting in a decrease in the overall building

area as compared to the Approved Project. A summary and comparison of the Approved Project and Modified Project is provided below.

**Table 1 – Comparison of Approved Project and Modified Project Scope**

Phase	Project Scope
1	<p><u>Approved Project:</u> Renovate De La Salle’s main parking lot and student drop-off/pick-up area off Winton Drive, demolish faculty dining and bookstore buildings totaling 1,400 sq. ft., and construct 19,834 sq. ft. student center and multi-purpose building.</p> <p><u>Modified Project:</u> Phase 1 work has been completed; no changes proposed under the Modified Project.</p>
2	<p><u>Approved Project:</u> Relocate existing pool, reconfigure rear driveway and rear parking area, construct 16,700 sq. ft. athletics building expansion, demolish 9,400 sq. ft. cafeteria, and construct new 13,600 sq. ft. gymnasium.</p> <p><u>Modified Project:</u> Construct 27,288 square foot STREAM (Science, Robotics, Engineering, Arts, and Math) building proposed in Phase 3 of Approved Project. Athletics building expansion and relocation of existing pool removed from Master Plan.</p>
3	<p><u>Approved Project:</u> Extend driveway and parking area, demolish two portable classroom buildings totaling 1,800 sq. ft., construct 13,300 sq. ft. science classroom, and replace maintenance buildings with new 3,700 sq. ft. maintenance building.</p> <p><u>Modified Project:</u> Replace existing cafeteria with 21,034 sq. ft. Gymnasium and High Performance Athletic Center.</p>
4	<p><u>Approved Project:</u> Replace 4,900 sq. ft. administration building and 2,900 square foot student service building with new 15,867 sq. ft. administration building and 3,900 sq. ft. student services building, demolish 1,500 square foot faculty portables and replace with new parking lot.</p> <p><u>Modified Project:</u> 3,150 sq. ft. theater expansion (not a part of the Approved Project). New administration and student services building removed from Master Plan.</p>

**Table 2 – Comparison of Approved Project and Modified Project Square Footage**

	Approved Project	Modified Project	Delta
<b>New Construction:</b>			
Athletic Building Expansion	16,700	0	-16,700
Gymnasium/Athletic Performance Center	13,600	21,034	+7,434
Student Center/Multi-Purpose	19,834	19,834	0
Science/STREAM	13,300	27,288	+13,988
Maintenance	3,700	3,700	0
Administration	15,867	0	-15,867
Student Services	3,900	0	-3,900
Theater Expansion	0	3,150	+3,150
<b>Total Proposed New Area</b>	<b>86,901</b>	<b>75,006</b>	<b>-11,895</b>
<b>Demolition</b>			
Cafeteria	-9,400	-9,400	0
Maintenance Buildings	-2,500	-2,500	0
Administration	-4,900	0	+4,900
Student Services	-2,900	0	+2,900
Bookstore/Faculty Dining	-1,400	-1,400	0
DM 1&2 Faculty Portables	-1,920	-1,920	0
<b>Total Proposed Demolition</b>	<b>-23,020</b>	<b>-15,220</b>	<b>+7,800</b>

**A. Development Regulations**

The site is zoned PQP (Public/Quasi Public). PQP zoning does not have specific development standards. Standards are determined on a project-specific basis by the reviewing authority for the planning permit required for the project. If no permit is required, the regulations of the abutting zoning district are applied.

The table below provides development standards proposed by the Modified Project, General Plan and Development Code requirements, or standards of abutting zoning districts for comparison purposes when a specific standard does not apply.

**Table 3 – Development Standards**

Standards	Proposed	Required or Comparable Standard
Floor Area Ratio	0.24	1.5 FAR
Lot Coverage (max.)	17%	35%

Standards	Proposed	Required or Comparable Standard
Setbacks (minimum)		
Front yard/Winton Dr.	69 ft.	20 ft.
Side yard (south)	49 ft.	27 ft. <sup>1</sup>
Exterior side (Treat Blvd.)	69 ft.	10 ft.
Rear yard (east)	> 300 ft.	N/A <sup>2</sup>
Building Height (max.)	37-47 ft.	25 ft. <sup>3</sup>
Parking Spaces	443 spaces	292 spaces
Bicycle Parking	29 spaces	29 spaces
Landscaping	22.5%	N/A

<sup>1</sup>Transitional setback of 20 feet plus one additional foot of setback for every foot of building height over 30 feet (Sec. 122-311)

<sup>2</sup>Abutting property to the east is zoned PD (Planned District) and developed with a Preliminary Development Plan (PDP). The approved PDP does not specify a setback along the property line between the project site and abutting property.

<sup>3</sup>Based on City of Walnut Creek’s R-10 zoning that applies to Savannah Circle properties south of the project.

**B. Site Planning/Circulation/Parking**

Site Planning/Circulation

The Modified Project proposes only minor changes to the site plan and circulation of the Approved Project. The most significant change involves keeping the existing swimming pool at its current location east of the existing gymnasium. Under the Approved Project, the swimming pool was to be relocated and a new driveway put in its place with access to Treat Boulevard. Under the Modified Project, the pool and adjacent driveway will remain as currently configured. That change results in less construction than anticipated with respect to the Approved Project, and so reduces the environmental impacts studied under the 2004 IS/MND. The Gymnasium and Athletics Performance Center, STREAM, and maintenance buildings will have the same location as under the Approved Project.

Parking

The Modified Project would provide 443 vehicle parking spaces through all four phases of the project that includes off-site parking on the Church of Jesus Christ of Latter-day Saints property at 2930 Treat Boulevard. The number of on-site and off-site parking spaces will vary with each phase as follows:

**Table 4 – Parking**

	Phase 1*	Phase 2	Phase 3	Phase 4
<b>On-Site</b>	391	395	379	379
<b>Off-site</b>	52	48	64	64
<b>Total</b>	443			

\* Completed

**C. Building Architecture**

The design of the new buildings combines modern elements like glass, metal panels, and aluminum louvers with brick material characteristic of existing campus buildings. Only the design of Phase 1 improvements was finalized under the Approved Project. A condition of the Approved Project requires design review for the remaining phases.

**D. Landscaping**

Landscaping is proposed around the perimeter of new buildings and within stormwater treatment areas. New landscaping will include 24-inch box Crape myrtle and Chinese pistache trees to accent interior spaces and courtyards, and Tiger Bamboo to screen the south elevation of the STREAM building.

**E. Biological Resources/Protected Trees**

An 85-inch diameter eucalyptus tree located west of the new STREAM building is proposed for removal. Eucalyptus trees are not protected trees regardless of their size and do not require a tree removal permit.

**F. Stormwater Plan/C-3 Requirements**

The Modified Project is subject to C-3 requirements. The stormwater control plan proposes to treat approximately 60,000 sq. ft. of impervious surface runoff with bio-retention and flow-through planters located around nine drainage management areas (see Exhibit C, sheet C6). The stormwater control plan has been approved by Current Development-Engineering.

**V. Analysis**

**A. General Plan**

General Plan policies that apply to this project are listed below followed by analysis on how the project is consistent with each.

*Public/Quasi-Public Designation: The Public/Quasi-Public designation applies to property owned by governmental entities and to semi-public facilities such as hospitals, schools, government offices, corporation yards, and fire stations. The General Plan allows a maximum 1.5 FAR (floor area ratio).*

The project expands an existing school and is therefore consistent with the uses intended by the Public/Quasi-Public designation. The project will result in a 0.24 FAR at project completion.

*Policy LU-1.1.3: Ensure that the scale, operation, location, and other characteristics of community facilities, including parks, schools, childcare facilities, religious institutions, and other public and quasi-public facilities, enhance the character and quality of neighborhoods.*

The project will enhance the character and quality of the neighborhood by updating an existing high school campus with modern facilities, landscaping, and drainage facilities that include stormwater treatment areas that were not required under the prior approval.

*Policy LU-1.1.4: Protect residential uses from the impacts of more intensive land uses through good site planning and/or appropriate mitigation and operational measures.*

The site plan minimizes impacts on adjoining residential properties by placing buildings a considerable distance away from neighboring residential properties, orienting taller buildings to face away from residential properties, providing parking in excess of what is required by the Development Code, restricting the hours of noise-producing activities, and installing landscaping on neighboring properties to provide additional screening.

**B. Zoning/Development Standards**

PQP zoning districts are generally located adjacent to residential neighborhoods as they are intended for schools, fire stations, parks, and similar public/quasi-public facilities that serve residential neighborhoods. Because public/quasi-public facilities can be dissimilar in character to residential development, the PQP zoning requires the Commission establish project-specific development standards to ensure such facilities can be accommodated at a scale that is appropriate for the particular setting. The following section discusses the standards proposed by the Modified Project for the Commission's consideration.

Lot Coverage

The Modified Project proposes a lot coverage 17% at project completion. The coverage is lower than what could be allowed based on the 1.5 floor area ratio that applies to all properties designated Public/Quasi-Public by the General Plan. In this particular example, a maximum floor area of approximately 1,000,000 sq. ft. could be allowed for a 19-acre site. The total area of building footprints for the site would equal approximately 5000,000 sq. ft. assuming all buildings are two stories, resulting in lot coverage of approximately 75%.

Setbacks

The buildings closest to residential properties are the maintenance and STREAM buildings, which will be set back 50 feet and over 100 feet respectively, from the south property line and neighboring residential properties. Non-residential structures over 30 feet in height must provide a transitional setback of up to 40 feet from residential properties. The transitional setback applies to the STREAM building which exceeds the requirement.

### Building Height

The STREAM and Gymnasium buildings are approximately 37 feet in height. The STREAM building includes mechanical rooftop screening that increases its overall height to 47 feet. The Development Code allows non-residential buildings to exceed maximum building height by 25 percent with a Minor Exception permit. Since PQP districts are generally located adjacent to residential zoning districts, a building height of 30 feet is the typical scenario for building height in PQP zoning. A height of up to 37.5 feet could be permitted by Minor Exception under this scenario. Projects that are subject to Use Permit review are not limited to the 25% height increase.

Staff finds the proposed building heights are appropriate. The Gymnasium building is within the height limit considered as a minor height exception. Additionally, the STREAM building's overall height of 47 feet is necessary to comply with Development Code requirements to screen rooftop equipment. The screen is placed at least 25 feet from the south edge of the building to minimize its visibility from residential properties to the south. The screen should be visible only from distant views.

### **C. CEQA Determination**

The 2004 IS/MND determined that although the Approved Project could have potentially significant impacts on Transportation/Traffic, mitigation measures incorporated as part of the project's design or as conditions of approval would reduce the potential impacts to less-than-significant levels.

The Addendum finds that, notwithstanding any changes in circumstances, completion of the Modified Project would not result in new significant or substantially more severe environmental impacts than those analyzed in the 2004 IS/MND, and no additional mitigation measures are required. Potential impacts would be reduced to less-than-significant levels with incorporation of the 2004 IS/MND (including the Mitigation and Monitoring Matrix). The Modified Project will comply with all applicable mitigation measures of the 2004 IS/MND.

### **D. Site Planning/Circulation/Parking**

The Approved Project was considered prior to the Development Code when the parking requirement for high school uses was one space per 100 square feet of classroom space. This parking standard was not useful in projecting parking impact because it relied exclusively on classroom space. Staff considered enrollment to be equally important in determining parking demand. Although De La Salle's plan proposed adding classroom space, their enrollment was capped at 1,025. For this reason, the Approved Project included mitigation measures requiring De La Salle to maintain the existing number of parking spaces (443) through Phase 1 of the project, and to prepare a parking study or program when parking demand could be reassessed for future phases.

In 2011, the City approved a use permit amendment to increase De La Salle's enrollment cap to 1,050 students. The additional enrollment was analyzed by the Transportation Division and

found to have a minimal increase in parking demand. The Transportation Division also found De La Salle’s surplus parking would absorb the parking increase.

Current Development Code parking standards for high schools uses a combination of office space, classrooms, and student enrollment in determining the parking requirement. The parking standards that now apply to the Modified Project and the resulting parking requirement is provided in the table below.

<u>Parking Ratio</u>	<u>Proposed</u>	<u>Parking Requirement</u>
1 space per classroom	50 classroom spaces	50 parking spaces
1 space per 250 s.f. office	7,800 s.f. office	32 spaces
1 space per 5 students	1,050 students	<u>210 spaces</u>
	Total Required:	292 spaces

The Modified Project proposes to maintain 443 spaces through all phases that will include some off-site parking at a nearby church. In no case will there be less than 379 parking spaces on-site, which exceed the minimum parking requirement. The Transportation Division has reviewed the parking plan and recommends its implementation.

**E. Building Architecture & Landscaping**

The architecture and landscape design has been reviewed by the Design Review Board and recommended for approval. Staff finds the proposed design meets all applicable design criteria and findings of the Development Code and Community Design Guidelines as discussed in the attached Resolution No. 14-07PC.

**VI. Fiscal Impact**

The proposed would have a negligible fiscal impact on the City.

**VII. Public Contact**

Notification was mailed to all owners and occupants of property within five-hundred (500) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code. This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

**VIII. Summary and Recommendations**

The changes associated with the Modified Project would not trigger any of the conditions described in CEQA Guidelines Section 15162 requiring preparation of a subsequent or supplemental EIR or MND. Thus, the Addendum satisfies the requirements of CEQA Guidelines sections 15162 and 15164. The Modified Project would not introduce new significant environmental effects, substantially increase the severity of previously identified significant environmental effects, or show that mitigation measures previously found not to be feasible would in fact be feasible.

The Modified Project is consistent with General Plan policies related to Public/Quasi-Public uses. Furthermore, the Modified Project will result in a quality designed campus addition consistent with the Approved Project. The Modified Project will enhance the site with updated buildings, landscaping, parking, and stormwater facilities, and will be compatible with surrounding development by providing transitional setbacks and operational restrictions. Therefore, staff recommends that the Planning Commission adopt Resolution No. 14-07PC, approving and adopting an Addendum to the 2004 Initial Study/Mitigated Negative Declaration and approving an application for Use Permit Amendment and Design Review (PL131368 – UP, DR) for modifications to the De La Salle Campus Master Plan.

**IX. Motion**

**CEQA Action and Project Approvals**

I (Comm. \_\_\_\_\_) hereby move that the Planning Commission adopt Resolution No. 14-07PC approving and adopting an Addendum to the 2004 Initial Study/Mitigated Negative Declaration and approving an application for Use Permit Amendment and Design Review (PL131368 – UP, DR) for modifications to the De La Salle High School Master Plan. (Seconded by Comm. \_\_\_\_\_.)

Prepared by: Frank Abejo  
Frank Abejo  
Senior Planner  
935-671-3128  
Frank.Abejo@cityofconcord.org

Reviewed by: Carol Johnson, AICP  
Carol Johnson, AICP  
Planning Manager  
925-671-3369  
[Carol.Johnson@cityofconcord.org](mailto:Carol.Johnson@cityofconcord.org)

**Exhibits:**

- A - PC Resolution No. 14-07PC, Draft Conditions of Approval (Attachment A), 2004 IS/MND (Attachment B), and Addendum (Attachment C)<sup>1</sup>
- B - Applicant's Written Statement
- C - Applicant's Plan Sheets

<sup>1</sup> Reference documents for the 2004 IS/MND and Addendum are available at the City of Concord Permit Center, 1950 Parkside, Concord, CA 94519, Monday through Thursday, 8:00 a.m. – 5:00 p.m., and Friday 8:00 a.m. – 12:00 p.m.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF CONCORD,  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A RESOLUTION ADOPTING AN ADDENDUM TO  
THE 2004 INITIAL STUDY AND MITIGATED  
NEGATIVE DECLARATION AND APPROVING A  
USE PERMIT AMENDMENT AND DESIGN  
REVIEW APPLICATION FOR THE DE LA SALLE  
HIGH SCHOOL MASTER PLAN**

Resolution No. 14-07PC

---

**WHEREAS**, on January 19, 2005, at a duly noticed public hearing, the City of Concord Planning Commission considered applicant De La Salle High School's ("De La Salle") Use Permit Amendment (UPA 04-001), Tree Removal (RT 04-008), and Design Review (DR 04-008) application for a campus master plan to demolish and renovate existing facilities and construct four new buildings including a 19,834 square foot student center, 13,600 square foot gymnasium, 13,300 square foot science classroom, and 15,887 square foot administration office ("Approved Project") on the 19.24-acre De La Salle High School campus at 1130 Winton Drive, APN 145-130-030; and

**WHEREAS**, pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, Public Resources Code § 21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, "CEQA"), an Initial Study was prepared for the Approved Project which concluded that with the incorporation of identified mitigation measures, the Approved Project would not have a significant effect on the environment, and a Notice of Intent to Adopt a Mitigated Negative Declaration along with a Mitigation and Monitoring Matrix ("MMX") were prepared and circulated for review in accordance with CEQA; the Initial Study, Mitigated Negative Declaration and MMX are collectively referred to as the "2004 IS/MND"; and

**WHEREAS**, on January 19, 2005, pursuant to Resolution No. 05-03PC, the City of Concord Planning Commission adopted the 2004 IS/MND and approved the Approved Project; and

**WHEREAS**, De La Salle completed Phase 1 of the Approved Project by conducting the tree removal allowed under RT 04-008, and constructing the Hoffman Student Center in 2006, and the approvals associated with DR 04-008 and UPA 04-001 remain valid; and

1           **WHEREAS**, on November 22, 2013, De La Salle submitted an application for a Use Permit  
2 Amendment and Design Review to modify their master plan and Use Permit Amendment approval;  
3 and

4           **WHEREAS**, on March 4, 2014 the application was deemed complete for processing; and

5           **WHEREAS**, pursuant to the provisions of the California Environmental Quality Act (CEQA)  
6 of 1970, as amended, an Addendum to the IS/MND was prepared for the Modified Project; and

7           **WHEREAS**, the Planning Commission, after giving all public notices required by State law  
8 and the Concord Municipal Code, held a duly noticed public hearing on April 16, 2014, on the subject  
9 proposal; and

10           **WHEREAS**, at such public hearing, the Planning Commission considered all oral and written  
11 information, testimony, and comments received during the public review process, including  
12 information received at the public hearing, the oral report from City staff, the written report from City  
13 staff dated April 16, 2014, application materials, exhibits presented, pertinent maps, plans, reports,  
14 studies, memoranda, the Addendum, the 2004 IS/MND, the application of all mitigation measures,  
15 adopted City documents relating to the Approved Project, the Project site, and the Modified Project  
16 (including the City's General Plan, Municipal Code, Development Code, applicable laws and  
17 regulations, and all associated approved and certified environmental documents), and all other  
18 information contained in the record of proceedings and the City's files relating to the Approved  
19 Project and the Modified Project, which are maintained at the offices of the City of Concord Planning  
20 Division (collectively, "Project Information") in accordance with the applicable law, including the  
21 requirements of CEQA and the City of Concord Municipal Code; and

22           **WHEREAS**, the applicant is required and has agreed to incorporate in the Modified Project all  
23 applicable mitigation measures identified in the MMX, to reduce environmental impacts to less than  
24 significant level; and

25           **WHEREAS**, after consideration of all the Project Information, including all pertinent plans,  
26 documents and testimony, the Planning Commission declared their intent to approve the Modified  
27 Project, subject to the Conditions of Approval contained herein as Attachment A.  
28

1           **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

2           Recitals

3           1.       The Planning Commission finds that the above recitals are accurate and constitute findings in  
4 this matter and, together with the Project Information, serve as an adequate and appropriate  
5 evidentiary basis for the findings and actions set forth in this Resolution, and further makes the  
6 following findings:

7           Addendum

8           2.       Based on the Project Information, and all oral and written testimony submitted on this item,  
9 the Planning Commission makes the findings set forth below with respect to the Addendum:

10           a.       The Addendum was prepared in accordance with all legal requirements, including  
11 CEQA Guidelines section 15164.

12           b.       The Planning Commission has reviewed, considered, and evaluated all of the Project  
13 Information prior to acting upon or approving the Modified Project.

14           c.       The Addendum reflects the independent judgment and analysis of the City as the lead  
15 agency for the project.

16           d.       Based on substantial evidence in the whole record before the City, the Modified Project  
17 does not make substantial changes to the Approved Project or substantial changes with respect to the  
18 circumstances under which the Approved Project would be undertaken which would require revisions  
19 to the 2004 IS/MND due to new significant environmental effects or a substantial increase in the  
20 severity of previously identified significant effects and there is no new information that would require  
21 preparation of a subsequent or supplemental EIR under Public Resources Code Section 21166 or  
22 CEQA Guidelines Section 15162. Therefore, none of the elements set forth in Public Resources Code  
23 Section 21166 or CEQA Guidelines Section 15162 exist and a subsequent or supplemental EIR or  
24 negative declaration is not required.

25           e.       As only minor technical changes or additions were required to the 200 IS/MND, the  
26 Addendum was prepared in accordance with all legal requirements, including CEQA Guidelines  
27 Section 15164.

1 f. The mitigation measures described in the 200 IS/MND are within the jurisdiction of the  
2 City to adopt, and will be implemented by the applicant.

3 g. All feasible mitigation measures for the Project identified in the 2004 IS/MND are  
4 hereby incorporated into this resolution.

5 3. The Planning Commission hereby approves and adopts the Addendum.

6 4. The documents and other materials that constitute the record of proceedings upon which the  
7 Planning Commission has based its decision are located in and may be obtained from the City of  
8 Concord Planning Division, 1950 Parkside Drive MS/53, Concord, CA 94519.

9 Use Permit Amendment and Design Review

10 5. Based on the Project Information, and all oral and written testimony submitted on this item,  
11 the Planning Commission makes the findings set forth below with respect to the Use Permit  
12 Amendment:

13 a. The proposed residential use is allowed within the PQP (Public/Quasi Public) Zoning  
14 District and complies with all other applicable provisions of the Development Code and City  
15 Municipal Code.

16 b. The project is consistent with the General Plan and policies encouraging the scale and  
17 operation of schools to enhance the character and quality of neighborhoods by updating an  
18 existing high school campus with modern facilities, landscaping, and drainage facilities that  
19 include stormwater treatment areas that were not required under the prior approval.

20 c. The setback, height, and lot coverage proposed by the project are appropriate for the  
21 site and PQP zoning. Proposed buildings exceed transitional setback requirements to provide  
22 an adequate buffer between the site and surrounding uses, building heights are appropriate and  
23 necessary to provide mechanical screening as required by the Development Code, and lot  
24 coverage is much lower than what could be allowed under the General Plan's 1.5 floor area  
25 ratio that applies to the site.

26 d. The site plan minimizes impacts on adjoining residential properties by placing  
27 buildings a considerable distance away from neighboring residential properties, orienting taller  
28

1 buildings to face away from residential properties, providing parking in excess of what is  
2 required by the Development Code, restricting the hours of noise-producing activities, and  
3 installing landscaping on neighboring properties to provide additional screening.

4 e. The design, location, size and operating characteristics of the project are compatible  
5 with existing and future uses in the vicinity.

6 f. The project site is physically suitable for the type, density and intensity of the proposed  
7 use, including access, utilities, and absence of physical constraint.

8 g. Granting the use permit amendment will not be detrimental to the public health, safety,  
9 or welfare of the persons residing or working in the subject neighborhood or materially  
10 detrimental or injurious to property or improvements in the vicinity and Zoning District where  
11 the property is located. Project conditions and requirements will ensure on-going operations  
12 will not impact properties or residents of the area and maintenance of the parking lot, building  
13 exteriors and landscaping will be secured through a separate maintenance agreement.

14 6. Based on the Project Information, and all oral and written testimony submitted on this item,  
15 the Planning Commission makes the findings set forth below with respect to the Design Review:

16 a. The project is consistent with the General Plan as explained in findings 5a and 5b  
17 above.

18 b. The project meets the following criteria in Section 122-908 (Design Criteria):

19 i. *The building design and landscaping supports public safety and security by*  
20 *allowing for surveillance of the street by people inside buildings and elsewhere*  
21 *on the site.* The new buildings are designed to function as classrooms, athletic  
22 facilities, and related school buildings where surveillance from within the  
23 buildings conflicts with the purpose and function of the new buildings as  
24 educational and athletic facilities.

25 ii. *The design is compatible with the historical or visual character of any area*  
26 *recognized by the City as having such character.* The area is not recognized as  
27 a historical, architectural, or scenic area by the City.  
28

- 1           iii.    *The project design preserves major view and vistas along major streets and*  
2                    *open spaces and trails and enhances them by providing project amenities. The*  
3                    *site and surrounding area is flat and has no topographically significant features,*  
4                    *such as valleys, hillsides, and ridgelines that provide scenic views or vistas.*  
5                    *The site is not near any open space or trail.*
- 6           iv.    *The proposed lighting and fixtures are designed to complement on-site*  
7                    *buildings, are of an appropriate scale for the development, and provide*  
8                    *adequate light for safety and security while minimizing glare. Building-*  
9                    *mounted light fixtures are designed to complement the architecture and will*  
10                  *include ground-mounted light fixtures to illuminate paths of travel while*  
11                  *minimizing glare.*
- 12          v.     *All mechanical, electrical, and utility equipment is located, screened, or*  
13                  *incorporated into the design of the buildings so as not to be visible from off-*  
14                  *site, and screening devices are consistent with the exterior colors and materials*  
15                  *of the buildings. Mechanical and rooftop equipment will be screened by metal*  
16                  *screening or parapets that match the buildings' architecture.*
- 17          vi.    *The overall design of the project, including its scale, massing, site plan,*  
18                  *exterior design, and landscaping, enhances the appearance and features of the*  
19                  *project site and surrounding natural and built environment. The scale, massing,*  
20                  *and site plan of the project complements the campus and will upgrade the site*  
21                  *with modern buildings, stormwater treatment facilities, and other amenities.*  
22                  *The project is also designed to provide an appropriate transition in scale by*  
23                  *locating and orienting larger buildings away from residential neighborhoods.*
- 24          vii.   *The project design is appropriate to the function of the project and will provide*  
25                  *an attractive and comfortable environment for occupants, visitors, and the*  
26                  *general community. The project is designed to meet De La Salle's functional*  
27                  *and programming needs and includes classrooms, an athletic facility, and*  
28

1 maintenance building that are appropriate for the campus. The project also  
2 ensures an attractive and comfortable environment for visitors and the general  
3 community with quality designed buildings and site amenities such as parking,  
4 landscaping, and stormwater treatment facilities.

5 *viii. The architectural details, colors, materials, and landscaping are internally*  
6 *consistent, fully integrated with one another, and used in a manner that is*  
7 *visually consistent with the proposed architectural design. The new buildings*  
8 *include brick and horizontal metal panels that are consistent with the*  
9 *predominant design elements of existing campus buildings, and new*  
10 *landscaping is designed to soften building edges and add visual interest to*  
11 *interior spaces created by the new buildings.*

12 *ix. The project is compatible with neighboring development in the same Zoning*  
13 *District by avoiding large differences in building scale and character and*  
14 *provides a harmonious transition between the proposed project and*  
15 *surrounding development. A harmonious transition is provided between the*  
16 *project and surrounding development through generous building setbacks.*

17 *x. The project creates an attractive and visually interesting built environment with*  
18 *a variety of building styles and designs, well-articulated structures that present*  
19 *varied building facades, rooflines, and building heights within a unifying*  
20 *context. The project creates an attractive and visually interesting built*  
21 *environment with distinctly designed buildings of varying forms and heights*  
22 *that are unified with common elements and materials such as brick, metal, and*  
23 *glass.*

24 *xi. The landscaping is compatible with and enhances the architectural character of*  
25 *the buildings and site features, and blends with the surrounding landscape.*  
26 *Landscape elements complement the buildings and rooflines through color,*  
27 *texture, density, and form. Landscaping is in scale with on-site and off-site*  
28

1 *buildings, and plantings have been selected and located to avoid conflicts with*  
2 *views, lighting, infrastructure, utilities, and signage.* The Design Review  
3 Board has reviewed the landscape plan and determined that it is compatible  
4 with the building architecture. The landscape plan will return to the Board for  
5 final approval.

6 *xii. Stormwater treatment areas have been integrated into the landscape design.*

7 The project includes bio-retention and self-retaining areas integrated into the  
8 landscape design.

9 *xiii. New construction does not need to match existing surrounding development or*

10 *buildings; however, the design shall complement or enhance existing*

11 *development.* The project will enhance existing development with attractively

12 designed buildings, siting that provides an appropriate transition between

13 residential development and the project site, and site amenities that

14 c. The STREAM building is designed to minimize its height from distant views with an  
15 attractive four-sided design that includes quality finishes and a decorative rooftop equipment  
16 screen.

17 d. Both the STREAM and Gymnasium buildings screen mechanical equipment with  
18 architectural elements that seamlessly blend with the overall design.

19 e. The STREAM building is oriented away from neighboring residential properties to the  
20 south to minimize privacy and view impacts.

21 f. The STREAM building will be set back at least 100 feet from the south property line to  
22 provide an appropriate transition in the scale between the STREAM building and existing  
23 residential development.

24 g. Proposed buildings are designed to reflect the rhythm of vertical and horizontal  
25 patterns expressed by existing campus buildings. For example, vertical metal panels and  
26 louvers mimic the look and rhythm of columns used on existing buildings.

27 h. Exterior building details provide visually interesting facades by using quality finishes  
28

1 of varying textures including brick, metal, and glass, and by providing strong horizontal and  
2 vertical relief with reveals, recesses, and pop-outs.

3 i. New buildings are sited consistent with the Approved Project and maintain the  
4 functional relationship of these new buildings to the rest of the campus.

5 j. The Gymnasium is sited to maintain the streetscape geometry of buildings parallel to  
6 Treat Boulevard and avoids creating conflicting or arbitrary spaces and building forms.

7 k. The project will provide a total of 29 bicycle parking spaces as required by the  
8 Development Code.

9 l. New lighting will consist of building mounted fixtures that will be screened by  
10 landscaping or are placed a considerable distance from neighboring properties to avoid light  
11 trespass. All new light fixtures will be glare-shielded and directed downward to further  
12 minimize lighting impacts.

13 m. Proposed buildings are articulated to minimize bulk with building off-sets and pop-outs  
14 that break up facades, by using curvilinear forms for roofs and screening elements to avoid a  
15 boxy look, and by balancing vertical and horizontal architectural elements to create visual  
16 interest.

17 n. Proposed buildings are articulated to minimize mass by drawing attention to smaller-  
18 scaled elements of the building, varying roof heights, and by visually breaking up major  
19 surface planes with architectural elements and different materials.

20 o. Building colors are also used to highlight smaller building elements and transitions in  
21 materials to further minimize building mass.

22 p. Architectural elements such as metal panels and building pop-outs create a rhythm that  
23 provides visual interest and variety, and elements that create shadow such as louvers and  
24 covered arcades add visual relief.

25 q. Durable materials such as brick and metal are used as appropriate for the function of  
26 the new buildings.

27 r. Proposed building colors and materials mainly consist of brick, glass, and white panels  
28

1 are compatible with the colors and materials of existing campus buildings.

2 s. Four-sided architecture is provided to ensure buildings are attractive from all views.

3 t. Mechanical equipment screening is designed to transition seamlessly with the design of  
4 the building.

5 u. Existing street trees along Treat Boulevard and Winton Drive will be preserved to  
6 maintain a streetscape and buffer between the street and project.

7 v. Tree and shrub plantings are clustered to soften building edges, create strong accent  
8 points, and to compliment the function of landscaped stormwater treatment areas.

9 7. The Planning Commission does hereby approve Use Permit Amendment and Design Review  
10 application (PL131368 – UP, DR) subject to the Conditions of Approval.

11 Measure J

12 8. The Modified Project supports the following Growth Management Element policies and is  
13 therefore compliant with Measure “J”.

14 i. Policy GM-1.1.1 because the project is an urban development located within the City’s  
15 Urban Limit Line.

16 ii. Policy GM-2.1.1 because the project results in urban infill development.

17 iii. Policies GM-7.2.1 through GM-7.2.3 because the project will not increase student  
18 enrollment or staffing levels, and development impacts related to drainage and sewer  
19 will be mitigated with new utilities or facilities, including stormwater treatment areas,  
20 and payment of impact fees to mitigate the project’s additional demand on services.

21 Effective Date

22 In accordance with City of Concord Municipal Code Section 122-1170, approvals or other  
23 decisions of the Planning Commission shall become effective on the 11<sup>th</sup> calendar day following the  
24 date the decision is rendered, if no appeal is filed.

25 //

26 //

27 //



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# ATTACHMENT A

DRAFT

## CONDITIONS OF APPROVAL

DE LA SALLE MASTER PLAN USE PERMIT AMENDMENT

PL131368-UP, AA, DR

THE SITE IS LOCATED AT 1130 WINTON DRIVE

APN 145-130-030

### PERMIT DESCRIPTION

1. These conditions apply to and constitute the approval of a Use Permit Amendment to complete the Modified Project of a phased campus master with specific development standards as follows: (PLNG)

Phase	Scope of Work
<b>1</b> (completed)	New 19,834 sq. ft. student center and multi-purpose building.
	Preliminary reconfiguration of drop-off/pick-up area
	Storage building
	New pool building
	Miscellaneous on-site seismic and landscape upgrades
<b>2</b>	Construct 27,300 sq. ft. STREAM (Science, Technology, Robotics, Engineering, Arts & Math) building classrooms.
	Demolish existing maintenance buildings totaling 2,500 sq. ft.
	Minor reconfiguration of parking areas and south access driveway.
<b>3</b>	Demolish 9,400 sq. ft. cafeteria and replace with 21,000 sq. ft. Gymnasium and High Performance Center.
	Demolish two portable classroom buildings totaling 1,920 sq. ft.
	Construct 3,700 sq. ft. maintenance buildings
<b>4</b>	3,150 sq. ft. theater addition.

Development Standard	Approved
Lot Coverage (max.)	17%
Setbacks (minimum)	
Front yard/Winton Dr.	69 ft.
Side yard (south)	49 ft.
Exterior side (Treat Blvd.)	69 ft.
Rear yard (east)	> 300 ft.
Building Height (max.)	37-47 ft.
Parking Spaces	443 spaces
Bicycle Parking	29 spaces
Landscaping	22.5% of site

Approved building sizes and development standards are approximate. Building Permit plans shall be in substantial conformance with the approved sizes and standards subject to review and approval by the Planning Division. The location and design of improvements shall conform to the approved plans except as modified by these conditions. A Use Permit Amendment shall be required for any substantial changes to the approved plan.

2. These conditions apply to and constitute Design Review approval of the architectural plans for STREAM, Gymnasium & High Performance Center, maintenance buildings, theater renovation and related improvements including landscaping. (PLNG)
3. This approval incorporates by reference previous Use Permit conditions and exhibits for De La Salle High School including the original use permit UP 105-63 (approved February 3, 1964; amended October 18, 1979 and February 22, 1985), UP 4-00 (approved June 26, 2000), and UP 02-012 (approved July 17, 2002), UPA 04-001 (approved January 19, 2005) and UA 11-002 (approved September 7, 2011). The previous Use Permit conditions and exhibits shall apply except where superseded by these Conditions and exhibits. (PLNG)

### **EXHIBITS**

4. The following exhibits are incorporated as conditions of approval, except where specifically modified by these conditions:

	Date Received	Sheet Name/		
	By City	Prepared by	Number	
1				
2	Cover Sheet	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>N/A</u>
3	Topographic Map	<u>2/21/14</u>	<u>Kier &amp; Wright</u>	<u>C1.1-C1.2</u>
4	Site Plan	<u>2/21/14</u>	<u>Kier &amp; Wright</u>	<u>C2</u>
5	Grading Plan	<u>2/21/14</u>	<u>Kier &amp; Wright</u>	<u>C3.1-C3.2</u>
6	Utility Plan	<u>2/21/14</u>	<u>Kier &amp; Wright</u>	<u>C4.1-C4.2</u>
7	Sections	<u>2/21/14</u>	<u>Kier &amp; Wright</u>	<u>C5</u>
8	Stormwater Control	<u>2/21/14</u>	<u>Kier &amp; Wright</u>	<u>N/A</u>
9	Landscape	<u>2/21/14</u>	<u>MIG</u>	<u>L-1, L-2</u>
10	Phasing Plan/Site Plan	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>A-1.0</u>
11	Site Section & Elevations	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>A-1.2</u>
12	Gymnasium Plans	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>A-2.0 to A-2.3</u>
13	STREAM Plans	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>A-3.0 to A-3.6</u>
14	Maintenance Bldg. Plans	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>A-4.0 to A-4.1</u>
15	STREAM Plans	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>A-3.0 to A-3.6</u>
16	Theater Renovation Plan	<u>2/21/14</u>	<u>Ratcliff Inc.</u>	<u>A-5.0 to A-5.1</u>

*All construction plans shall conform to these exhibits as modified by the conditions. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Building Division, and/or Engineering Services/Current Development Division as required. (PLNG/BLDG/ENGR)*

**GENERAL CONDITIONS**

5. Enrollment is capped at 1,050 students. De La Salle shall submit enrollment records to the City on a yearly basis to verify compliance with the enrollment cap. (PLNG)
6. Minor modifications including but not limited to the site design, grading, building design, building colors or materials, fence height and materials, fence location(s), and landscape materials may be allowed subject to the approval of the Planning Division if found to be in substantial conformance with the approved exhibits. Substantial modifications shall require approval from the applicable approving body. (PLNG/BLDG/ENGR)
7. The following Conditions of Approval are the responsibility of the project sponsor and shall be complied with prior to issuance of any construction permit unless noted otherwise. The proposed development shall comply with the applicable requirements of Federal law, State law, and the City of Concord Municipal Code. (PLNG/ENGR)
8. The conditions of approval shall be listed on a plan sheet and attached to all sets of approved plans (building, grading, and site work). A copy shall be kept at the job site and the applicant shall ensure that all project contractors adhere to the approved plans and are aware of, and abide by, the conditions. (PLNG/BLDG/ENGR)
9. Prior to any building occupancy, the applicant shall submit three signed copies (one notarized) of the "Property Maintenance Agreement" on a form approved by Planning and the City

1 Attorney to address the repair, replacement and maintenance of all parking lot and driving  
2 surfaces, pedestrian walkways, landscaping, irrigation equipment, signs, fences and walls,  
building exteriors (colors and materials) and other exterior improvements. **(PLNG, ENGR)**

- 3 10. Use of the batting cage shall be restricted to Monday through Friday, 9:00 a.m. to 7:00 p.m.  
4 and Saturday 10:00 a.m. to 5:00 p.m. Use of the batting cage is prohibited on Sundays. The  
5 applicant shall post signs with the approved hours on the batting cage, restrict batting cage  
6 access to those issued keys, and prohibit music from being played inside the batting cage.  
**(PLNG)**

7 **ENVIRONMENTAL**

- 8 11. The applicant shall comply with all mitigation measures associated with the Mitigated  
Negative Declaration and Mitigation and Monitoring Program. **(PLNG)**
- 9 12. In the event of the encounter of subsurface materials suspected to be of an archaeological or  
10 paleontological nature, all grading and/or excavation shall cease, the find shall be left  
11 untouched, and the City shall be immediately notified. The County Coroner and the Native  
12 American Heritage Commission shall also be notified and procedures as required in §15064.5  
of the CEQA shall be followed (a similar note shall appear on the grading and building plans  
prior to the issuance of permit). **(PLNG)**

13 **ARCHITECTURAL**

- 14
- 15 13. No rooftop equipment including air conditioning, heating, meters, refrigeration equipment,  
16 plumbing lines, ductwork and transformers, shall extend above the building's parapet, and all  
17 rooftop equipment shall be screened from view on all sides with materials architecturally  
compatible with the main structure. Rooftop screening details shall be reviewed and approved  
by Planning prior to the issuance of building permits. **(PLNG)**

18 **LANDSCAPING**

- 19
- 20 14. The tree species and planting location for all replacement trees shall be shown on the  
Landscape Plans and submitted to City Planning and Engineering Services for review at the  
21 same time the Improvement Plans are submitted for review. **(PLNG, ENGR)**
- 22 15. The applicant and/or future property owner shall comply with the Tree Preservation Guidelines  
23 contained in the arborist report. One year after occupancy of buildings for each phase, the trees  
24 shall be inspected by a Certified Arborist employed by the City of Concord at the applicant's  
25 expense, to evaluate tree health, vigor and acclimation to the new environment. Any tree(s)  
evaluated to be in poor condition, due to the impact of construction, shall be replaced with a  
minimum three-to-one ratio of 36-inch box-size trees. **(PLNG, ENGR)**
- 26 16. This approval does not include the relocation of the pool originally planned under UP 04-001.  
27 A separate use permit amendment is required to relocate the existing pool. The requirement  
28 under UP 04-001, Condition #20, to add an entry feature between the football and baseball  
fields where the existing pool is located shall apply to any pool relocation project. **(PLNG)**

1 **WALLS AND FENCES**

- 2
- 3 17. A subsequent use permit for pool relocation shall comply with UP 04-001, Condition #22,  
4 requiring the construction of a screen wall for the pool and replacement fencing along Treat  
5 Boulevard for the football field. The replacement fence shall have an open design featuring  
6 wrought iron railing. The height of the fence and wall shall not exceed six feet. (PLNG)
- 7 18. Prior to the review of fencing and wall designs by the Design Review Board, applicant shall  
8 coordinate with the Contra Costa Water District on an appropriate design for all fences or  
9 walls that will be located within the District's water pipeline easement along Treat Boulevard.  
10 Written proof of the District's approval of the fence and wall design shall be submitted to the  
11 Planning Division. (PLNG)

12 **LIGHTING**

- 13 19. Prior to issuance of a building permit, the applicant shall submit a photometric plan for review  
14 and approval by the Planning Division, Building Division, and Transportation Division.  
15 Lighting levels shall not exceed 0.5 foot candles at the property line. (PLNG/TRANS)

16 **PARKING**

- 17 20. All parking spaces shall be striped. Full-size spaces shall measure 9 ft. by 19 ft and compact  
18 spaces shall measure 8 ft. by 16 ft. Wheel stops shall be provided unless the stalls are adjacent  
19 to concrete curbs, in which case two feet shall be provided at the front of the parking space to  
20 accommodate the overhang of automobiles. (PLNG/ENGR)
- 21 21. Not more than 25 percent of the required parking spaces shall be designated as compact stalls.  
22 Compact parking stalls shall be marked for easy identification with bold lettering no less than  
23 eight inches in height, reading "Compact Parking Stall," "Small Car Only" or a similar  
24 designation. (ENGR/PLNG)
- 25 22. A total of 29 bicycle parking spaces shall be installed prior to issuance of Certificate of  
26 Occupancy for the STREAM building. (PLNG/ENGR)
- 27 23. Signs shall be posted at the southerly driveway and parking facility adjacent to the properties  
28 on Savannah Circle restricting its use for faculty parking only. (PLNG/TRAN)
- 29 24. Staging of buses shall not occur along the south property line and at all times shall be located  
30 as far north on the site as practical. (PLNG)

31 **STREET IMPROVEMENTS**

- 32 25. Any trenching for underground utilities shall comply with the modified City standard Detail S-  
33 17 for pavement repair and possible slurry placement. (ENGR)

- 1 26. Construct site improvements, including but not limited to: asphalt concrete pavement section;  
2 drainage improvements; construction of monolithic concrete curb, gutter, and sidewalk;  
3 removal of existing concrete curb, gutter, sidewalk, driveways, street signs, trees, and utility  
4 lines; conforms to existing improvements; and repair/replacement of deficient frontage  
5 improvements as determined by the City Engineer. (ENGR)  
6  
7 27. For on-site improvements, construct all public and pedestrian facilities in accordance with  
8 Title 24 (Handicap Access) and the Americans with Disabilities Act, including handicap  
9 ramps. (ENGR)  
10  
11 28. Repair and/or replace deficient frontage improvements to comply with the current ADA  
12 standards or as directed by the City Engineer. (ENGR)

### 9 CONSTRUCTION ACTIVITIES

- 10 29. Noise producing site preparation and construction activities shall be limited to the days and  
11 hours as set forth below:

12 **Monday through Friday** 7:30 a.m. to 6:00 p.m.

13 Construction on Saturdays may be allowed based on prior approval by the Building,  
14 Engineering, and Planning Divisions. Construction on Sundays and holidays is prohibited.

15 No changes to these construction hours will be allowed without the prior written consent of the  
16 City. The applicant shall designate a contact person available during the evenings and on  
17 weekend to respond to complaints and take appropriate action to reduce noise.

18 **(BLDG/ENGR/PLNG)**

- 19 30. Contact Engineering Services to arrange for a pre-construction meeting prior to start of any  
20 construction activity. (ENGR)  
21  
22 31. Implement a dust and noise control plan. Submit the plan to Engineering Services for review.  
23 Obtain plan approval prior to beginning any construction activity. (ENGR)  
24  
25 32. Construction equipment shall not be serviced at the site, no deliveries shall be made to the site,  
26 no delivery vehicles (including gasoline tanker trucks) shall enter the site, nor shall any  
27 parking lot cleaning equipment such as leaf blowers operate between 6:00 p.m. and 7:30 a.m.  
28 on weekdays, and between 5:00 p.m. and 8:00 a.m. on weekends and federal holidays.  
Delivery vehicles shall have their engines turned off during deliveries.  
**(BLDG/ENGR/PLNG)**  
33. Contractors shall be required to employ the quietest construction equipment available, to  
muffle noise from construction equipment and to keep all mufflers in good working order in  
accordance with State law. **(BLDG/ENGR/PLNG)**

34. Implement the following measures during construction: **(ENGR/BLDG)**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- a. Gather all construction debris on a regular basis and place them in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
  - b. Remove all dirt, gravel, rubbish, refuse, and green waste from the street pavement, and storm drains adjoining the project site. During wet weather, avoid driving vehicles off paved areas.
  - c. Broom sweep the public street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping.
  - d. Install filter materials (e.g., sandbags and filter fabric) at the storm drain inlet nearest the downstream side of the site in order to preclude any debris or dirt from flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and to prevent street flooding. Dispose of filter particles in an approved trash receptacle.
  - e. Create a contained and covered area on the site for the storage of bags, cement, paints, flammable, oils, fertilizers, pesticides or any other materials used on the site that have the potential for being discharged to the storm drain system by being windblown or in the event of a material spill.
  - f. Never clean items such as machinery, tools and brushes or rinse containers in a street, gutter or storm drain.
  - g. Ensure that concrete, gunite, plaster or similar supply trucks do not discharge wash water into street gutters or drains.
35. No equipment shall be started or staging area be established on the streets or the site before or after the specified hours of construction. **(ENGR/BLDG)**
36. Ensure that no debris or construction scrap material is placed on any adjoining lot, open space area, or street and that any such material stored on an adjoining site shall be completely removed and the site cleaned prior to occupancy. **(ENGR/BLDG)**
37. At no time shall campers, trailers, motor homes, or any other vehicle be used as living or sleeping quarters on the construction site unless authorized for site security. **(ENGR/BLDG)**
38. There shall be no parking of construction equipment or construction worker's vehicles on residential streets at any time; all vehicles shall be maintained on-site. **(ENGR/BLDG)**

- 1 39. Portable toilets used during construction shall be kept as far as possible from adjacent  
2 properties and shall be emptied on a regular basis as necessary to prevent odor. **(ENGR/  
3 BLDG)**
- 4 40. Identify truck routes for the import or export of cut/fill material and/or construction debris for  
5 review and approval by the City Engineer and the Transportation Manager prior to the  
6 issuance of permits. The applicant shall be responsible to repair any damage to city streets  
7 (private and public) caused by construction activity associated with this project and/or  
8 materials associated with the project. **(ENGR)**

### **CONSTRUCTION PLAN REVIEW/PRE-PERMIT REQUIREMENTS**

- 9 41. Submit two copies of preliminary title report, prepared within three months prior to plan  
10 submittal. **(ENGR)**
- 11 42. The Improvement Plans shall show site improvements including but not limited to: drainage  
12 improvements, curb, gutter and sidewalk per City Standard Detail S-10, and driveway  
13 construction per City Standard Detail S-14 and repair/replacement of deficient frontage  
14 improvements as determined by the City Engineer. Any unusable existing driveway shall be  
15 replaced with standard curb, gutter, and sidewalk per S-10 above. Any trenching for utility  
16 installation shall comply with the modified City Standard Detail S-17 for pavement repair and  
17 possible slurry placement. **(ENGR)**
- 18 43. The Improvement Plans shall show plan and profile, and details of all proposed drainage  
19 improvements, curb, gutter, sidewalk, and driveway construction. **(ENGR)**
- 20 44. Design improvement plan in accordance with the City Standard Plans S-34 and S-36 for sight  
21 distance, sidewalk, back up, fencing, geometrics at intersection, and corner setback  
22 requirements. **(ENGR)**
- 23 45. Obtain an encroachment permit from the City prior to performing any work within the public  
24 right-of-way or public easements. **(ENGR) CMC**

### **SITE DEVELOPMENT PLANS**

- 25 46. The De La Salle High School Campus Master Plan received February 21, 2014 is not approved  
26 for construction. Submit grading, erosion control, and improvement plans prepared by a  
27 Registered Civil Engineer to Engineering Services for review and approval prior to issuance of  
28 an Encroachment Permit and Grading Permit. **(ENGR)**

- 1 47. Submit a phasing plan for the entire project site for review and approval by staff. Each phase  
2 shall identify the building(s) contained within each phase and the site improvements that will  
3 be constructed within each phase (e.g., roadways, soundwalls, off-street parking, and  
4 landscaping) as well as the timing of the installation of the related improvements. The phasing  
5 plan shall also include plotting of all units, specifying unit type, or model for each lot, building  
6 envelopes, or setbacks, and shall be consistent with the City-approved plans on file with the  
7 Planning Division. **(BLDG/PLNG/ENGR)**

## 6 **GRADING/EROSION CONTROL/GEOLOGIC**

- 8 48. Submit a geotechnical report with the Grading Plans and Building Plans, pursuant to CMC  
9 Section 94-51 and Section 86-73 that addresses and provides recommendations for grading,  
10 drainage, walls, building foundations, and pavement structural sections. **(ENGR)**
- 11 49. All grading shall require a grading and drainage plan prepared by a registered Civil Engineer, a  
12 soils report prepared by a registered Geotechnical Engineer and receipt of a grading permit  
13 approved by the City Engineer. **(ENGR)**
- 14 50. Submit a Demolition Plan with the building plan set of drawings for review, prior to issuance  
15 of building and grading permits. The Demolition Plan shall clearly indicate any buildings and  
16 vegetation scheduled for demolition; show protection for trees to be preserved; areas  
17 designated for clearing and grubbing and site erosion control measures; and designate the  
18 location of on-site construction materials storage. **(ENGR/BLDG/PLNG)**
- 19 51. On-site finish grading work shall require drainage to be directed away from all building  
20 foundations at a minimum slope of 2 percent and a maximum slope of 20 percent toward  
21 approved drainage facilities or swales. Non-paved drainage swales shall have a minimum  
22 slope of 1 percent. **(ENGR)**
- 23 52. The applicant's engineer shall inspect the finished grading and certify that it conforms to the  
24 compaction and elevations shown on the Grading Plan and Soils Report. **(ENGR) CMC**
- 25 53. Erosion control measures shall be implemented per plans approved by the City Engineer for all  
26 grading work not completed before October 15<sup>th</sup>. At the time of approval of the improvement  
27 and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil  
28 Engineer shall be filed with the City Engineer. **(ENGR)**
54. All cut-and-fill slopes graded and not constructed by October 15th of any given year shall be  
hydromulched/hydroseeded and stockpiles of loose soil existing at that date shall also be  
hydromulched/hydroseeded in a similar manner. **(ENGR)**
55. Submit Grading, Erosion Control, and Improvement Plans to Engineering Services for review  
and approval prior to the issuance of grading, encroachment, and building permits. **(ENGR)**  
**CMC**

1 56. Comply with the applicable provisions of the Grading Ordinance and the Storm Water  
2 Management and Discharge Control Ordinance. **(ENGR) CMC**

3 **UTILITIES**

4 57. Building Permit plans shall include a photometric plan and lighting plan with location and  
5 details of light fixtures including pole type, luminaries type, conductor and wiring schedule,  
6 connection points, and lamp wattage and pull box locations. **(PLAN/BLDG/TRAN)**

7 58. Comply with the sewer design and discharge requirements of the Central Contra Costa  
8 Sanitary District (CCCSD). Submit sanitary sewer plans to CCCSD for review and approval.  
9 **(ENGR)**

10 59. Submit proof to Engineering Services that CCCSD has approved the sewer plans, and that all  
11 CCCSD requirements have been complied with, prior to issuance of an Encroachment Permit.  
12 **(ENGR)**

13 60. Coordinate all facility adjustments, relocations, or additions to utility services with the  
14 appropriate utility companies. **(ENGR)**

15 61. The location of all outdoor, above-ground and/or at-grade pad mounted transformers, utility  
16 equipment, vaults, irrigation control boxes, back flow prevention devices, and the like shall be  
17 subject to approval by Planning and Engineering Services prior to the issuance of the first  
18 project permit. Such equipment shall be painted forest green or a similar color and be screened  
19 from view from the street by the building, landscaping, fencing, and/or an enclosure approved  
20 by the Planning Division. **(ENGR/PLNG)**

21 **DRAINAGE/NPDES/CLEAN WATER**

22 62. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner.  
23 **(ENGR)**

24 63. Collect and convey all stormwater entering, and/or originating from, the site to an adequate  
25 downstream drainage facility. Submit hydrologic and hydraulic calculations with the  
26 Improvement Plans to Engineering Services for review and approval. **(ENGR)**

27 64. Submit proof of filing of a Notice of Intent (NOI) with the Regional Water Quality Control  
28 Board and submit a Stormwater Pollution Prevention Plan (SWPPP) with the Grading and  
Improvement Plans to Engineering Services for review, and approval prior to issuance of the  
grading permit. **(ENGR)**

65. Implement a long term Stormwater Pollution Prevention Plan (SWPPP) prior to occupancy.  
The SWPPP shall include construction and post-construction stormwater management controls  
(and maintenance schedules if applicable) such as vacuum sweeping of the driveway isles,

1 minimizing the amount of directly connected impervious surface area, constructing concrete  
2 driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious  
3 areas prior to entering the street curb and gutter. (ENGR)

4 66. Install appropriate clean water device at all private storm drain locations immediately prior to  
5 entering the public storm drain system. Implement Best Management Practices (BMP's) at all  
6 times to comply with the City of Concord Stormwater Management and Discharge Control  
7 Ordinance. Install full trash capture devices at on-site drainage inlets. (ENGR)

8 67. Stencil all catch basins with a "No Dumping, Drains to Bay" thermoplastic decal. (ENGR)

9 68. Include erosion control/storm water quality measures in the final grading plan that specifically  
10 address measures to prevent soil, dirt, and debris from entering the storm drain system. Such  
11 measures may include, but are not limited to, hydroseeding, hay bales, sandbags, and siltation  
12 fences and are subject to review and approval of the City. If no grading plan is required,  
13 necessary erosion control/storm water quality measures shall be shown on the site plan  
14 submitted for an on-site permit, subject to review and approval of the Building Division. The  
15 applicant shall be responsible for ensuring that the contractor is aware of and implements such  
16 measures. (ENGR/BLDG)

17 69. Submit a Construction Best Management Practice (BMP) Program for review by the  
18 Engineering Services Department prior to issuance of a building and/or grading permit. The  
19 general contractor and all subcontractors and suppliers of materials and equipment shall  
20 implement these BMP's. Construction site cleanup and control of construction debris shall also  
21 be addressed in this program. Failure to comply with the approved construction BMP may  
22 result in the issuance of correction notices, citations, or a project stop work order. (ENGR)

23 70. The City of Concord Stormwater National Pollution Discharge Elimination System (NPDES)  
24 permit requires that the design of this development shall comply with the Stormwater C.3  
25 requirements which will take effect on February 15, 2005. (ENGR)

26 71. Sweep or vacuum the parking lot(s) a minimum of once a month and shall prevent the  
27 accumulation of litter and debris on the site. Corners and hard to reach areas shall be swept  
28 manually. If sidewalks and/or the parking lot are pressure washed, debris must be trapped and  
collected to prevent entry into the storm drain system. No cleaning agent may be discharged  
into the storm drain. If any cleaning agent or degreaser is used, wash water shall be collected  
and discharged to the sanitary sewer, subject to the approval of the Central Contra Costa  
Sanitary District) (ENGR)

72. Ensure that the area surrounding the project such as the streets stay free and clear of  
construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way  
related to project construction. Areas that are exposed for extended periods shall be watered

1 regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular  
2 basis. All trucks hauling dirt or debris shall be covered. (ENGR)

- 3 73. Clean all on-site storm drain facilities a minimum of twice a year, once immediately prior to  
4 October 15 and once in January. Additional cleaning may be required if found necessary by  
5 the City. (ENGR)

6 **SOLID WASTE/RECYCLING**

- 7 74. Trash enclosures shall incorporate the following features in accordance with the requirements  
8 of the Central Contra Costa Sanitary District and the disposal service:
- 9 a. A concrete pad to prevent damage to asphalt paving.
  - 10 b. A roof and sanitary sewer cleanout, designed to prevent rainwater from penetrating the  
11 interior of the enclosure and preclude trash from being blown outside of the bins.
  - 12 c. The cleanout shall connect to a sanitary sewer to prevent contaminated water from  
13 entering the storm drain system. Comply with Central Contra Costa Sanitary District's  
14 requirements for grease interceptors.
  - 15 d. If any cleaning agent or degreaser is used, wash water must be collected and  
16 discharged to the sanitary sewer, subject to the approval of the Central Contra Costa  
17 Sanitary District. (CCCSD/ENGR)

18 **AGREEMENTS, FEES, BONDS**

- 19 75. Provide a **\$5,000** cash deposit to the Planning Division to cover Condition Compliance and  
20 Mitigation Monitoring costs, at the time of submittal of plans and documents to Engineering  
21 Services or the Building Division for plan check. Planning staff's time will be charged to this  
22 deposit for work performed to implement the Conditions of Approval, from the time of project  
23 approval to occupancy approval. Mitigation Monitoring costs will be charged at cost over the  
24 life of the project mitigation requirements. The deposit will be placed in a refundable account  
25 and any unused funds will be returned upon completion. If the initial deposit is insufficient to  
26 cover actual costs, an additional deposit will be required. (PLNG)
- 27 76. Prior to issuance of the certificate of occupancy, the applicant shall pay a Document Imaging  
28 Fee per City Resolution 02-6042.2, "Fees and Charges for Various Municipal Services." Said  
fee shall reimburse the City for implementation of the Document Imaging and File Retention  
programs. (PLNG)
77. The applicant shall submit to the Planning Division a \$50.00 recording fee and a \$2,181.25  
Department of Fish and Wildlife fee prior to filing of the Notice of Determination by the City. No  
permits shall be issued until said fees are paid.

1 78. Submit all required faithful performance bonds and labor materials bonds in a penal amount  
2 equal to 100 percent of the approved estimates of construction costs of improvements shall be  
3 submitted to and approved by the City and other agencies having jurisdiction prior to issuance  
4 of the building or grading permit, whichever comes first. **(ENGR)**

5 79. All fees noted below are the fees currently in effect per the Resolution of Fees and Charges.  
6 The fees are adjusted annually by City Council action every June and new fees become  
7 effective on July 1. **(ENGR)**

8 80. Encroachment Permit Application: **(ENGR)**

9 a. Pay the Filing Fee at the time of submittal of permit application, improvement plans  
10 and supporting documents to City Engineering Services for review. The current fee is  
11 \$86.00.

12 b. Provide a restoration security before issuance of the Encroachment Permit. The  
13 security shall be in an amount sufficient to restore existing public improvements to a  
14 serviceable condition should development improvement activity cause damage. The  
15 amount of the security shall be determined by, and be in a form acceptable to the City  
16 Engineer.

17 c. Provide a \$10,000 cash deposit to cover Mitigation Monitoring costs prior to issuance  
18 of an encroachment permit. The deposit will be placed in a refundable account.  
19 Mitigation Monitoring costs will be charged to this deposit over the life of the project  
20 mitigation requirements. Any unused funds will be returned at project completion. If  
21 the initial deposit is insufficient to cover actual costs, an additional deposit in an  
22 amount determined by the City Engineer will be required.

23 81. Grading Permit Application: **(ENGR)**

24 a. Pay Grading Permit Fees at submittal of a Grading Permit application. The current fee  
25 is determined based on cubic yardage of cut and fill combined, or at the hourly rate of  
26 \$172.00 if the hourly charges are utilized.

27 b. Provide a \$ 2,500 cash deposit for erosion control deposit prior to issuance of Grading  
28 Permit. The deposit will be placed in a refundable account. Any unused funds will be  
returned at project completion. If the initial deposit is insufficient to cover actual costs,  
an additional deposit in an amount determined by the City Engineer will be required.

c. Pay stockpile and erosion control monitoring fee prior to issuance of Grading Permit.  
The stockpile and erosion control monitoring fee is currently \$16.14 per calendar day  
and is collected for the life of the grading permit activity.

d. Provide a \$10,000 cash deposit to cover Improvement Plan, Grading Plan, and related  
documents review fees at the time of submittal of the documents to Engineering  
Services for review. The deposit will be placed in a refundable account. Review fees  
will be charged at the hourly rate of \$172. Any unused funds will be returned at project

1 completion. If the initial deposit is insufficient to cover actual costs, an additional  
2 deposit in an amount determined by the City Engineer will be required.

- 3 e. Pay the construction inspection fee prior to issuance of any construction permits. The  
4 current fee is based on 9% of the estimated cost of constructing the required  
5 improvements to support the development.
- 6 f. Provide a \$500 deposit for archiving permanent records prior to issuance of building  
7 permit. Actual fees will be charged following completion of work.

8  
9  
10  
11 **82. Sewer Connection Permit: (ENGR)**

- 12 a. Pay Sanitary Sewer fee. The current fee is \$1,009 per fixture and shall be paid prior to  
13 issuance of a Building Permit.
- 14 b. Pay the current sewer service fee prior to issuance of the Building Permit. The current  
15 fee is \$363.00 per year and is pro-rated by the month the connection is made.  
16 Commercial locations will have remainder fees charged annually by water usage per  
17 the City's fee schedule.

18  
19  
20  
21 **83. Drainage Mitigation Fee: (ENGR)**

22 The proposed development is within Drainage Area Zone 128. The current Drainage Area fee  
23 is \$0.17 per square foot and shall be paid prior to issuance of a building permit.

24  
25  
26  
27 **OTHER/MISCELLANEOUS**

28 **84. Comply with the requirements of the Contra Costa County Health Department for the  
abandonment of any existing septic tanks or wells. (ENGR) CMC**

**85. Comply with Contra Costa Water District requirements for securing additional potable water  
service including completion of financial agreements and installation of all necessary water  
facilities that meet the requirements for school service, including backflow prevention and fire  
protection, according to District standards. (CCWD)**

**86. Comply with the requirements of the Contra Costa Fire Protection District. Submit complete  
sets of plans and specifications to the Fire District for review and approval at:**

Contra Costa County Fire Protection District  
2010 Geary Road  
Pleasant Hill, CA 94523

Plan review fees will be assessed at that time. The City is not responsible for the collection of  
fees or enforcement of requirements imposed by the Fire District. (CCCFIRE) CMC

**87. The applicant shall defend (with counsel approved by City), indemnify and hold harmless the  
City, any agency or instrumentality thereof, and its/their respective agents, officers, officials,**

1 volunteers, and employees from and against any and all administrative and/or legal claims,  
2 actions or proceedings to attack, set aside, void, or annul approval of the project, including  
3 without limitation, any related application, permit, certification, condition, environmental  
4 determination, other approval, compliance or failure to comply with applicable laws and  
5 regulations, and/or processing methods (“Challenge”), with the exception of a Challenge  
6 arising out of the City’s sole negligence or willful misconduct. The City shall have the right to  
7 pre-approve any material decision involved in defending any such Challenge, including  
8 settlement, and may (but is not obligated to) participate in the defense of any Challenge. If  
9 applicant does not promptly defend any Challenge, City may (but is not obligated to) defend  
10 such Challenge as City, in its sole discretion, determines appropriate, all at applicant’s sole  
11 cost and expense. The applicant shall bear any and all losses, damages, injuries, liabilities,  
12 costs, and expenses (including, without limitation, staff time and in-house attorney's fees on a  
13 fully-loaded basis, attorney’s fees for outside legal counsel, expert witness fees, court costs,  
14 and other litigation expenses) arising out of or related to any Challenge (“Costs”), whether  
15 incurred by Developer, City, or awarded to any third party, and shall pay to the City upon  
16 demand any Costs incurred by the City. No modification of the project, any application,  
17 permit, certification, condition, environmental determination, other approval, change in  
18 applicable laws and regulations, or change in processing methods shall alter the applicant’s  
19 indemnity obligation. Pursuant to Government Code Section 66474.9, the applicant’s  
20 indemnification obligation with respect to any claim, action or proceeding to attack, set aside,  
21 void, or annul an approval of City concerning a subdivision (tentative, parcel, or final map  
22 application or approval) shall be limited to actions brought within the time period provided for  
23 in Government Code Section 66499.37, unless such time period is extended for any reason.  
24 The City shall promptly notify applicant of any Challenge, and shall cooperate fully in the  
25 defense. (PLNG)  
26  
27  
28

**Environmental Checklist**  
California Environmental Quality Act



**CITY OF CONCORD**  
**Planning Division**  
1950 Parkside Drive, MS/53  
Building D, Permit Center  
Concord, CA 94519  
PHONE: (925) 671-3152  
FAX: (925) 671-3381

- 
1. Project Title: **De La Salle High School Master Plan**
  
  2. Lead Agency Name and Address: **City of Concord  
Planning Division  
1950 Parkside Drive, MS/53  
Building D, Permit Center  
Concord, CA 94519**
  
  3. Contact Person and Phone Number: **Project - Frank Abejo, Associate Planner, (925) 671-3128**  
**CEQA - Same**
  
  4. Project Location: **1130 Winton Drive, City of Concord, County of Contra Costa**
  
  5. Project Sponsor's Name and Address: **De La Salle High School  
1130 Winton Drive  
Concord, CA**
  
  6. General Plan Designation: **Public/Quasi-Public**
  
  7. Zoning: **R-8 (Single-family residential; minimum 8,000 square foot lot area)**
  
  8. Description of Project:

**Application for a Use Permit Amendment, Tree Removal and Design Review for a campus master plan to demolish and renovate existing facilities and construct four new buildings including a student center, gymnasium, science classroom, and administrative building. The project also proposes adding a new driveway and parking lot, reconfiguring existing parking areas, and installing new landscaping. The project will be constructed in four phases. The scope of work for each phase is as follows:**

**Phase I: Proposes demolition of existing bookstore and faculty dining area located on the west side of the cafeteria, and reconfiguration of parking lot adjacent to Winton Avenue and Treat Boulevard to accommodate a new 19,834 square foot multi-purpose building that includes a student center, kitchen, faculty lounge and book store. Also included in this phase is an interior renovation of the existing locker room and new parking lot addition between the Brothers Residence and Winton Avenue that will add 32 parking spaces. The new parking lot has been administratively approved and will be constructed prior to the multi-purpose building.**

**Phase II: Proposes demolition of weight room and equipment room to allow relocation of swimming pool to the north side of the existing gym, demolition of existing 9,400 square foot cafeteria for a new 13,600 square foot gymnasium addition, minor modification to the main quad, reconfiguration of main entry driveway loop and secondary driveway entry off Treat Boulevard.**

**Phase III: Proposes demolition of two existing portable buildings and construction of new 13,300 square foot science classroom, and new 3,700 square foot maintenance building and reconfiguration of immediate parking area and access road.**

**Phase IV: Proposes construction of new 1,300 square foot main office, 3,800 square foot student services building, and replacement of faculty portables located behind the Brother's Residence with a parking lot.**

9. Surrounding Land Uses and Setting. (Briefly describe the project's surroundings.):

**The site is surrounded by single-family residences to the north and east, Corondolet High School to the west, and single-family residences and Ygnacio Valley High School to the south.**

10. Other agencies whose approval is required (e.g. permits, financing approval, or participation agreement.):

**Contra Costa County Fire Protection District  
Contra Costa Water District**

## Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Aesthetics            | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Hydrology/Water Quality       | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Air Quality           | <input type="checkbox"/> Land Use/Planning             | <input checked="" type="checkbox"/> Transportation/Traffic  |
| <input type="checkbox"/> Biological Resources  | <input type="checkbox"/> Mineral Resources             | <input type="checkbox"/> Utilities/Service Systems          |
| <input type="checkbox"/> Cultural Resources    | <input type="checkbox"/> Noise                         | <input type="checkbox"/> Mandatory Findings of Significance |
| <input type="checkbox"/> Geology/Soils         | <input type="checkbox"/> Population/Housing            |   |

## Determination:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**Issues:**

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
<b>I. AESTHETICS -- <i>Would the project:</i></b>				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	
<b>Discussion</b>				
<p>a) The project site and surrounding areas are not identified as a scenic vista in the City's General Plan.</p> <p>b) The site is located in a built-out urban environment that does not have any significant scenic resources, trees, rock outcroppings, or historical buildings.</p> <p>c) The addition of new new buildings, landscaping and other improvements such as surface parking will alter the visual character of the site. Plans for the proposed improvements have been reviewed by the City's Design Review Board, which has determined that the proposed project complies with the City's Community Design Guidelines and is compatible with the existing character of the site and surrounding neighborhood.</p> <p>d) The project site is located in a built-out urban environment that includes exterior lighting associated with existing commercial, office, and residential buildings in the project's vicinity, and street lights along Treat Boulevard and Winton Avenue. Exterior lighting associated with existing improvements includes building mounted light fixtures, parking lot lights, and sports field lighting. Exterior lighting throughout the project site would utilize fixtures designed to minimize light spillage. Because the project is within an urban setting, the increases in light attributed to the proposed project are not considered substantial and would not adversely affect day or nighttime views in the area. The project sponsor would also be required to submit a Photometric Study to be reviewed by City staff for compliance with city standards as a condition of approval. The project sponsor would comply with existing City standards and recommendations provided by City staff regarding light and glare. Therefore the proposed project would not result in significant new light or glare impacts.</p>				
<b>II. AGRICULTURE RESOURCES --<i>Would the project:</i></b>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
or nature, could result in conversion of Farmland, to non-agricultural use?				
<b>Discussion:</b>				
<p>a) The project site has been developed as a private school. Neither the site nor surrounding properties support active agricultural uses.</p> <p>b) The project site is zoned R-8 which primarily allows for single-family residential use. Therefore the proposed project would not conflict with zoning for agricultural use and there is no Williamson Act contract that applies.</p> <p>c) No impact. See discussion above.</p>				
<b>III. AIR QUALITY -- <i>Would the project:</i></b>				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative threshold for ozone precursors)?			X	
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?			X	

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
Discussion				
<p>a) The proposed project is located in the San Francisco Bay Area Air Basin, which is a state and federal “non-attainment” area for ozone and a state “non-attainment” area for particulate matter with less than a 10-micron diameter (PM<sub>10</sub>). To achieve attainment, the Bay Area Air Quality Management District has developed both the <i>Revised San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard</i> (in compliance with the Federal Clean Air Act) and the <i>Bay Area 2000 Clean Air Plan</i> (in compliance with state law). These plans contain mobile source controls, stationary source controls and transportation control measures to be implemented in the region to attain the State and Federal ozone standards within the Bay Area Air Basin. The project site is situated in a developed area of Concord that is conveniently served by public transit including Contra Costa County Connection and BART. By providing for infill development served by public transportation, the proposed project would implement applicable transportation control measures. Therefore, the project would not conflict with or obstruct implementation of the applicable air quality plan.</p> <p>b) During construction, the operation of equipment would emit hydrocarbons, oxides of nitrogen, carbon monoxide, and particulate matter (consisting of windblown dust and diesel particulate). These emissions would occur at less-than-significant levels. The BAAQMD’s approach to analysis of construction impacts is to emphasize implementation of effective and comprehensive control measures rather than detailed quantification of emissions (BAAQMD 1996). The project would be required to implement BAAQMD control measures for controlling PM<sub>10</sub> emissions from construction activities.</p> <p>c) The project will result in adding four new buildings including a student center, gymnasium, science classroom and administration building. The cumulative affect of the new buildings will have a less than significant impact on air quality as they will not involve the use of criteria pollutants or emissions.</p> <p>d-e) Same as (c) above.</p>				
<b>IV. BIOLOGICAL RESOURCE -- <i>Would the project:</i></b>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources,			X	

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
such as a tree preservation policy or ordinance?				
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

**Discussion**

- a) The site and surrounding properties have been developed and do not support any special habitats. No identified candidate, sensitive, or special status species inhabits the project site, thus the proposed project would not adversely affect any such species.
- b) There is no riparian habitat or any other sensitive natural community on the site. The proposed project would therefore have no effect on riparian habitat or other sensitive natural communities identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game, or U.S. Fish and Wildlife.
- c) The project site is relatively level and contains no active drainage. Therefore, there will be no impact on wetlands as defined by Section 404 of the Clean Water Act.
- d) The project site is located within an existing urban environment. The project site has been developed as a school, and the area surrounding the project site is also developed. No wildlife corridors or native wildlife nurseries are within the project area. Thus the project would not interfere with fish or wildlife movement.
- e) The Concord Municipal Code includes a tree protection ordinance that applies to heritage trees. Heritage trees are defined as trees that are at least 72 inches in circumference (approximately 24 inches in diameter) measured 4 1/2 feet above natural or established grade, a multi-stemmed tree which has one stem of at least 24 inches or more in circumference, or any tree or group of trees which has a relationship to an event of historical significance or is of public interest and which has been designated by action of the Planning Commission as a heritage tree (Code 1965, § 4301; Ord. No. 89-15). An arborist report prepared for the project recommended the removal of 16 trees that are located in direct conflict with proposed improvements or will be adversely impacted by construction. Of the trees proposed for removal, 10 are large enough to qualify for heritage tree status. They include Monterey pine, Deodar cedar, Blue gum eucalyptus, and Siberian Elm specimens. As required by the City's Municipal Code, the project will be conditioned to require planting of replacement trees at a ratio of three 36-inch box trees for each heritage, or as required by the City's Parks and Recreation Department.
- f) The project site is in a developed area that does not have any applicable habitat conservation plan or natural community conservation plan.

**V. CULTURAL RESOURCES -- Would the project:**

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
d) Disturb any human remains, including those interred outside of formal cemeteries?				X

**Discussion**

- a) Based on staff's research of common databases on statewide historical, archeological, and paleontological resources, including the California Historical Resource Information System (CHRIS), staff determined that there are no known known historical, archeological or paleontological resources on the site.
- b) See (a) above.
- c) See (a) above.

**VI. GEOLOGY AND SOILS -- *Would the project:***

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?			X	

**Discussion**

- a) The nearest potentially active fault is the Concord fault, which lies approximately 0.75 miles west east of the project site. Surface faulting or ground rupture tends to occur along lines of previous faulting. Since there are no fault lines within the

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
<p>site boundaries, the possibility of surface rupture on the project site is negligible. However, due to the site's proximity to the Concord Fault, ground shaking is considered to be a major seismic hazard at the site during the design life of the proposed structures. The degree of shaking experienced at the site is dependent on the magnitude and duration of the event, the distance to its focus, travel path of the seismic energy, and the surficial geology and soil deposits. Proposed improvements to the project site would be designed in strict adherence to current standards for earthquake resistant construction, including the California Building Code (CBC), for seismic safety. Conformance with the CBC would reduce the effects of ground shaking and mitigate potential adverse seismic impacts to less than a significant level. Lastly, the topography of the site and surrounding area is flat; therefore the occurrence of slides in the area is unlikely.</p> <p>b) The proposed buildings will be located in areas that are already improved with buildings, surface parking, or other improvements constructed of impervious surfaces. However, construction activities associated with the proposed project may expose areas of soil that have previously been covered with concrete. This temporary loss of erosion control will expose bare soil, which will be subjected to erosion by wind and storm water runoff. Concentrated water erosion, if not managed or controlled, can eventually result in significant soil loss and/or discharging of sediment into utilities and/or adjacent lots. Sediment from project-induced onsite erosion can also accumulate in downstream drainage facilities, interfere with flow, and aggravate downstream flooding conditions.</p> <p>In order to minimize erosion impacts, the proposed project is applying for the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (General Construction Permit), which involves preparing a Storm Water Pollution Prevention Plan (SWPPP) for all construction phases of the proposed project. This permit is required by the Regional Water Quality Control Board (RWQCB). The objectives of the SWPPP are to identify pollutant sources (such as sediment) that may affect the quality of storm water discharge and to implement Best Management Practices (BMPs) to reduce pollutants in storm water discharges. BMPs are individual or combined measures that can be implemented in a practical and effective manner on the project site which, when applied, prevent or minimize the potential release of contaminants into surface waters and groundwater. In addition, the project sponsor will be preparing an Erosion Control Plan (ECP) designed for implementation during construction.</p> <p>Since BMPs have been recognized as methods to effectively prevent or minimize the potential release of contaminants into surface waters and groundwater, and that the project sponsor will be requiring the contractor to adhere to the project's ECP, compliance with the SWPPP and the ECP would reduce potential erosion impacts during project construction to less-than-significant levels.</p> <p>c) The effects of expansive soils could damage foundations and aboveground structures, paved parking areas, and concrete slabs. Surface structures with foundations constructed in expansive soils would experience expansion and contraction depending on the season and the amount of surface water infiltration. The expansion and contraction due to the behavior of expansive soils could exert enough pressure on the structures to result in cracking, settlement, and uplift. As a condition of project approval, the applicant will be required to provide a geotechnical report prior to issuance of building permits evaluating geotechnical issues such as expansive soils as it relates to the project's design. Recommendations given in the geotechnical report require design and construction of the proposed project to strictly follow engineering recommendations needed to improve and/or eliminate settlement and expansive soils conditions. The design and construction of the proposed facilities in accordance with the engineering recommendations of the geotechnical report would ensure that the level of risk from expansive soils remains at less-than-significant levels.</p> <p>d) The project site is entirely underlain by geologic materials that are stable, evidenced by the fact that the materials are currently able to serve as a suitable foundation for the existing site buildings. All areas left exposed would be developed or otherwise stabilized, making landslides, lateral spreading, subsidence, liquefaction, or collapse unlikely. Thus, this impact is considered less than significant.</p> <p>e) Implementation of the proposed project would not involve the use of septic tanks or alternative wastewater treatment disposal systems to handle wastewater generation. Therefore, no impacts would result from project implementation</p>				

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
<b>VII. HAZARDS AND HAZARDOUS MATERIALS -- <i>Would the project:</i></b>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

**Discussion**

- a) The project site will continue to be used as a school that will not involve the routine transport, use, and disposal of hazardous materials. Although there is a potential for release of hazardous substances during project construction, such as gasoline or chemicals, should an accident occur this risk would be reduced to a level of insignificance by the project's required compliance with all applicable Building and Fire codes regarding safety. Potential volatile emission from using these products is expected to be negligible.
- b) See discussion (a) above.
- c) See discussion (a) above.
- d) Based on the inventory of sites maintained by the Department of Toxic Substances Control, the project site is not listed as a

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
<p>site that contains hazardous materials.</p> <p>e) The project is not located within the Buchanan Airport Influence Area or Safety Zone.</p> <p>f) The project site is not in the vicinity of a private airstrip.</p> <p>g) The project would incorporate Fire, Police Department, and other health and safety agency standards to ensure that the project complies with emergency plan response requirements.</p> <p>h) The project site is located in a built-out area developed with commercial, office, residential, and religious uses. The project site is not intermixed or located adjacent to wildlands. The new buildings would be required to comply with all applicable Fire Code and fire suppression systems, as required by the Contra Costa County Fire Protection District. Therefore, the proposed project would not expose people or structures to significant risks associated with wildland fires.</p>				
<b>VIII. HYDROLOGY AND WATER QUALITY -- <i>Would the project:</i></b>				
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
i) Expose people or structure to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?			X	

**Discussion**

- a) As discussed in Section VI(b) Geology and Soils, construction activities associated with the proposed project could cause erosion and transportation of soil particles that, once in surface water runoff, could cause sediment and other pollutants to leave the site and ultimately affect water quality. However, regulatory controls in place by the RWQCB and the applicant's preparation of an Erosion Control Plan (ECP) would reduce construction impacts to less-than-significant levels.
- b) The project will not involve significant grading or excavation. Therefore, it is not expected that the project would interfere with groundwater supplies or aquifers that may exist on site. As part of the required geotechnical report, an analysis of existing groundwater levels and conditions will be provided to determine project impacts vis-à-vis groundwater supplies.
- c) Since the project site exceeds one acre in size the proposed project would be required to comply with the NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (General Construction Permit). The NPDES permit requires the applicant to prepare a SWPPP for construction phases of the proposed project, as required by the RWQCB. Compliance with the SWPPP and the prescribed BMPs would ensure that impacts associated with erosion during project construction would remain less than significant.
- d) There are no natural drainage features such as a stream or river on the project site or vicinity. Therefore, the potential impact on natural drainage features is less than significant. Further, the project would result in a relatively minimal increase in additional impervious surface as a result of the new parking lot addition adjacent to the Brothers Residence. The City's Public Works Engineering Services has reviewed the parking lot addition and has determined that it will not result in a substantial increase in water runoff.
- e) The new buildings will be located in areas where buildings or paving exist. Therefore, construction of the new buildings will not result in a substantial increase to impervious surfaces and existing runoff rates. A new parking lot proposed at the lawn between Winton Avenue and the Brother's Residence would account for a significant increase in impervious surface and increased runoff rates. However, the City's Public Works & Engineering Department has reviewed plans for the proposed parking lot and has determined that adequate drainage facilities and downstream capacity exists for the increase in runoff resulting from the new parking lot.
- f) As discussed in parts (a) and (c), water quality impacts would all be considered less than significant due to current regulatory controls that the project sponsor must follow during construction and project operation.
- g) The project does not involve construction of new homes.
- h) According to the Flood Insurance Rate Map, a portion of the southeast corner of the site is located in a 100 year flood hazard area. The soccer field is currently located in this area. The project will not result in placing new structures within the flood hazard area.
- i) The project site is not located in any specific dam failure inundation area. Therefore, this impact is considered less than significant.
- j) Although tsunamis can occur and cause tidal surges in San Francisco Bay, these events are extremely rare and would not result in wave run-up capable of causing flood damage within the project site. San Francisco Bay greatly attenuates

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
tsunamis that might reach the Golden Gate area. No bodies of water large enough to cause a seiche are present near the project site. Therefore, tsunami and seiche hazards are considered less than significant.				
<b>IX. LAND USE AND PLANNING -- <i>Would the project:</i></b>				
a) Physically divide an established community?			X	
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
<b>Discussion</b>				
<p>a) The project does not involve development beyond the project site and into neighboring residential areas. Existing public roads that currently provide access to and from the site and vicinity, including residential neighborhoods in Walnut Creek and Concord, would remain unchanged. Therefore, the project would not result in physically dividing the established community.</p> <p>b) The site has a General Plan land use designation of Public/Quasi Public, which allows for public and private school uses. The site's zoning classification is R-8 (Single-family residential), which allows school uses through conditional use permit.</p> <p>c) There are no conservation plans that apply to the project site or vicinity.</p>				
<b>X. MINERAL RESOURCES -- <i>Would the project:</i></b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
<b>Discussion</b>				
<p>a) There are no known mineral resources of value located on the project site.</p> <p>b) There are no operational mineral resource recovery sites at the project area or in the vicinity, and therefore no operations or accessibility would be affected by the construction and operation of the project.</p>				
<b>XI. NOISE -- <i>Would the project:</i></b>				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

**Discussion:**

a) The City of Concord General Plan provides a range of exterior noise levels that new developments may be exposed to based on land use. For school uses an exterior noise exposure of less than 60 dB is normally acceptable. Noise exposures of up to 75 dB may be conditionally acceptable provided sound insulating features are incorporated into the project's design. Exterior noise impacts on the project would primarily be generated by traffic on Treat Boulevard. The new science classroom proposed in Phase III would be located a significant distance away from Treat Boulevard and would therefore be minimally impacted by traffic noise. Further, although the new student center, gymnasium, and athletics building additions will be located adjacent to Treat Boulevard, traffic-related noise impacts on these buildings should be minimal given the use of these buildings is expected to generate interior noise levels that may exceed General Plan standards or existing exterior noise levels. The General Plan also contains policies that limit stationary noise from new developments. This policy requires that new stationary noise sources not exceed an hourly level of 50 dB and maximum level of 70dB during daytime hours (7 a.m. to 10 p.m.), and hourly level of 45 dB and maximum of 65 dB during nighttime hours (10 p.m to 7 a.m.). It is not expected that the use of the new science classroom building, the structure closest to adjacent residential properties, would exceed these levels. Additional General Plan policies require the elimination or reduction of existing objectionable noises to the greatest extent feasible. De La Salle's current use permit includes conditions to reduce the impacts of existing noise sources consistent with the aforementioned policy. These include time restrictions on when noise producing activities can occur (e.g. trash pick) and a complaint procedure to process complaints from neighbors on noise issues.

b-d) The project is expected to utilize traditional methods of construction and ordinary types of equipment to construct the project. Although there are anticipated to be temporary ground vibrations associated with the grading and building phases of the project, it is not anticipated that the vibrations would be of a unique or significant magnitude. Furthermore, construction-related noise impacts should be reduced to less than significant levels through project compliance with conditions limiting construction hours and activities.

e-f) The project is not located within the Buchanan Field Airport Influence Area or near a private airstrip.

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
<b>XII. POPULATION AND HOUSING -- <i>Would the project:</i></b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
<b>Discussion</b>				
<p>a) The project does not involve the construction of new homes; therefore it will not induce substantial population growth in the area.</p> <p>b) The site currently provides on-campus housing to a limited number of school staff. This structure will remain through project build-out. Proposed development will not encroach into neighboring residential areas; therefore no existing housing will be displaced.</p> <p>c) No impact. See discussion (b) above.</p>				
<b>XIII. PUBLIC SERVICES -- <i>Would the project:</i></b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:			X	
Fire protection?			X	
Police protection?			X	
Schools?			X	
Parks?			X	
Other public facilities?			X	
<b>Discussion</b>				
<b>Fire Protection &amp; Police Protection.</b> The Concord Police Department and Consolidated Fire Protection district have reviewed				

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
<p>the project plans and determined that adequate service is available to serve the project.</p> <p><b>Schools.</b> Demand for school services is determined by student generation rates developed by local school districts or the California State Department of Education in cases where school districts have not developed its own rates. The student generation rates are based on new dwelling units. The project will not involve the construction of new dwelling units; therefore it will not create new demand for school services.</p> <p><b>Parks.</b> The City's General Plan contains policies that call for providing park lands at a ratio of 6 acres per 1,000 residents. The project will not result in an increase in population; therefore impacts on existing parks will be less than significant.</p>				
<b>XIV. RECREATION -- Would the project:</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	
<b>Discussion</b>				
<p>a-b)The project would have minimal impacts on existing neighborhood and regional parks or recreational facilities in that such facilities already exists at De La Salle High School for use by their students and athletic programs. The project will result in adding a new gymnasium and swimming pool that will be used primarily for De La Salle's athletic programs, not as recreational facilities for general public use.</p>				
<b>XV. TRANSPORTATION/TRAFFIC -- Would the project:</b>				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e) Result in inadequate emergency access?				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
f) Result in inadequate parking capacity?		X		
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?			X	

**Discussion**

- a) Student enrollment at De La Salle High School is currently capped at 1,000 students per year. The applicant is requesting approval of a 5% contingency increase to the cap, or up to 50 additional students at the beginning of each school year to account for enrollment drops during the school year. The contingency increase would not result in a substantial increase to overall student enrollment, and should therefore also not result in a significant increase in the number of daily vehicle trips to the site.
- b) As stated above, the project would not result in a substantial increase in vehicle trips. Therefore, impacts on the level of service of surrounding streets will be less than significant.
- c) The project will not generate any air traffic nor will it include structures tall enough to obstruct flight patterns.
- d) The City of Concord has reviewed the design of proposed driveways, drive aisles, parking spaces, and other facilities to ensure that they conform with City standards and will not create safety hazards.
- e) The Contra Costa County Fire Protection District has reviewed the project plans and will require as a condition of approval that the applicant comply with emergency access standards, including the provision of access roads not less than 20 feet of unobstructed width, and not less than 13'-6" in vertical clearance, within 150 feet of travel to all portions of exterior walls.
- f) The City's Zoning Ordinance includes off-street parking requirements for specific land uses. In the case of school uses, the off-street parking requirement is typically one space per 100 square foot of classroom space. De La Salle currently has 33,959 square foot of classroom space and a total of 443 spaces, or a ratio of 1 space per 76 square feet of classroom space that meets the City's Ordinance. However, the real parking demand generated by De La Salle High School is not being met by the school's existing parking facilities. This is evidenced by the expansion of permitted /restricted parking areas in neighboring areas as a result of students parking on surrounding streets, and on-going neighbor's concerns regarding the lack of street parking and additional traffic on local streets. The project will have a significant impact on parking capacity as a result of removing on-site parking to accommodate the new buildings. Existing on site parking will be reduced by a total of 124 spaces by the time the project is completed. To mitigate this impact to less than significant levels, the following mitigation measures shall be required:

*Mitigation T-1: The applicant shall be required to maintain the existing number of spaces (443 spaces) through Phase I. This requirement can be met by providing for a combination of both on-site and off-site parking totaling 443 spaces, provided all off-site parking meet City requirements and is secured through a written agreement between the landowners and the City in a form satisfactory to the City Attorney.*

*Mitigation T-2: Prior to design review approval of improvements proposed for subsequent phases, the applicant shall provide a Traffic Study and/or Parking Program for the City's review and approval. The Study or Analysis shall be prepared by a licensed traffic engineer, and shall include an updated evaluation of parking and traffic conditions, and recommendations on parking and traffic issues.*

- g) The project would not conflict with any adopted policies and programs supporting alternative transportation.

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
<b>XVI. UTILITIES AND SERVICES SYSTEMS -- <i>Would the project:</i></b>				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c) Require or result in the construction of a new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X	
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste?			X	

**Discussion**

- a) The proposed project would not violate any wastewater treatment requirements.
- b) The City of Concord Public Works Engineering Services Department maintains the City's wastewater collection systems, but does not treat the raw sewage. Instead, it is pumped to and treated by the Central Contra Costa Sanitary District. The project would not result in a significant increase in student enrollment or faculty at the campus. Therefore, the existing rate of wastewater effluent generated by the site is expected to remain relatively the same. Both the City of Concord Public Works Engineering Services and Central Contra Costa Sanitary District has determined that wastewater treatment facilities are adequate to serve the proposed project, and new or expanded facilities would not be required. Thus the impact would be less than significant.
- c) The proposed project would result in incrementally less impervious surface than what currently exists with the addition of landscaping throughout the site; thus, the proposed project would not require new or expanded stormwater drainage facilities.
- d) The Contra Costa County Water District has reviewed the plans and had determined that additional potable water service can be made available upon completion of financial arrangements and installation of all necessary water facilities to meet requirements for a school service, including backflow prevention and fire protection, per District standards.

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
e) See (b) above.				
f) The Concord Disposal Service handles the residential and commercial waste stream in the City of Concord, collecting both solid waste and recycled materials. Concord Disposal Service transports waste to the Pittsburg Transfer Station and Recycling Center, where recycled materials are transported to the Mt Diablo Recycling Center in Concord, and solid waste is transported to the Potrero Hills Landfill in Solano County. The remaining capacity at the Potrero Hills Landfill is about 13,800,000 cubic yards, or 64 percent of the Landfill's total capacity, and the Landfill is not expected to close until 2035 (CIWMB, 2004a). Since the project will not result in a significant increase in student enrollment or campus faculty, existing waste generation rates should remain relatively the same and could therefore continue to be served by the Potrero Hills Landfill.				
g) Assembly Bill 939 (AB939), enacted in 1989, requires each city's and county's Source Reduction and recycling Element to include an implementation schedule to divert 25 percent diversion of its solid waste from landfill disposal by January 1, 1995, through source reduction, recycling, and composting activities, followed by an increase to a 50 percent reduction to the waste stream by January 1, 2000. As of 2000, the total annual waste diversion for the City of Concord was approximately 50 percent (CIWMD, 2004b). The proposed project would comply with all federal, state, and local statutes and regulations related to solid waste, thus the impact would be less than significant.				

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

**Discussion**

- a) As previously discussed, there are no known special habitats supporting fish or wildlife species, plant or animal community, or important examples of major periods of California history or prehistory within the project site or vicinity. Project impacts on such resources are therefore less than significant.
- b) The loss of on-site parking as a result of constructing the proposed facilities has potential long term and cumulative adverse impacts on street parking in nearby neighborhoods. As discussed in section XV(f) above, a mitigation measure is recommended requiring the project sponsor to provide the number of parking spaces currently available through Phase I of the project. This would be accomplished by compensating the amount of parking spaces lost during Phase I construction with off-site parking agreements. Long term and cumulative impacts on street parking will be reevaluated prior to the commencement of each phase to determine necessary mitigation measures ensuring that this impact will be at less than significant levels.

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
c) As discussed in the sections above, project impacts related to parking capacity may have potential adverse effects on the surrounding community. However, mitigation measures will be included as part of the project to mitigate such effects to less than significant levels.				

**Exhibits**

**A – Mitigation and Monitoring Matrix**

**B – Project Plans, date stamped received September 3, 2004**

**ADDENDUM  
TO THE  
DE LA SALLE HIGH SCHOOL MASTER PLAN  
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION**

**CITY OF CONCORD**

April 10, 2014

TABLE OF CONTENTS

1. Introduction ..... 3  
    A. Determination..... 3  
    B. CEQA Framework for Addendum ..... 4  
2. Project Information ..... 5  
    A. Background..... 5  
    B. Summary of Approved Project..... 5  
    C. Summary of Modified Project..... 6  
    D. Comparison of Approved Project and Modified Project..... 7  
3. Analysis of Potential Environmental Effects ..... 8  
4. Conclusion ..... 22  
5. References ..... 23

List of Tables

Table 1: Comparison of Approved and Modified Projects ..... 7  
Table 2: Modified Project Phases 2-4..... 8  
Table VII-1: Consistency with Citywide Climate Action Plan ..... 14  
Table XVII-1: Utilities and Service System ..... 21

## 1. INTRODUCTION

### A. DETERMINATION

This document is an Addendum to the September 2004 Initial Study/Mitigated Negative Declaration (“2004 IS/MND”) originally prepared for the De La Salle High School Master Plan project as approved via Planning Commission Resolution No. 05-03 PC (“Approved Project”). The 2004 IS/MND was prepared and circulated pursuant to CEQA. The Approved Project generally consisted of demolition work and construction of a student center, gymnasium, science classroom, administration building, and related site improvements at the De La Salle High School campus. The Approved Project, the 2004 IS/MND and the associated Mitigation and Monitoring Matrix (“MMX”) were considered by the Planning Commission on January 19, 2005 (Planning Commission Resolutions No. 05-03 PC) and were approved with the finding that, with implementation of all required mitigation measures, the Approved Project’s environmental impacts would be less than significant.

#### Approved Project

The Approved Project proposed to demolish and renovate existing facilities and construct four new buildings including a student center, gymnasium facilities, swimming pool, science classroom, replacement of portables, maintenance buildings, administrative building, and to cap enrollment at 1,025 students. The Approved Project also proposed adding a new driveway and parking lot, reconfiguring existing parking areas, and installing new landscaping. The Approved Project contemplated a four phase build out, as further detailed in Section 2.B, below. Phase I was completed in 2006 (“Completed Construction”). Phase 1 consisted of the development of the Hoffman Student Center with a Faculty lounge, a student pickup-drop off area, a storage building, a new pool building, walkway seismic upgrades and landscape improvements.

In 2011 De La Salle amended their Use Permit (UA 11-002) to increase enrollment from 1,000 students to a maximum of 1,050 students. The 2004 Use permit included an enrollment contingency increase of 2.5%, or 25 students. The analysis that accompanied the 2011 Use Permit evaluated the potential impacts of the increase enrollment increase and found them to be less than significant.

#### Modified Project

De La Salle High School (“De La Salle” or “Applicant”) desires to complete construction at the De La Salle High School campus in manner substantially similar to the Approved Project, but has proposed modifications to phasing and building focus, as well as a decrease in total building area. On November 20, 2013 the Applicant submitted a Use Permit Amendment and Design Review application to modify the unconstructed portion of the Approved Project (PL131368 – UP, DR).

Chapter II Project Information, including Table 1 Comparison Chart, details the proposed modifications to the Approved Project. The Completed Construction<sup>1</sup>, and that portion of the Approved Project not yet constructed together with the proposed modifications is referred to as the “Modified Project.”

This Addendum evaluates whether the Modified Project proposes changes to the Approved Project which would result in any new or substantially more adverse significant effects or require any new mitigation measures not identified in the 2004 IS/MND, modified by the 2011 Use Permit, and concludes that the analysis and the conclusions of the 2004 IS/MND remain current and valid. No substantial changes have occurred with respect to existing conditions that would cause new or substantially more severe significant environmental effects than were identified in the 2004 IS/MND. Additionally, no new meaningful

---

<sup>1</sup>Phase 1 consisted of the development of the Hoffman Student Center with a Faculty lounge, a student pickup-drop off area, a storage building, a new pool building, walkway seismic upgrades and landscape improvements.

information indicates that the proposed modifications would cause new or substantially more severe significant environmental effects that were analyzed in the 2004 IS/MND.

This Addendum considers whether any substantial changes have occurred with respect to the circumstances under which the Modified Project will be undertaken, which would require major revisions to the 2004 IS/MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As discussed in the following chapter, while there have been regulatory changes since the 2004 IS/MND (e.g., requirement for an analysis of greenhouse gas emissions), in all instances, the changes in circumstances do not result in new or substantially more severe significant effects or the need for new mitigation measures. This Addendum finds that, notwithstanding the changes in circumstances, the Modified Project would not result in new significant or substantially more severe environmental impacts than those analyzed in the 2004 IS/MND, and no additional mitigation measures are required.

The 2004 IS/MND required two mitigation measures in connection with the Approved Project. One of the mitigation measures has been accomplished during the Constructed Project. The remaining mitigation has been met through the provision of a parking plan which meets the requirements of the Development Code. New Conditions of Approval will be developed for the Modified Project subject to City of Concord Planning Commission approval.

## **B. CEQA FRAMEWORK FOR ADDENDUM**

The City of Concord is the CEQA lead agency responsible for the Approved Project, including the proposed Modified Project. Since the November 2013 Application requests modification of a previously approved project (i.e. changes to the Approved Project), it is subject to subsequent review standards under Public Resources Code Section 21166. Under the California Environmental Quality Act of 1970, Public Resources Code Sections 21000, et seq. and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations, as amended (collectively, "CEQA"), when a project that was studied and approved under an approved mitigated negative declaration (MND) is proposed to be modified, an Addendum to the MND may satisfy CEQA regulations. Each Public Resources Code Section 21166 and CEQA Guidelines Section 15162 provides that when an EIR has been certified or a negative declaration has been adopted for that project, no subsequent EIR shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- Substantial changes in the project that require major revisions to the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes with respect to the circumstances under which the project is undertaken which require major revisions to the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of MND adoption, shows any of the following:
  - i) The project will have one or more significant effects not discussed in the MND;
  - ii) the project will result in impacts substantially more severe than those disclosed in the MND;
  - iii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measure or alternative; or
  - iv) mitigation measures or alternatives that are considerably different from those analyzed in the MND would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

Per CEQA Guidelines Section 15164(a), the lead agency shall prepare an addendum to a previously certified EIR if some changes are necessary but none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR have occurred. Furthermore, Section 15164(b) states that an addendum to an approved MND is appropriate when only minor technical changes are made and none of the conditions in Section 15162 are triggered.

As discussed herein, none of the elements requiring preparation of a subsequent EIR exists, and the City of Concord has determined that it is not necessary to prepare a subsequent EIR or MND. Rather, this Addendum to the 2004 IS/MND is the appropriate CEQA document.

This Addendum reflects the independent judgment and analysis of the City as the lead agency, demonstrates that the environmental analysis, impacts, and mitigation requirements identified in the 2004 IS/MND remain substantively unchanged by the situation described herein, and supports the finding that the proposed project modifications do not raise any new issues, result in any new impacts, and do not exceed the level of impacts identified in the 2004 IS/MND. To support this decision, the following discussion describes the proposed project modifications and the environmental analysis.

Per CEQA Guidelines Section 15164(c), an addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted mitigated negative declaration. Per CEQA Guidelines Section 15164(d), the decision-making body shall consider an addendum with the final EIR or adopted mitigated negative declaration prior to making a decision on the project.

Accordingly, this Addendum will be attached to the 2004 IS/MND, and will be considered by the decision-making body with the 2004 IS/MND before making a decision on the Modified Project. The 2004 IS/MND is on file with and may be obtained from the City of Concord Permit Center, 1950 Parkside Drive, Building, Concord, California, 94519.

## **2. PROJECT INFORMATION**

### **A. BACKGROUND**

The Approved Project site is located in the City of Concord and is bounded by Treat Boulevard to the north and Winton Avenue to the west. The site is surrounded by a mix of land uses, including a multi-unit complex, single family residential, Ygnacio Valley High School and Carondelet High School.

The Approved Project is a Master Plan for De La Salle High School. De La Salle has completed Phase 1 of its four-phase Master Plan which included a new student center and student pick up and drop off area, revised parking, walkway seismic upgrades, and landscape improvements. The Approved Project is described below by phase.

### **B. SUMMARY OF APPROVED PROJECT**

The Approved Project was to be constructed in four phases as described in the following:

Phase 1: Proposed demolition of existing bookstore and faculty dining area located on the west side of the cafeteria, and reconfiguration of parking lot adjacent to Winton Avenue and Treat Boulevard to accommodate a new 19,834 square foot multi-purpose building that included a student center, kitchen, faculty lounge and book store. Also included in this phase was an interior renovation of the existing locker room and new parking lot addition between the Brothers Residence and Winton Avenue that added 32 parking spaces.

Phase 2: Proposed demolition of the weight room and equipment room to allow relocation of swimming pool to the north side of the existing gym, demolition of existing 9,400 square

foot cafeteria for a new 13,600 square foot gymnasium addition, minor modification to the main quad, reconfiguration of main entry driveway loop and secondary driveway entry off Treat Boulevard.

Phase 3: Proposed demolition of two existing portable buildings and construction of new 13,300 square foot science classroom, and new 3,700 square foot maintenance building and extension of the rear driveway and parking area.

Phase 4: Proposed construction of new 1,300 square foot main office, 3,800 square foot student services building, and replacement of faculty portables located behind the Brother's Residence with a parking lot.

### **C. SUMMARY OF MODIFIED PROJECT**

The Modified Project would complete, modify and/or combine the improvements assessed in the 2004 IS/MND, and delete some of the development components for a reduction in square footage over that approved in 2004. The changes proposed by the Modified Project are described below.

Phase 1: Phase I of the Approved Project, which included a new student center and a revised parking layout to improve vehicular circulation of pick-up and drop-off, has now been completed. The Modified Project proposes no changes to the Completed Construction.

Phase 2: The Applicant is preparing to embark on Phase 2 which, per the Approved Project, included a new gymnasium, athletic facilities, administrative facilities and rear road reconfiguration. The Applicant has determined a need for additional science classrooms. As a result the Applicant proposes accelerating the construction of the science classrooms (previously identified as Phase III) which is now referred to as STREAM (Science, Technology, Robotics, Engineering, Arts and Math), to occur ahead of the gymnasium and athletic facilities. Demolition of two maintenance buildings and two portables and replacement with a new maintenance building will be part of this phase. This phase will also include some minor reconfiguration of the parking area and access road. A 14 month construction schedule is anticipated, along with a Summer 2014 start date.

Phase 3: Phase 3 will include demolition of the existing cafeteria and construction of a new combination Gymnasium and High Performance Athletic Center. The combining of these two uses results in a net reduction in building square footage. A 12 month construction schedule is anticipated and the project estimated to commence construction in Summer of 2015.

Phase 4: Phase 4 consists of a renovation and expansion of the existing theater. A 12 month construction schedule is anticipated and construction is estimated to commence Summer of 2016.

The Modified Project does not seek to alter the school's enrollment, increase faculty, or parking capacity. Enrollment is, and will remain, capped at 1,050 students, and parking capacity is, and will remain, above the minimum requirement of 292 spaces.

The Modified Project requires a Use Permit Amendment in order to revise the phasing and scope of work of the Approved Project. The Use Permit Amendment also requests approval of project-specific development standards including building height, setbacks, and lot coverage. Additionally, Design Review approval is required for the architectural and landscape design of the remaining construction.

**D. COMPARISON OF APPROVED PROJECT AND MODIFIED PROJECT**

Table 1 below provides a comparison of the development rights of the Approved Project, the Completed Construction, the Modified Project, total build-out, and the difference between build-out under the Approved Project and the Modified Project that would result from the Completed Construction and the Modified Project (as proposed to be modified).

**Table 1: Comparison of Approved and Modified Projects**

De La Salle High School – Area Calculations 3/20/2014				
	Approved Project	Modified Project	Delta	Notes
<b>New Construction:</b>				
Athletic Building Expansion	16,700	0	-16,700	No longer part of Master Plan
Gymnasium/Athletic Performance Center	13,600	21,034	+7,434	
Student Center/Multi-Purpose	19,834	19,834	0	Completed
Science/STREAM	13,300	27,288	+13,988	
Maintenance	3,700	3,700	0	
Administration	15,867	0	-15,867	No longer part of Master Plan
Student Services	3,900	0	-3,900	No longer part of Master Plan
Theater Expansion		3,150	+3,150	
<b>Total Proposed New Area</b>	<b>86,901</b>	<b>75,006</b>	<b>-11,895</b>	
<b>Demolition</b>				
Cafeteria	-9,400	-9,400	0	Completed
Maintenance Buildings	-2,500	-2,500	0	Completed
Administration	-4,900	0	+4,900	
Student Services	-2,900	0	+2,900	
Bookstore/Faculty Dining	-1,400	-1,400	0	Completed
DM 1&2 Faculty Portables	-1,920	-1,920	0	Completed
<b>Total Proposed Demolition</b>	<b>-23,020</b>	<b>-15,220</b>	<b>+7,800</b>	
<b>Total Delta</b>	<b>64,841</b>	<b>41,352</b>		

**Table 2: Modified Project Phases 2-4**

<b>MODIFIED PROJECT</b>				
Phases 2, 3 and 4	TOTAL	Phase 2	Phase 3	Phase 4
<b>New Construction</b>				
STREAM	27,288	27,288		
Gym & High Performance Ctr.	21,034		21,034	
Maintenance	3,700	3,700		
Theater Expansion	3,150			3,150
<b>Total Proposed New Area</b>	<b>55,172</b>			
<b>Demolition</b>				
Cafeteria	9,400		9,400	
Portable Building	1,920	1,920		
Maintenance	1,200	1,200		
Maintenance	1,300	1,300		
<b>Total Proposed Demolition</b>	<b>13,820</b>			
<b>Total Delta</b>	<b>41,352</b>			

### 3. ANALYSIS OF POTENTIAL ENVIRONMENTAL EFFECTS

The following discussion analyzes the likelihood of the Modified Project, as described in Section 2B, to result in new or substantially more severe significant effects or the need for new mitigation measures as compared to those studied in the 2004 IS/MND. This Addendum discusses the topic areas in the sequence as they are addressed in the 2004 IS/MND. This section concludes by finding that no new or substantially more severe significant effects than those identified in the 2004 IS/MND would result from Modified Project and that no new additional or changed mitigation measures would be required. Mitigation Measures identified in the 2004 IS/MND that remain applicable to the Modified Project are referenced in this Addendum.

#### I. AESTHETICS

The 2004 IS/MND studied whether the Approved Project, as a whole, would result in a substantial adverse effect on a scenic vista, substantially damage scenic resources within a State Scenic Highway, substantially degrade the visual character or quality of the site, or create a substantial new source of light or glare. The 2004 IS/MND concluded that the Approved Project would have no impacts on scenic vistas, scenic resources and would not degrade the visual character or quality of the site. The 2004 IS/MND concluded that the Approved Project would have a less than significant impact related to the creation of a new source of light or glare which might significantly affect nighttime views. The Approved Project proposed no new structures that would have impacts on scenic vistas or resources or degrade the visual character or quality of the site.

The Modified Project would be located throughout the campus and would combine some structures and operations, change the phasing, and eliminate some of the approved buildings from the Master Plan. The Modified Project construction would utilize similar materials as the Approved Project. The Modified Project requests a maximum building height limit of 47 feet. As discussed in the 2004 IS/MND, the Design Review Board determined the Approved Project was compliant with the City's Community Design Guidelines and compatible with the existing nature of the site and surrounding neighborhood. The 2004 IS/MND determined that no significant impact would occur to scenic resources. This condition would remain the same for the Modified Project as the majority of the construction will not be visible from Treat Boulevard.

As described in the 2004 IS/MND, the Approved Project site does not include any State Scenic Highway designations and is not located in the vicinity of a State Scenic Highway. The site is more than 3 miles northeast of any designated State Scenic Highways. The 2004 IS/MND did not find that the Approved Project's project site and the vicinity included any designated scenic resources. These conditions are the same for the Modified Project.

Similar to the Approved Project, the Modified Project would result in new building-mounted and ground-mounted lighting. Lights would be installed where needed for way-finding or public safety and would not create new or substantial light or glare consistent with the findings of the 2004 IS/MND. As was the case for the Approved Project, the Modified Project would be required to submit a Photometric Plan to be reviewed by the City Staff for compliance with City Standards. This was and will remain a Condition of Approval. Because the site is surrounded by fully urbanized neighborhoods of residential and public uses, project lighting would not substantially degrade nighttime views.

The areas of the Modified Project are within the areas proposed for development under the Approved Project, and circumstances related to aesthetics under which the Modified Project would be undertaken have not changed. Additionally, none of the changes proposed as part of the Modified Project would change the findings of the 2004 IS/MND related to aesthetics. While the Modified Project proposes buildings that are taller than the Approved Project, the potential impact is substantially the same as for the Approved Project. The new buildings will be an extension of the existing buildings on the campus, will be screened by street landscaping and setbacks, be subject to a Photometric Plan and to design review. The STREAM, maintenance and theater expansion structures are located within the interior of the campus. As a result, the Modified Project, similar to the Approved Project, would not result in any new or substantially more severe impacts on aesthetic resources. The 2004 IS/MND required no mitigation measures related to aesthetic resources for the Approved Project; no new mitigation measures are necessary for the Modified Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

## **II. AGRICULTURE AND FOREST RESOURCES**

The 2004 IS/MND analyzed the potential impacts to agricultural resources that could occur resulting from the Modified Project as part of the Approved Project. The 2004 IS/MND determined that the Approved Project would have no impacts on agricultural resources, and no mitigation measures were required.

The 2004 IS/MND determined that the Approved Project would neither convert nor impact farmland to a non-agriculture use or result in the conversion of other farmland to non-agricultural uses, nor would the Project conflict with existing zoning for agricultural use or a Williamson Act contract. There are no active agricultural uses at the Approved Project's or vicinity, and therefore no new potential to convert surrounding farmland to non-agricultural uses exists.

In 2009, the CEQA Guidelines were amended (adopted December 30, 2009, effective March 18, 2010) to include consideration of forest resources and the Environmental Checklist Form (Appendix G) was modified to reflect this amendment. As the 2004 IS/MND was prepared prior to 2009, it did not consider forest resources. The Approved Project's project site is not zoned for forest resources and does not contain any forest resources. Therefore, the Approved Project would not result in a zoning conflict for forest resources, nor would it result in the loss of forest land or conversion of forest land to non-forest use.

The Modified Project is completely within the boundary of the Approved Project, and circumstances related to agriculture and forest resources under which the Modified Project would be undertaken have not changed. As a result, the Modified Project, similar to the Approved Project, would have no impacts on agriculture and forest resources. The 2004 IS/MND required no mitigation measures related to agriculture for the Approved Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

### III. AIR QUALITY

The 2004 IS/MND analyzed effects to air quality associated with implementation of the Approved Project. The 2004 IS/MND determined that the Approved Project would not conflict with or obstruct implementation of the applicable air quality plan, would not cause or contribute substantially to any existing or projected air quality violation, would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment, would not expose sensitive receptors to substantial pollutant concentrations, and would not be considered to create objectionable odors affecting a substantial number of people. These impacts were considered less-than-significant air quality impacts.

The 2004 IS/MND determined that the Approved Project would not conflict or obstruct the Bay Area 2001 Ozone Attainment Plan or the 2000 Clean Air Plan. Since the Approved Project was approved in 2004, the Bay Area Air Quality Management District (BAAQMD) adopted the 2010 Clean Air Plan. The 2010 Clean Air Plan, like the Bay Area 2001 Ozone Attainment Plan and the 2000 Clean Air Plan, contains stationary and area source, transportation, and mobile source control measures, but also includes land use and local impact control measures as well as energy and climate control measures. Similar to the Approved Project, the Modified Project would not conflict with measures contained in the Clean Air Plan the Modified Project's development is less than that approved in 2004 and modified in 2011.

The 2004 IS/MND determined that operation of the Approved Project would not cause or contribute substantially to any existing or projected air quality violation, nor would it exceed the BAAQMD thresholds in place in 2004.<sup>2</sup> The Approved Project as modified in 2011 to cap enrollment at 1,050 students will not exceed the BAAQMD thresholds<sup>3</sup>. The student population of 1,050 is now the baseline condition and will not be changed as no increase in enrollment or staffing levels are proposed by the Modified Project.

The 2004 IS/MND determined that the Approved Project would not cause a cumulatively considerable increase in criteria pollutants based on the 1999 cumulative thresholds. None of the refinements that would result under the Modified Project would change this finding as the development square footage is less than the Approved Project.

The 2004 IS/MND determined that the Approved Project would not expose receptors to substantial pollutant concentrations or create objectionable odors. The Modified Project would be located on a portion of the Approved Project's project site and the Modified Project would consist of the same type of land use and operations as the Approved Project with many of the same components in different phases and some of the uses combined in some buildings. Additionally, no new sensitive receptors have been located adjacent to the Approved Project's project site since 2004. As a result, no new analysis of the Modified Project's impact on sensitive receptors or related to odors is required.

---

<sup>2</sup> BAAQMD 1999 CEQA Guidelines. Since the adoption of the 2004 IS/MND, the BAAQMD has adopted updated CEQA Guidelines in June 2010 with a subsequent update in May 2011. The updated Air Quality Guidelines contain new recommended thresholds and methodologies. An Alameda Superior Court ruled in January 2012, in *California Building Industry Association v. Bay Area Air Quality Management District*, that the BAAQMD violated CEQA by adopting thresholds. Reversing the trial court in August 2013, the court of appeal found that adoption of thresholds for CEQA review was not a "project" itself subject to CEQA review, and rejected claims that the thresholds were unsupported. The case is now at the State Supreme Court. (*California Building Industry Association v. Bay Area Air Quality Management Dist.*, California Supreme Court Case No. S213478.) However, BAAQMD has not reinstated the thresholds and their website states that "lead agencies may continue to rely on the Air District's 1999 Thresholds of Significance."

<sup>3</sup> Even if the Modified Project were subject to the 2010 thresholds, it falls significantly below both the student and square footage thresholds which are: 2,390 students for operational screening (NOX) or 311,000 square feet and 3,012 students for construction (ROG).

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

#### **IV. BIOLOGICAL RESOURCES**

The 2004 IS/MND analyzed the potential impacts to biological resources that could occur as a result of the Approved Project. In the topics analyzed, the 2004 IS/MND determined that the Approved Project would have either less-than-significant or no impacts on biological resource.

The Modified Project represents minor modifications to the Approved Project. The Modified Project would be developed within a similar footprint and at the same site as the Approved Project, and would be constructed using similar grading and building practices. The 2004 IS/MND determined that no identified candidate, sensitive or special status species inhabit the Approved Project's project site. Nor does the site contain riparian habitat, active drainage channels, wildlife corridors, or native wildlife nurseries. Similarly, no adopted habitat conservation plans or community conservation plans impact the site.

None of the conditions related to biological resources on the site described in the 2004 IS/MND have changed substantially since the 2004 IS/MND was prepared. The Modified Project would occur in the same location as the Approved Project and as described above, circumstances related to biological resources under which the project would be undertaken have not significantly changed. As a result, the Modified Project would have no additional impacts on biological resources.

The Concord Municipal Code includes a tree protection ordinance that applies to heritage trees. All trees proposed for removal under the prior Use Permit have been removed and replacement trees planted. An additional tree is proposed for removal in the Modified Project. It is a eucalyptus and not protected under the Development Code. An updated arborist's report has been prepared for the tree proposed for removal under the Modified Project. The Modified Project would have less-than-significant impacts as no new impacts to protected trees would occur.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

#### **V. CULTURAL RESOURCES**

The 2004 IS/MND analyzed the potential impacts to cultural resources that could occur as a result of the Approved Project. In the topics analyzed, the 2004 IS/MND determined that the Approved Project could have no impacts on cultural resources.

The 2004 IS/MND determined that the Approved Project would have no impact on a historical resource as defined in Section 15064.5 because the site's existing buildings were not listed on any local, State or federal inventory or other historic literature or map on the California Historical Resources Information System (CHRIS). The Modified Project would occur on a portion of the same site and thus would not impact structures with historic potential as the existing conditions remain the same as described in the 2004 IS/MND.

The 2004 IS/MND determined that there is a low potential for Native American sites, unique paleontological resources or human remains, in the project area. However, recognizing there is some possibility (albeit low) of encountering archaeological or paleontological resources or human remains during excavation, a standard Condition of Approval will apply in the event such resources or remains are encountered. This condition requires that if human remains or archeological/paleontological resources are encountered, excavation or disturbance of the location will be halted in the vicinity of the find, and the City and affected agencies contacted to ensure compliance with procedures set forth in CEQA Guidelines §15064.5.

Consequently, the impacts related to cultural resources that could occur as a result of the Modified Project would be less than significant.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

## **VI. GEOLOGY AND SOILS**

As described in the 2004 IS/MND, a trace of the Concord Fault lies approximately 0.75 miles east of the Approved Project's project site. Section VI of the 2004 IS/MND analyzed the geological, seismic, and soil conditions in connection with the Approved Project. The 2004 IS/MND identified areas of potential impact, including damage due to seismic ground shaking, substantial soil erosion or loss of topsoil, seismic-related ground failure (liquefaction), lurching, and expansive soils. The Modified Project would occur within the same study area evaluated in the 2004 IS/MND and would be subject to similar geological, seismic and soil conditions. Similar to the Approved Project, the Modified Project would be conditioned to implement the findings of an updated geotechnical investigation and be constructed in compliance with applicable construction codes and requirements intended to mitigate any adverse impacts resulting from ground shaking, ground failure, liquefaction, and expansive soils. Proposed improvements to the Approved Project's project site would be designed in strict adherence to current standards for earthquake resistant construction, including the California Building Code (CBC), for seismic safety. Conformance with the CBC would reduce the effects of ground shaking and mitigate potential adverse seismic impacts to less than a significant level. The Modified Project would comply with the recommendations indicated in the geotechnical investigation prepared for the Approved Project to reduce potential impacts to a less-than-significant level consistent with the findings of the 2004 IS/MND.

The Modified Project would involve less excavation of material than the Approved Project. Because the new construction area combines the gymnasium and athletic center it results in a smaller building area. Additionally, two components of the Approved Project, the pool relocation and renovation of the administration (main office building), have been removed.

In order to minimize erosion impacts, the Modified Project will adhere to their National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (General Construction Permit), a Storm Water Pollution Prevention Plan (SWPPP) which was proposed for all construction phases of the proposed project. An Erosion Control Plan (ECP) will be designed for implementation during construction.

Recommendations given in the geotechnical report require design and construction of the Approved Project to strictly follow engineering recommendations needed to improve and/or eliminate settlement and expansive soils conditions. The design and construction of the proposed facilities in accordance with the engineering recommendations off the geotechnical report would ensure that the level of risk from expansive soils remains at less-than-significant levels for the Modified Project.

The site is underlain by stable geologic materials and/or stabilized therefore potential impacts to foundation, landsliding, lateral spreading, subsidence, liquefaction and collapse is unlikely.

There are no septic systems on the site or proposed. Therefore, these impacts are considered less than significant or non-impacts.

**No new or substantially more severe significant effects would occur and no mitigation measures are required.**

## **VII. GREENHOUSE GAS EMISSIONS**

Since adoption of the 2004 IS/MND, the CEQA Checklist has been updated to include a discussion of potential project impacts on Greenhouse Gas Emissions (GHGs). As GHGs were not evaluated in the

2004 IS/MND, the Modified Project's potential to generate GHGs and/or conflict with an applicable plan or policy adopted for the purpose of reducing GHGs is described below.

Scientists widely acknowledge that global climate change is occurring and is caused by increased emissions of GHGs that keep the earth's surface warm by trapping heat. Climate change is measured by alterations to traditional wind patterns, storms, precipitation, and temperature. The earth's atmosphere is responsible for maintaining a habitable climate, but human activity has caused increased emissions and concentrations of GHGs dissimilar to historical patterns. This increase in emissions is contributing to an increase in climate change. In response California adopted AB32 and recommended local governments reduce emissions by 15% below current limits by 2020. The Bay Area Air Quality Management District (BAAQMD) recommended local governments prepare Climate Action Plans (CAPs). The City of Concord prepared and adopted a CAP on July 23, 2013. Projects that are in compliance with the City's General Plan and CAP are considered compliant with respect to cumulative contributions to GHGs for CEQA purposes.

It is important to note that while the CEQA requirement for evaluating GHG impacts was imposed after the 2004 IS/MND was adopted, global warming has been known since the 1970s. That information, together with information about potential impacts relating to global warming caused by GHGs was available at the time the 2004 IS/MND was adopted, and so is not "new information of substantial importance which was not known and could not have been known" at the time the 2004 IS/MND was prepared.

The Modified Project would result in construction of a smaller square footage of development than the Approved Project. Modified Project revisions would not cause the Approved Project to trigger any significant greenhouse gas impacts over that which was previously analyzed.

After approval of the Approved Project in 2004, a General Plan Update was initiated and approved in 2007 ("Concord 2030 General Plan"). As the Modified Project is essentially the same size as the Approved Project, one can conclude that the Modified Project can also be considered as anticipated development under the Concord 2030 General Plan and General Plan EIR, which were circulated and adopted after the Approved Project.

A Supplemental General Plan EIR was prepared in 2012 to analyze Amendments to the City's General Plan. The Supplemental General Plan EIR analyzed potential impacts to GHGs. The General Plan amendments analyzed in the Supplemental General Plan EIR do not make any changes to the General Plan designation or anticipated capacity of the Approved Project's project site that would make the Modified Project incompatible with the General Plan. Therefore, the Modified Project is included within the analysis of GHGs in the Supplemental General Plan EIR.

The Supplemental General Plan EIR determined that with Mitigation Measure GHG-1, which requires the incorporation of performance measures into a citywide Climate Action Plan, potential impacts of development under the amended General Plan and Development Code would have less-than-significant impacts related to GHGs. The Supplemental General Plan EIR found impacts of compatibility with plans, policies, and regulations adopted to reduce GHGs to be less than significant. In accordance with Mitigation Measure GHG-1, the City of Concord adopted a Citywide Climate Action Plan and certified the accompanying Negative Declaration on July 23, 2013.

The Citywide Climate Action Plan is considered a qualified greenhouse gas reduction strategy. Table VII-1 below shows how Modified Project is consistent with the Citywide Climate Action Plan.

**Table VII-1: Consistency with Citywide Climate Action Plan**

Citywide Climate Action Plan Strategies	Discussion
BE1: Green Building Ordinance	<p>The California Green Building Standards Code, Title 24, Part 11, of the California Code of Regulations (CALGreen) was adopted in January 2010, effective January 2011. The purpose of CALGreen is to implement sustainable construction practices, addressing energy and water efficiency and conservation, as well as material conservation and resource efficiency.</p> <p>The City of Concord adopted CALGreen by reference.</p>
BH1: Water Efficient Indoor Fixtures and Appliances	<p>Strategy BH1 calls for improving fixture and appliance water efficiency in commercial and residential buildings by promoting information about rebates and incentives, and by continuing to ensure implementation of the CALGreen code.</p> <p>City will provide rebate and incentive information on water efficient appliances as they are made available.</p> <p>Therefore, the greenhouse gas impacts of Modified Project may be slightly less than that of the Approved Project due to adherence to CALGreen, which was not in effect at the time of the 2004 IS/MND.</p>
BH2: Water-Efficient Outdoor Irrigation	<p>The City of Concord Development Code, Article IV, Division 5 contains water efficient landscaping standards.</p> <p>The Modified Project will comply with these water efficient landscaping standards, some of which were not in effect when the Approved Project was approved. Therefore, the greenhouse gas impacts of the Modified Project may be slightly less than that of the Approved Project due to adherence to these standards.</p>
BH3: Water Metering and Mandating	<p>New buildings will be required to incorporate best-in-class water metering systems in order to allow for "smart" or real time information in order to promote conservation of water and therefore reduce GHGs.</p>
BE10: Construction Energy Use	<p>In order to reduce emissions during construction, the use of cleaner fuels and equipment is required.</p> <p>The City has developed a program to encourage construction companies to employ best practices that require using cleaner or more efficient equipment.</p> <p>The project will utilize Best Practices during construction and may result in improved air quality over that of the Approved Project.</p>
TL5: Bike Parking Installations	<p>TL5 requires bike parking facilities for all non-residential uses.</p> <p>The project will comply with the City of Concord's Development Code, Article W, Division 3, which identifies bike parking requirements. The Project currently has two bike racks that hold approximately 18 bikes and will provide additional bicycle racks to accommodate a total of 29 bikes .</p>
TL20: Cool Pavements	<p>In order to reduce heat island effect, new development shall incorporate cool pavement into streets, sidewalks, parking areas and bike lanes.</p> <p>The Modified Project will incorporate cool pavement techniques into project plans resulting in a project with less contribution to heat island effects than the Approved Project (as those standards were not in effect at the time of the 2004 project approval).</p>
TL23: Preferred Motor Vehicle Parking	<p>To encourage use of low-emitting, fuel efficient vehicles, carpools and van pools, convenient parking stalls shall be provided.</p> <p>The project shall provide carpool and fuel efficient spaces, resulting in a further contribution to CO<sub>2</sub> reduction.</p>
TL24: Active Concrete Showers	<p>In order to encourage employees to use bikes and other active forms of transportation, employers shall provide showers and lockers.</p> <p>De La Salle has lockers and showers on site available to their employees.</p>

Source: City of Concord, Citywide Climate Action Plan, March 2013 Public Review Draft, Adopted July 23, 2013  
<http://www.cityofconcord.org/pdf/citygov/agendas/council/2013/0723/3B.pdf>

Other GHG reducing features of the project include carpooling. De La Salle requires students to carpool with other students in order for them to be issued a parking pass for campus parking. Students are not allowed to park on campus without a parking permit and assigned parking place. De La Salle sells discounted bus and BART tickets to their students to encourage use of public transportation. These measures all help to ensure that the Modified project continues to support the reduction in GHG's. De La Salle is also in the process of replacing football stadium lighting with efficient LED lighting that is more focused onto the sports fields. The Modified Project will not result in an increase in vehicle trips either by students or by staff. The Modified Project, similar to the Approved Project will result in building replacement with modern, energy efficient structures that will further the Modified Project's consistency with the City's Climate Action Plan.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

### **VIII. HAZARDS AND HAZARDOUS MATERIALS**

The 2004 IS/MND analyzed the potential impacts to hazards and hazardous materials that could occur as a result of the Approved Project. The 2004 IS/MND determined that the Approved Project would have less-than-significant impacts on hazards and hazardous materials with the incorporation of mitigation.

The Approved Project's project site is not listed as a Leaking Underground Storage Tank (LUST) site or a Cortese Site. A search of the Department of Toxic Substances Control EnviroStor website and the State Water Resources Control Board Geotracker website indicates that the Approved Project's project site was previously listed as having a leaking underground storage tank (a Cortese LUST site); however the site was cleared in 2001<sup>4</sup>. The Modified Project would be subject local, regional, and state polices that regulate hazards and hazardous materials impacts identified in the General Plan EIR. The Modified Project, as with the Approved Project, is a school and will not increase the hazards to the public through transport, use or disposal of hazardous materials. All potential impacts related to such hazards, either during construction or operation, are the same or less than those assessed for the Approved Project. The Approved Project identified no impacts with respect to hazards and hazardous materials. Consequently, the impacts related to hazards and hazardous materials that could occur as a result of the Modified Project would have no impact which is consistent with the impacts identified for the Approved Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

### **IX. HYDROLOGY AND WATER QUALITY**

The 2004 IS/MND analyzed effects to hydrology and water quality associated with implementation of the Approved Project and determined that the Approved Project would have a less-than-significant effect on hydrology and water quality.

The 2004 IS/MND concluded that regional controls established by the RWQCB and NPDES permit would reduce the construction impacts of the Approved Projects to less-than-significant levels by requiring the preparation of an Erosion Control Plan and a Stormwater Pollution Prevention Manual. The Modified Project will also be required to adhere to controls established by the RWQCB and NPDES permit. Similar to the Approved Project, the Modified Project would cause a land disturbance of more than one acre (i.e., clearing, grading, excavation, etc.), and so the Applicant must obtain coverage under the State's General Construction Activity Stormwater Permit (General Construction Permit). The General Permit requires the Applicant to prepare and implement a "Stormwater Pollution Prevention Plan" (SWPPP). The SWPPP must identify appropriate stormwater pollution prevention measures or best management practices (BMPs) to eliminate or reduce pollutants in stormwater discharges from the construction site both during

---

<sup>4</sup> State of California Water Resources Control Board website, [geotracker.waterboards.ca.gov](http://geotracker.waterboards.ca.gov), accessed February 26, 2014.

construction and after construction is complete. In October 2009, a final Municipal Regional Stormwater NPDES Permit (MRP) was adopted by the RWQCB. Provision C-3 (discussed below) in the MRP requires site designs for new developments and redevelopments to minimize the area of new roofs and paving. Where feasible, pervious surfaces should be used instead of paving so that runoff can infiltrate to the underlying soil. Remaining runoff from impervious areas must be captured and used or treated using bioretention.

The Approved Project proposed a decrease in the existing impervious surfaces on the Approved Project's project site. Similarly, the Modified Project, (including the completed construction) would result in a decrease in the existing impervious surfaces. Similar to the Approved Project, the Modified Project would not substantially increase runoff from the Approved Project's project site during storm events as stormwater would percolate into the unpaved portions of the Approved Project's project site. Further, the installation of pervious surfaces proposed as part of the Modified Project (in response to C-3 requirements) would allow for the infiltration of precipitation and recharge of groundwater supplies. C-3 compliance techniques are shown in the CUP Amendment Applications and include bio retention planters and flow through planters. C-3 requirements are designed to increase filtration and enhance water quality. C-3 requirements were enacted after approval of the Approved Project. Compliance with these requirements will result in a project that has improved filtration, decreased runoff and improved water quality over that of the Approved Project. Like the Approved Project, the Modified Project would not require the use or extraction of groundwater. Similar to the Approved Project, the Modified Project would not alter the course of a stream or river within the Approved Project's project site, is not located within a 100-year flood hazard area, nor is located in a specific dam failure inundation area. Finally, no bodies of water large enough to cause a tsunami or a seiche are in close proximity to the site.

Just as the Approved Project was required to comply with applicable State requirements in regards to hydrology and water quality, the Modified Project would also be required to comply with such requirements. Although the Modified Project would slightly modify the Approved Project, the Modified Project would also be required to comply with applicable Conditions of Approval for the Approved Project related to drainage and clean water. Consequently, the impacts related to hydrology and water quality that could occur as a result of the Modified Project would be less-than-significant, and consistent with the impacts and identified for the Approved Project. The 2004 IS/MND required no mitigation measures related to hydrology and water quality for the Approved Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

## **X. LAND USE**

De La Salle High School has been in operation at the site since 1963. The 2004 IS/MND analyzed effects of land use and planning policy associated with implementation of the Approved Project and determined that the Approved Project would result in less-than-significant impacts in regards to physically dividing an established community and conflicts with applicable land use plan, and no impacts in regards to conflict with habitat or natural community conservation plan and no mitigation measures were required.

The Modified Project is part of the larger Approved Project's project site, and the Modified Project would result in a reduction of total floor area over that of the Approved Project. As a result, the Modified Project is similar to the Approved Project and, therefore, would not physically divide an established community.

The 2004 IS/MND determined that the Approved Project was consistent with Land Use Objectives in the Concord 1994 General Plan. The Modified Project would support the land use objectives in the Concord 2030 General Plan, and the Modified Project would achieve similar land use objectives as the Approved Project.

Both the Approved Project and the Modified Project are consistent with and support the General Plan. The primary land use policy that applies is:

- LU-1.1.3: Ensure that the scale, operation, location, and other characteristics of community facilities, including parks, schools, childcare facilities, religious institutions, and other public and quasi-public facilities, enhance the character and quality of neighborhoods.

The continued consistency with design guidelines and standards for transitions between different uses will be reviewed by both the Design Reviewed by the Planning Commission.

The 2004 IS/MND determined that there would be no impact in regards to conflict with an applicable habitat conservation or natural community conservation plan. The site of the Modified Project is part of the larger Approved Project's project site, and similar to the Approved Project, would have no impact regards to conflict with an applicable habitat conservation or natural community conservation plan.

The site of the Modified Project is part of the larger Approved Project's project site, and circumstances related to land use under which the project would be undertaken have not substantially changed. As a result, the Modified Project, similar to the Approved Project, would have less-than-significant impacts on land use. The 2004 IS/MND required no mitigation measures related to land use for the Approved Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

## **XI. MINERAL RESOURCES**

The 2004 IS/MND evaluated the Approved Project's project site and concluded that there would be no impacts to mineral resources. The 2004 IS/MND required no mitigation measures related to mineral resources for the Approved Project.

The site of the Modified Project is part of the larger Approved Project's project site, and circumstances related to mineral resources under which the project would be undertaken have not changed. As a result, the Modified Project, similar to the Approved Project, would have no impacts on mineral resources.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

## **XII. NOISE**

The 2004 IS/MND determined that the Approved Project would have less than significant noise impacts related to the Approved Project's construction and operations.

The 2004 IS/MND indicated that the Approved Project would not result in exposure to excessive construction noise or groundborne vibration. The Modified Project could generate similar levels of temporary construction noise and groundborne vibration as the Approved Project. The site's surrounding uses have not substantially changed since the 2004 IS/MND was published, thus the neighbors would be exposed to similar levels of noise as previously studied. In fact, the Modified Project may generate marginally less construction noise as less overall construction is required because the Modified Project eliminates two large blocks of construction allowed under the Approved Project: The administration/student services building and the athletic building expansion/pool relocation. While the STREAM building and gymnasium buildings are larger, the overall construction noise will be limited by project compliance with contractors limiting construction hours and activities. It is not expected that the use of either the STREAM building or the maintenance buildings, the structures closest to adjacent residential properties, would exceed applicable noise standards. De La Salle's current use permit includes conditions to reduce the impacts of existing noise sources consistent with the aforementioned policy. These include time restrictions on when noise producing activities can occur (e.g. trash pick) and a complaint procedure to process complaints from neighbors on noise issues.

The Modified Project is expected to utilize the same traditional methods of construction and ordinary types of equipment to construct the project as the Approved Project. Although temporary ground vibrations are associated with the grading and building phases of the project, it is anticipated that the vibrations would be comparable to that of the Approved Project.

Additionally, the Modified Project is subject to standard conditions of approval that address potential construction-related noise impacts.

Consequently, the impacts related to noise that could occur as a result of the Modified Project would be less-than-significant.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

### **XIII. POPULATION AND HOUSING**

The 2004 IS/MND evaluated the Approved Project and concluded that there would be no impacts in regards to inducing substantial population growth and there would be no impact to the displacement of housing and people, necessitating the construction of replacement housing elsewhere. The 2004 IS/MND required no mitigation measures related to population and housing for the Approved Project.

The Modified Project would complete the Approved Project, resulting in a modernization of the De La Salle campus. There will be no increase to De La Salle' current enrollment cap of 1050 students, and no significant increase in full time employees, staff or faculty as a result of the Modified Project.

As a result, the Modified Project, similar to the Approved Project, would have less-than-significant or no impacts on population and housing.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

### **XIV. PUBLIC SERVICES**

The 2004 IS/MND analyzed effects to public services associated with implementation of the Approved Project. The 2004 IS/MND determined that the Approved Project would have less-than-significant impacts on public services, and no mitigation measures were required.

As discussed above, the Modified Project would result in a smaller project than the Approved Project evaluated in the 2004 IS/MND. Moreover, circumstances related to public services under which the Modified Project would be undertaken have not changed. Therefore, like the Approved Project, the Modified Project would not result in the need for increased public services, including fire protection, police protection, schools, parks, and other public facilities that would result in substantial adverse physical impacts. As a result, the Modified Project, similar to the Approved Project, would have less-than-significant impacts on public services.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

### **XV. RECREATION**

The 2004 IS/MND analyzed the potential impacts on recreational facilities and determined the Approved Project would have minimal effects on existing neighborhood and regional parks primarily due to the project providing recreational facilities for its students. Since there will be no increase in the student population or staff, there will be no new population which will require additional recreational facilities

After approval of the Approved Project in 2004, the City updated its General Plan and accompanying EIR (City of Concord 2030 General Plan, 2012 and City of Concord 2030 General Plan EIR, 2012). The Approved Project was considered in these updated documents and included as anticipated development in both of these documents. Because the Modified Project results in a similar development to the Approved Project, the Modified Project can be considered as anticipated development within the General Plan and General Plan EIR.

As a result, the Modified Project, similar to the Approved Project, would have less-than-significant impacts on park and recreation resources. The 2004 IS/MND required no mitigation measures related to parks and recreation for the Approved Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

## **XVI. TRANSPORTATION AND TRAFFIC**

The 2004 IS/MND analyzed the potential impacts on transportation and traffic that could occur as a result of the Approved Project and determined that it would have less-than-significant or no impacts on transportation and traffic related topics, with the exception of parking for which two mitigation measures were included to ensure adequate parking.

*Mitigation T-1: The applicant shall be required to maintain the existing number of spaces (443 spaces) through Phase I. This requirement can be met by providing for a combination of both on-site and off-site parking totaling 443 spaces, provided all off-site parking meet City requirements and is secured through a written agreement between the landowners and the City in a form satisfactory to the City Attorney.*

*Mitigation T-2: Prior to design review approval of improvements proposed for subsequent phases, the Applicant shall provide a Traffic Study and/or Parking Program for the City's review and approval. The Study or Analysis shall be prepared by a licensed traffic engineer, and shall include an updated evaluation of parking and traffic conditions, and recommendations on parking and traffic issues.*

Subsequent to the 2004 IS/MND, the CEQA Guidelines were revised to remove the consideration of parking. However, since approval of the Approved Project, the City has updated its Development Code (City of Concord, Development Code, 2012) that includes a high school parking standard which the Modified Project now exceeds. The Modified Project includes a program showing how parking is provided through the phases to satisfy the mitigation identified for the Approved Project. The parking plan under Modified Project meets the City of Concord's Development Code.

The Modified Project would not generate any more traffic than the Approved Project. The Modified Project will not increase student enrollment and staffing is expected to remain at current levels. The Approved Project was modified in 2011 to cap enrollment at 1,050 students. The student population of 1,050 is now the baseline condition and will not be changed as no increase in enrollment or staffing levels is proposed by the Modified Project. Traffic conditions in the vicinity of the site have not significantly worsened from 2004 conditions. The increase in traffic experienced on local streets is not related to the Approved Project. In fact, conditions during school drop-off and pick-up times have improved as a result of the Approved Project's improvements undertaken during Phase I. The Modified Project is not expected to change the overall results and conclusions from the 2004 IS/MND and circumstances related to transportation under which the Modified Project would be undertaken have not substantially changed. As a result, the Modified Project, similar to the Approved Project, would have less-than-significant transportation impacts. The 2004 IS/MND required no new mitigation measures related to transportation for the Approved Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

## **XVII. UTILITIES AND SERVICE SYSTEMS**

The 2004 IS/MND analyzed effects to utilities associated with implementation of the Approved Project. The 2004 IS/MND determined that the Approved Project would have less-than-significant impacts on utilities, and no mitigation measures were required.

The Modified Project would result in a smaller development as compared to the Approved Project. Table XVII-1 lists the utility and/or service provider and explains if circumstances related to utilities under which the Modified Project would be undertaken have changed.

**Table XVII-1: Utilities and Service System**

<b>Utility/Service</b>	<b>Servicer</b>	<b>Requirements or Changes Since 2004 IS/MND</b>
Wastewater treatment requirements	Regional Water Quality Control Board	No changes
Construction of new, or expansion of existing, water or wastewater treatment facilities	City of Concord Community & Economic Development Department (Engineering-Current Development )	Given that the population decreased to 122,067 in 2010, the existing conditions identified in the 2004 IS/MND are likely still representative of current conditions. If it is determined that upsizing of sewer mains affected by the Modified Project are needed, the project sponsor would be required to pay the applicable fees for the connection from the Approved Project's project site to the sewer main.
Construction of new, or expansion of existing, storm water drainage facilities	City of Concord Community * Economic Development Department (Engineering-Current Development)	As with the Approved Project, the Modified Project would have to adhere to regional controls such as provision C-3 which requires site designs for new developments and redevelopments to minimize the area of new roofs and paving, increase filtration and enhance water quality. The project will be subject to Conditions of Approval related to Drainage, NPDES and Clean Water. Thus, the Modified Project would not create additional demand on the stormwater drainage facilities and likely result in improved water quality over that of the Approved Project.
Water supplies	Contra Costa Water District	Given that the population decreased to 122,067 in 2010, the existing conditions identified in the 2004 IS/MND are likely still representative of current conditions in regards to existing demand for water city-wide. The Modified Project would not require additional water supplies over that of the Approved Project.
Wastewater treatment servicer capacity	Central Contra Costa Sanitary District	Given that the population decreased since preparation of the 2004 IS/MND, the existing conditions identified in the 2004 IS/MND are likely still representative of current conditions in regards to existing wastewater generation. Like the Approved Project, the Modified Project would have to comply with the Approved Project's Conditions of Approval pertaining to sewer connections and upgrades.
Landfill	Concord Disposal Service and Potrero Hills Landfill	When the 2004 IS/MND was approved, the Potrero Hills Landfill was estimated at 64 percent capacity and not expected to close until 2035. In 2010, the Potrero Hills Landfill was granted a marsh permit from the Bay Conservation and Development Commission to expand its capacity from 21.5 million cubic yards to 83.1 million cubic yards. However, the permit has been challenged and a resolution has not been reached. Even without additional capacity, Potrero Hills Landfill would still have available capacity for the Modified Project.
Federal, State, and local statutes and regulations related to solid waste	N/A	State law requires at least 50 percent of solid waste generated in a community be recycled. The City of Concord adopted a local Construction and Demolition Materials Recycling Ordinance (C&D Ordinance, currently codified at Concord Municipal Code Sections 8.20.330 et seq. effective July 1, 2007. The C&D Ordinance requires that at least 50 percent of the waste materials generated by a construction or demolition project be diverted from the landfill through waste management options such as reuse or recycling. The C&D Ordinance also requires that at least 75 percent of all inert debris generated by a construction or demolition project be diverted from the landfill. Inert debris includes concrete, asphalt, brick and similar masonry products. Similar to the Approved Project, the Modified Project would have to Comply with the City of Concord Municipal Code as required by the Approved Project's Conditions of Approval.

After approval of the Approved Project in 2004, the 2030 General Plan Update 2012 was adopted. Given that the Notice of Preparation for the General Plan EIR was circulated in June 2006, the Approved Project was considered (and included as anticipated development) in the preparation of the General Plan and General Plan EIR. As the Modified Project results in a smaller development over that of the Approved

Project, the Modified Project can be considered as anticipated development within the General Plan and General Plan EIR. Additionally, the student enrollment at De La Salle is capped at 1,050. Therefore, no additional impacts to ongoing services are anticipated over that of the Approved Project.

The site of the Modified Project is part of the larger Approved Project's project site, and circumstances related to utilities under which the Approved Project versus the Modified Project would be undertaken have not changed. As a result, the Modified Project, similar to the Approved Project, would have less-than-significant impacts on utilities. The 2004 IS/MND required no mitigation measures related to utilities for the Approved Project.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

#### **XVIII. MANDATORY FINDINGS OF SIGNIFICANCE**

Section XVIII of the 2004 IS/MND addressed mandatory findings of significance associated with the Approved Project. The Approved Project was found to have no impact on the quality of the environment with respect to habitat of fish or wildlife as any rare or endangered plants or animals exist on or near the site. The 2004 IS/MND identified no potentially cumulative impacts. Potential impacts were identified as less than significant after implementation of Mitigation Measures T-1 and T-2 that addressed potential cumulative impacts related to parking. Other potential impacts were not identified and, therefore, were not found to combine with impacts from other projects.

The Modified Project would be located on a smaller footprint at the same site as the Approved Project and would be subject to similar environmental conditions. No new resources would be impacted and no increase in effects would occur. Implementation of mitigation measures discussed in the 2004 IS/MND would ensure that effects associated with the Modified Project would be less than significant.

**No new or substantially more severe significant effects would occur and no additional mitigation measures are required.**

#### **4. CONCLUSION**

On the basis of the evaluation presented in this Addendum, the changes associated with the Modified Project would not trigger any of the conditions requiring preparation of a subsequent or supplemental EIR or MND. The Modified Project would not introduce new significant environmental effects, substantially increase the severity of previously identified significant environmental effects, or show that mitigation measures previously found not to be feasible would in fact be feasible.

Overall, the Modified Project would result in comparable or smaller impacts to those of the Approved Project. The Modified Project would not result in new significant impacts that would be substantially more severe than those identified in the 2004 IS/MND. The mitigation measures included in the 2004 IS/MND that remain applicable are identified in this Addendum for easy reference.

The analyses and conclusions in the 2004 IS/MND remain current and valid. The Modified Project would not cause new or substantially more severe significant effects than identified in the 2004 IS/MND and thus no new mitigation measures would be required. No change has occurred with respect to circumstances surrounding the Modified Project that would cause new or substantially more severe significant environmental effects than identified in the 2004 IS/MND, and no new information has become available that shows that the Modified Project would cause significant environmental effects not already analyzed in the 2004 IS/MND. Therefore, no further environmental review is required beyond this Addendum to the 2004 IS/MND.

None of the elements set forth in Public Resources Code Section 21166 or CEQA Guidelines Section 15162 exists, and in accordance with Public Resources Code Section 21166 and CEQA Guidelines Section 15162, no subsequent or supplemental EIR or MND is required. Thus, this Addendum satisfies the requirements of CEQA, including Public Resources Code Section 21166, and CEQA Guidelines sections 15162 and 15164.

## 5. REFERENCES

Bay Area Air Quality Management District. CEQA Guidelines, Page 3-2-3-4, May, 2010.

City of Concord, 2030 General Plan, 2012.

City of Concord, Supplemental 2030 General Plan EIR, 2012

City of Concord, Citywide Climate Action Plan, March 2013 Public Review Draft, Adopted July 23, 2013.  
<http://www.cityofconcord.org/pdf/citygov/agendas/council/2013/0723/3B.pdf>

City of Concord, Supplemental Environmental Impact Report 2030, 2012.

Traverso Tree Service, Letter Report, January 27, 2012.

State of California, Department of Toxic Substances Control EnviroStor website.  
[www.envirostor.dtsc.ca.gov](http://www.envirostor.dtsc.ca.gov) , accessed February, 2014.

Ratcliff, Master Plan Update, November 20, 2013 and updated March 20, 2004.

BAAQMD Bay Area 2001 Ozone Attainment Plan, 2001 available at:  
[http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Plans/2001%20Ozone%20Attainment%20Plan/oap\\_2001.ashx](http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Plans/2001%20Ozone%20Attainment%20Plan/oap_2001.ashx)

BAAQMD Bay Area 2000 Clean Air Plan available at:  
[http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Plans/2000%20Clean%20Air%20Plan/2000\\_cap.ashx](http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Plans/2000%20Clean%20Air%20Plan/2000_cap.ashx)

## RATCLIFF

5856 Doyle Street  
Emeryville CA 94608  
Tel 510 899 6400  
www.ratcliffarch.com

March 20, 2014

Mr. Frank Abejo  
Planning Department  
City of Concord  
1950 Parkside Drive MS/53  
Concord, CA 94519

Re: De La Salle High School 2014 Master Plan Update  
Ratcliff Project No. 33026.00

Dear Mr. Abejo:

Over the course of the past few months, Ratcliff Architects has worked with De La Salle High School to revise their 2004 Master Plan to meet current fiscal and programmatic needs. This package reflects the outcome of those studies, and is submitted for City of Concord review and approval of the Master Plan Update. In addition, we wish to request a minor exception to the maximum allowable structure height.

As you may recall, the 2004 Master Plan consisted of four phases to be implemented over an approximately twenty year span. The scope of work included additional buildings that provide new program space as well as revisions and improvements to the parking and landscaped portions of the campus. Through our recent work with the school, the originally identified phases have been reconfigured as follows:

### Phase 1 (Complete)

The first phase of the master plan, which included a new student center and a revised parking layout to improve vehicular circulation for pick up and drop off, has been completed.

### Phase 2 (Current)

The Campus is now preparing to embark on Phase 2, which in the 2004 Master Plan included a new gymnasium, athletic facilities, administrative facilities and rear road reconfiguration. In the past year, however, it became apparent to the school that there was a great need for science classrooms. As a result, we are proposing an acceleration of the Science Classrooms previously identified as Phase 3 scope, to occur ahead of the gymnasium and athletic facilities. A new maintenance building will be constructed concurrently with the science classrooms. This phase will also include some minor reconfiguration of the parking area and access road.

### Phase 3 (1-2 years)

Phase 3 will include demolition of the existing cafeteria, and construction of a new Gymnasium and High Performance Athletic Center in its place. The combination of the gymnasium and athletic center at this location eliminates the need for the athletics expansion that was part of the 2004 Master Plan, and thus effectively reduces the net total of new building area.

### Phase 4 (3-5 years)

Phase 4 now consists of a renovation and expansion to the existing Theater, recently identified by the school as a priority project.

The previously approved plan to include the construction of a new administration building in the same location as the existing administration building is hereby deleted with this 2014 Master Plan amendment, further reducing the net total of proposed new building area relative to the amount approved under the 2004 Master Plan.

In accordance with the school's Land Use Permit, enrollment will remain capped at 1,050, and on-site parking capacity will remain well above the zoning code minimum requirement of 292 spaces throughout all phases of work. In addition, the school has made contractual arrangements for off-site parking to bring the total parking capacity to 443 as agreed to with the original 2004 Master Plan use agreement.

In addition to the revision to the Master Plan phasing, we are requesting a minor exception to the maximum building height. As non-residential structures, we request that the 30-foot maximum height be raised by the 25% to a maximum height of 37-feet 6-inches, as prescribed by the City of Concord Development Code, Table 122-951.1.

Finally, along with approval of the 2014 Master Plan Update and minor exception to the maximum building height, De La Salle High School is also interested in bringing the projects associated with all of these phases before the planning and design review boards for approval. Attached are documents required by the City of Concord Use Permit Application Checklist for review of the Master Plan Update.

Please let me know if any additional documentation or discussion is required for review and approval.

Sincerely,  
RATCLIFF



Robert J. Williamson AIA  
Associate

**RATCLIFF**  
 5655 Doyle Street  
 Emeryville, CA 94608  
 Tel: 510 899 4400  
 www.ratcliff.com

DE LA SALLE HIGH SCHOOL  
 1130 WINTON DRIVE  
 CONCORD, CALIFORNIA  
 COVER SHEET

SCALE  
 PROJECT NUMBER: 130013D

**DRAWING INDEX**

- 04-0 GENERAL COVER SHEET
- C11 CONCEPTUAL LAYOUT
- C12 TOPOGRAPHIC MAP
- C13 SITE PLAN
- C14 GRADING PLAN
- C15 UTILITY PLAN
- C16 SITE PLAN PHASE 1
- C17 SITE PLAN PHASE 2
- C18 SITE PLAN PHASE 3
- C19 SITE PLAN PHASE 4
- C20 SITE PLAN PHASE 5
- C21 DYNAMISIM LAYOUT SECTION
- C22 DYNAMISIM ROOF PLAN
- C23 DYNAMISIM ROOF PLAN
- C24 DYNAMISIM ROOF PLAN
- C25 DYNAMISIM ROOF PLAN
- C26 DYNAMISIM ROOF PLAN
- C27 DYNAMISIM ROOF PLAN
- C28 DYNAMISIM ROOF PLAN
- C29 DYNAMISIM ROOF PLAN
- C30 DYNAMISIM ROOF PLAN
- C31 DYNAMISIM ROOF PLAN
- C32 DYNAMISIM ROOF PLAN
- C33 DYNAMISIM ROOF PLAN
- C34 DYNAMISIM ROOF PLAN
- C35 DYNAMISIM ROOF PLAN
- C36 DYNAMISIM ROOF PLAN
- C37 DYNAMISIM ROOF PLAN
- C38 DYNAMISIM ROOF PLAN
- C39 DYNAMISIM ROOF PLAN
- C40 DYNAMISIM ROOF PLAN
- C41 DYNAMISIM ROOF PLAN
- C42 DYNAMISIM ROOF PLAN
- C43 DYNAMISIM ROOF PLAN
- C44 DYNAMISIM ROOF PLAN
- C45 DYNAMISIM ROOF PLAN
- C46 DYNAMISIM ROOF PLAN
- C47 DYNAMISIM ROOF PLAN
- C48 DYNAMISIM ROOF PLAN
- C49 DYNAMISIM ROOF PLAN
- C50 DYNAMISIM ROOF PLAN
- C51 DYNAMISIM ROOF PLAN
- C52 DYNAMISIM ROOF PLAN
- C53 DYNAMISIM ROOF PLAN
- C54 DYNAMISIM ROOF PLAN
- C55 DYNAMISIM ROOF PLAN
- C56 DYNAMISIM ROOF PLAN
- C57 DYNAMISIM ROOF PLAN
- C58 DYNAMISIM ROOF PLAN
- C59 DYNAMISIM ROOF PLAN
- C60 DYNAMISIM ROOF PLAN
- C61 DYNAMISIM ROOF PLAN
- C62 DYNAMISIM ROOF PLAN
- C63 DYNAMISIM ROOF PLAN
- C64 DYNAMISIM ROOF PLAN
- C65 DYNAMISIM ROOF PLAN
- C66 DYNAMISIM ROOF PLAN
- C67 DYNAMISIM ROOF PLAN
- C68 DYNAMISIM ROOF PLAN
- C69 DYNAMISIM ROOF PLAN
- C70 DYNAMISIM ROOF PLAN
- C71 DYNAMISIM ROOF PLAN
- C72 DYNAMISIM ROOF PLAN
- C73 DYNAMISIM ROOF PLAN
- C74 DYNAMISIM ROOF PLAN
- C75 DYNAMISIM ROOF PLAN
- C76 DYNAMISIM ROOF PLAN
- C77 DYNAMISIM ROOF PLAN
- C78 DYNAMISIM ROOF PLAN
- C79 DYNAMISIM ROOF PLAN
- C80 DYNAMISIM ROOF PLAN
- C81 DYNAMISIM ROOF PLAN
- C82 DYNAMISIM ROOF PLAN
- C83 DYNAMISIM ROOF PLAN
- C84 DYNAMISIM ROOF PLAN
- C85 DYNAMISIM ROOF PLAN
- C86 DYNAMISIM ROOF PLAN
- C87 DYNAMISIM ROOF PLAN
- C88 DYNAMISIM ROOF PLAN
- C89 DYNAMISIM ROOF PLAN
- C90 DYNAMISIM ROOF PLAN
- C91 DYNAMISIM ROOF PLAN
- C92 DYNAMISIM ROOF PLAN
- C93 DYNAMISIM ROOF PLAN
- C94 DYNAMISIM ROOF PLAN
- C95 DYNAMISIM ROOF PLAN
- C96 DYNAMISIM ROOF PLAN
- C97 DYNAMISIM ROOF PLAN
- C98 DYNAMISIM ROOF PLAN
- C99 DYNAMISIM ROOF PLAN
- C100 DYNAMISIM ROOF PLAN

**PROJECT DESCRIPTION**

1130 WINTON DRIVE  
 CONCORD, CALIFORNIA  
 CAMPUS MASTER PLAN  
 CUP AMENDMENT RESUBMITTAL  
 APRIL 10, 2014

**PROJECT DATA:**

Contract:  
 Ratcliff Architects Attn: Rob Williamson 855 Doyle Street, Emeryville, CA 94608  
 PH: 510 899 6469  
 FX: 510 899 8404

Property Owner:  
 De La Salle High School, 1130 Winton Drive, Concord, CA, 94518  
 PH: 925 686 3310  
 FX: 925 686 3474

Project Address: 1130 Winton Drive, Concord, CA 94518

**Site Data:**

AP# 145-130-030-03  
 LUP# UP-105-63  
 Zoning R-8 (Single-Family Residential), 8,000 SF min. lot size  
 General Plan Land Use Designation: Residential  
 Lot Area: 19,24 Acres (838,237 SF)  
 Lot Coverage: 23.82%  
 Total Building SF: 199,704  
 FAR: 23.82%  
 Total Lot Area (Including fields): 19,24 Acres (838,237 SF)  
 Total Lot Area (Excluding fields): 19,24 Acres (838,237 SF)  
 Total Classroom Count: 50  
 Total Office SF: 443  
 Total On-Campus Parking Count: 150 (110 Existing, 40 New)  
 Compact Parking Stall %: 39.5%  
 Off-Campus Parking Required: 64

**PROJECT DIRECTORY:**

**CLIENT**  
 De La Salle High School  
 1130 Winton Drive  
 Concord, CA 94518  
 PHONE: (925) 288-5100  
 FAX: (925) 686-3474  
 CONTACT: Marilyn Gardner

**ARCHITECT**  
 Ratcliff  
 5655 Doyle Street  
 Emeryville, CA 94608  
 PHONE: (510) 899-6400  
 FAX: (510) 899-8404  
 CONTACT: Robert Williamson

**CIVIL ENGINEER**  
 Kier & Wright  
 2000 Canyon Rd.  
 Livermore, CA 94551  
 PHONE: (925) 245-9788  
 FAX: (925) 245-9796  
 CONTACT: Enead Satri

**LANDSCAPE ARCHITECT**  
 MKG Harvest Ave  
 Berkeley, CA 94710  
 PHONE: (510) 845-7549  
 FAX: (510) 845-9750  
 CONTACT: Tod Hara

**ELECTRICAL ENGINEER**  
 Integral Group  
 1084 Foothill Ave  
 San Jose, CA 95118  
 PHONE: (408) 448-6300  
 FAX: (408) 448-6301  
 CONTACT: Ray Juachon

**VICINITY MAP:**



DATE: 4/10/2014

PROJECT NUMBER: 130013D

SCALE

PROJECT NUMBER: 130013D



















**LEGEND**

- A AREA DEMON
- D CATCH BASIN
- FL FLOOR LINE
- PL PARALLEL
- BE BENCH ELEVATION
- SE SLOPE ELEVATION
- TD TOP OF DRAIN LINE
- TC TOP OF CURB
- IMPANON AREA (AC PERMANENT/NO PERMANENT)
- NEW WALL/DOOR AREA
- PROPOSED BIO-RETENTION PLANTER
- PROPOSED LANDSCAPE
- PROPOSED DRAINAGE BEDROCK/4" CURB AND CURBLET
- BOUNDARY LINES
- DRAIN BOUNDARY LINES

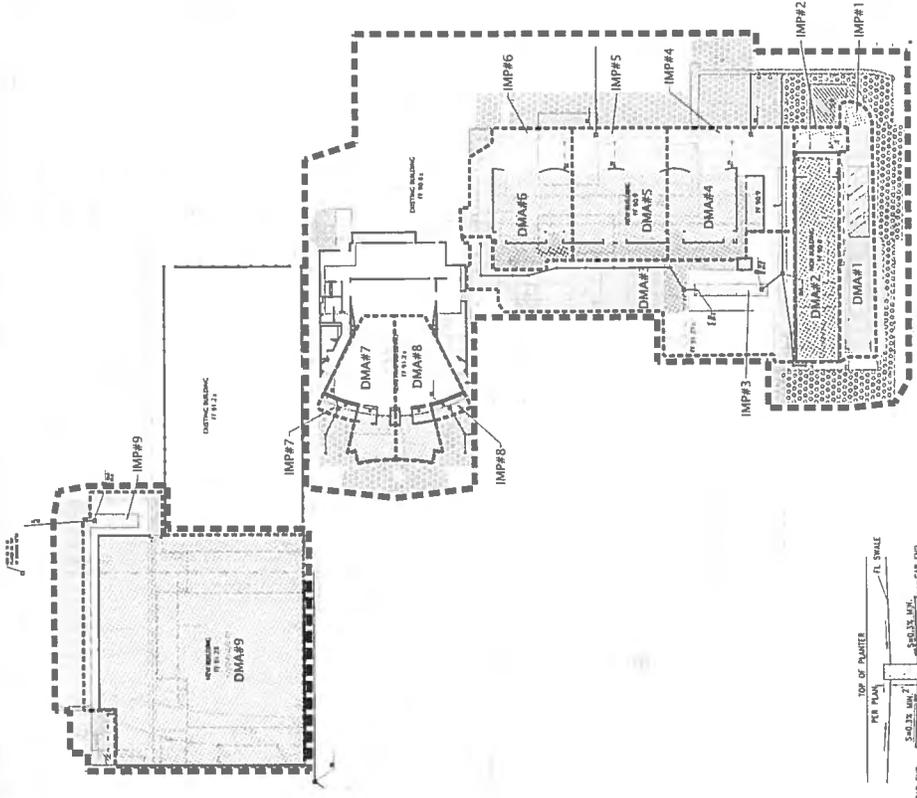
**TREATED/UNTREATED IMPERVIOUS AREA**

TREATED EXISTING IMPERVIOUS AREA 7,418 SF

UN-TREATED NEW IMPERVIOUS AREA 6,505 SF

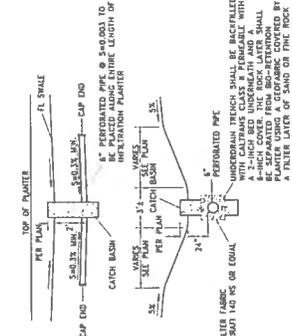
1. THIS PROJECT IS REGULATED BY THE NATIONAL POLLUTION DISCHARGE ELIMINATION ACT (NPDES) THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP) AND THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP) THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP).
2. THE PROJECT SHALL BE DESIGNED TO TREAT ALL RAINFALL TO THE RWTP THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP).
3. THE PROJECT SHALL BE DESIGNED TO TREAT ALL RAINFALL TO THE RWTP THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP).
4. THE PROJECT SHALL BE DESIGNED TO TREAT ALL RAINFALL TO THE RWTP THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP).
5. THE PROJECT SHALL BE DESIGNED TO TREAT ALL RAINFALL TO THE RWTP THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP).
6. THE PROJECT SHALL BE DESIGNED TO TREAT ALL RAINFALL TO THE RWTP THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP).
7. THE PROJECT SHALL BE DESIGNED TO TREAT ALL RAINFALL TO THE RWTP THROUGH THE SAN FRANCISCO REGIONAL WATER TREATMENT PLANT (RWTP).

DE LA SALLE  
DOWNTOWN, CALIFORNIA  
DE LA SALLE HIGH SCHOOL  
STORM WATER QUALITY CONTROL PLAN  
SCALE: PROJECT NUMBER: A2544-1



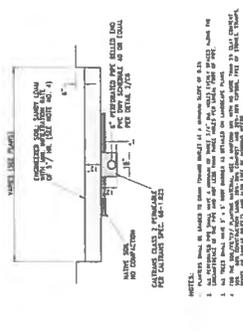
**DMA TRIBUTARY AREAS & C.3 CALCULATION TABLE:**

DMA	Area (SF)	Area (AC)	Impervious (SF)	Impervious (AC)	Area to the Street (SF)	Area to the Street (AC)	Impervious to Street (SF)	Impervious to Street (AC)	Impervious (%)	Type of Planter
DMA#1	3,762	0.087	118	0.003	1,644	0.037	118	0.003	3.12%	Non-Permeable
DMA#2	2,008	0.046	180	0.004	1,496	0.033	180	0.004	8.97%	Non-Permeable
DMA#3	4,851	0.110	1,208	0.027	5,205	0.118	1,208	0.027	2.51%	Non-Permeable
DMA#4	3,818	0.087	260	0.006	4,927	0.111	260	0.006	5.29%	Non-Permeable
DMA#5	3,343	0.076	0	0.000	3,343	0.076	0	0.000	2.63%	Non-Permeable
DMA#6	2,282	0.052	1,715	0.038	3,098	0.071	1,715	0.038	7.65%	Non-Permeable
DMA#7	2,530	0.057	1,715	0.038	3,243	0.073	1,715	0.038	4.32%	Non-Permeable

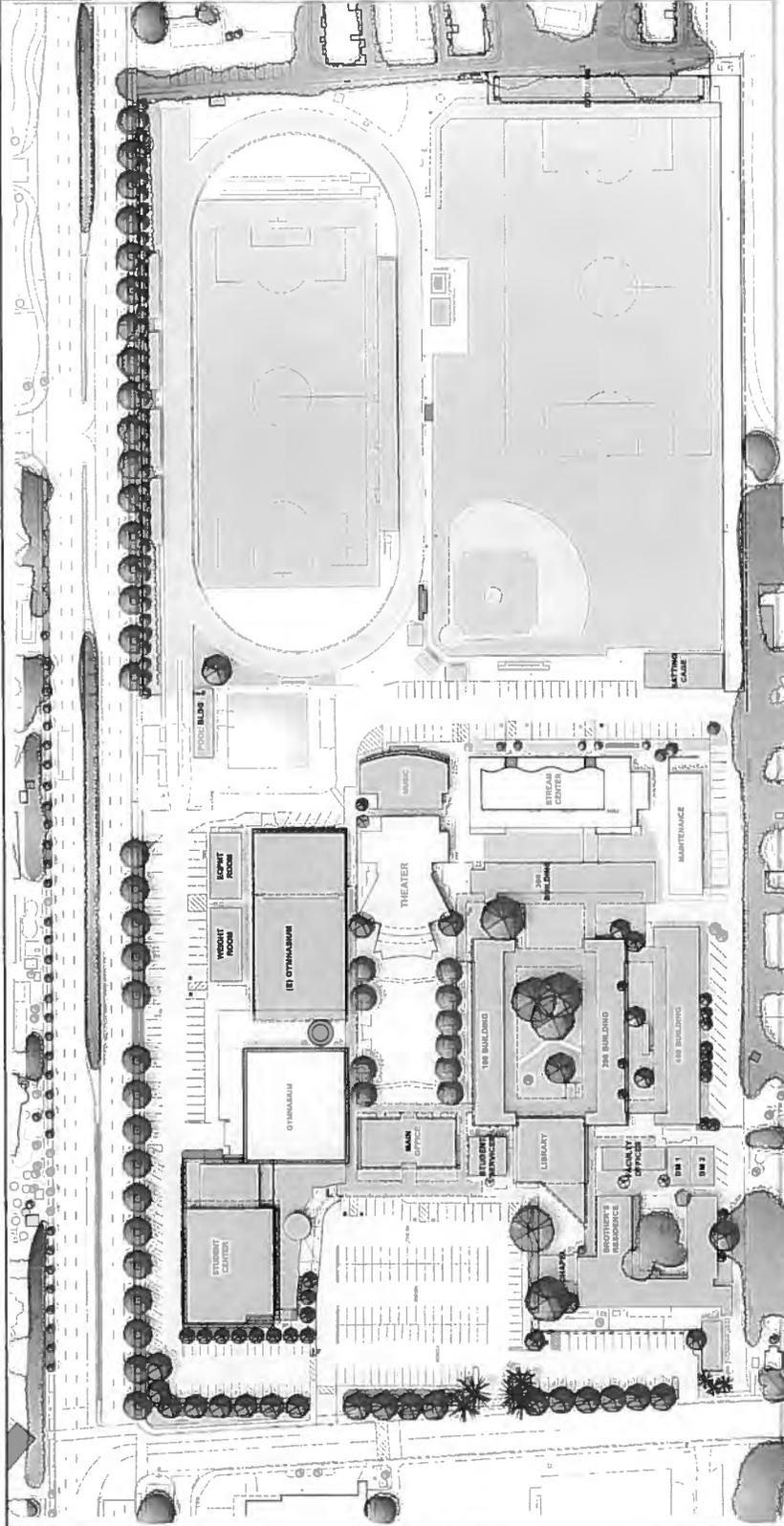


**BIO-RETENTION PLANTER**

Area	Area (SF)	Area (AC)	Impervious (SF)	Impervious (AC)	Area to the Street (SF)	Area to the Street (AC)	Impervious to Street (SF)	Impervious to Street (AC)	Impervious (%)
DMA#1	3,762	0.087	118	0.003	1,644	0.037	118	0.003	3.12%
DMA#2	2,008	0.046	180	0.004	1,496	0.033	180	0.004	8.97%
DMA#3	4,851	0.110	1,208	0.027	5,205	0.118	1,208	0.027	2.51%
DMA#4	3,818	0.087	260	0.006	4,927	0.111	260	0.006	5.29%
DMA#5	3,343	0.076	0	0.000	3,343	0.076	0	0.000	2.63%
DMA#6	2,282	0.052	1,715	0.038	3,098	0.071	1,715	0.038	7.65%
DMA#7	2,530	0.057	1,715	0.038	3,243	0.073	1,715	0.038	4.32%



**BIO-RETENTION PLANTER**



**SITE DATA:**

Project Address:	1100 Mission Drive Concord, CA 94518
APN:	141110023001
UPR:	UP105-03
General Plan Land Use Designation:	Medium Density Residential, 8000 SF from 1st floor
Local Area:	Public Schools Public
County:	19 24 Acres (813,217 SF)
County Parcel ID:	1907001
Parcel:	2128%
Lot Coverage:	17% (191,781 / 1,123,229)
Total Classroom Count:	227
Total Classroom Count:	50
Total Office Count:	13,110
Compost Pallet Count:	150 (118 Existing, 40 New)
OTY Classroom Count:	379
OTY Classroom Count:	2%
OTY Classroom Count:	44

- PHASE 1 (COMPLETE)**
- NEW MULTI-PURPOSE STUDENT CENTER WITH FACILITY LOUNGE
  - STUDENT PICKUP & DROP-OFF AREA
  - STORAGE BUILDING
  - NEW POOL BUILDING
  - MISCELLANEOUS SITE WALKWAY SEASIDE UPGRADES
  - MISCELLANEOUS SITE & LANDSCAPE IMPROVEMENTS

- PHASE 2 (1 YEAR)**
- PORTABLE DM BUILDING REMOVAL
  - EXISTING MAINTENANCE BUILDING DEMOLITION
  - NEW STREAM SCIENCE CENTER
  - NEW MAINTENANCE BUILDING

- PHASE 3 (1-2 YEARS)**
- DEMOLISH CAFETERIA
  - NEW COMPETITION OLYMPIADUM & HIGH PERFORMANCE ATHLETIC CENTER

- PHASE 4 (3-5 YEARS)**
- THEATER RENOVATION & EXPANSION





DE LA SALLE

133 WINTON DRIVE  
CONCORD, CALIFORNIA

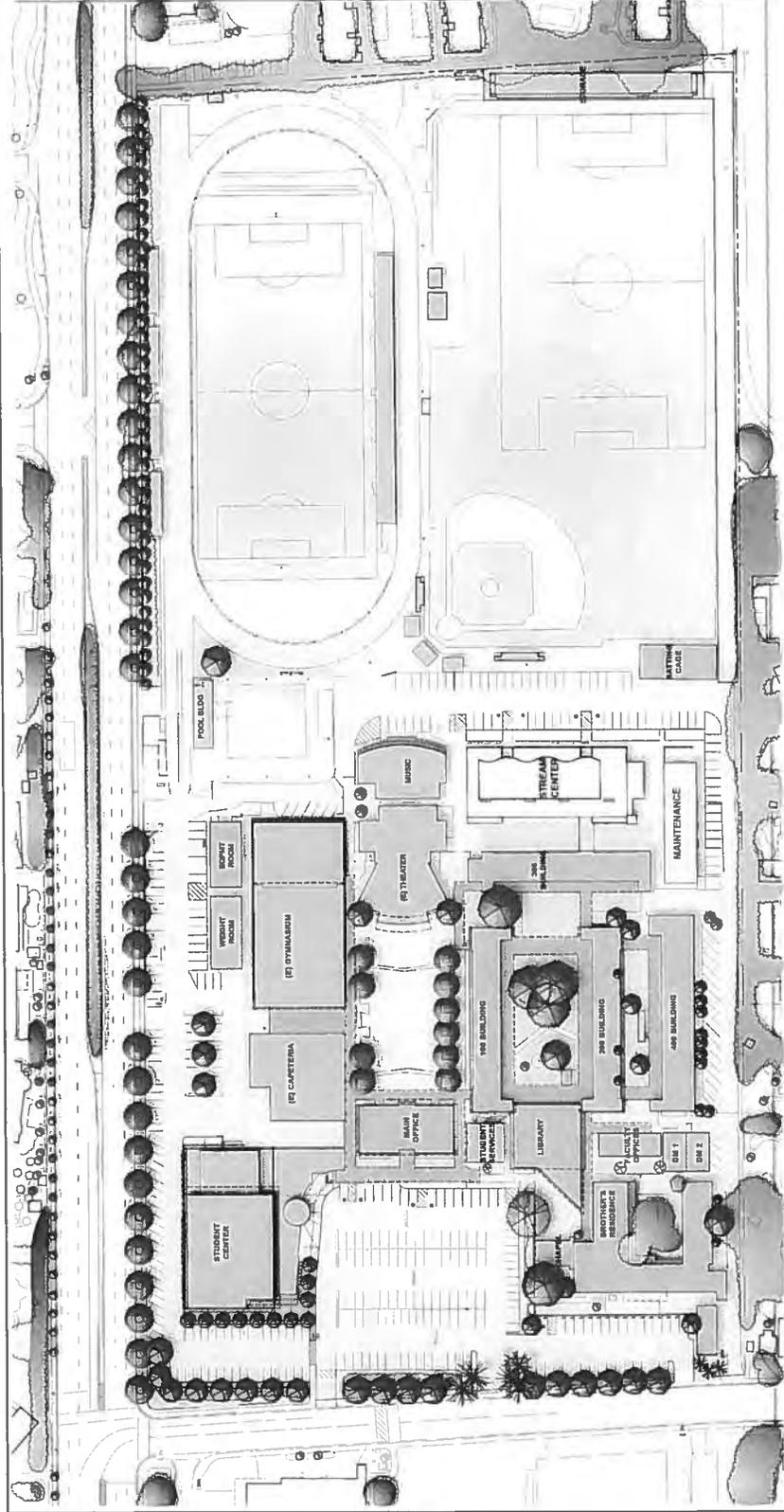
DE LA SALLE HIGH  
SCHOOL

PROJECT TITLE

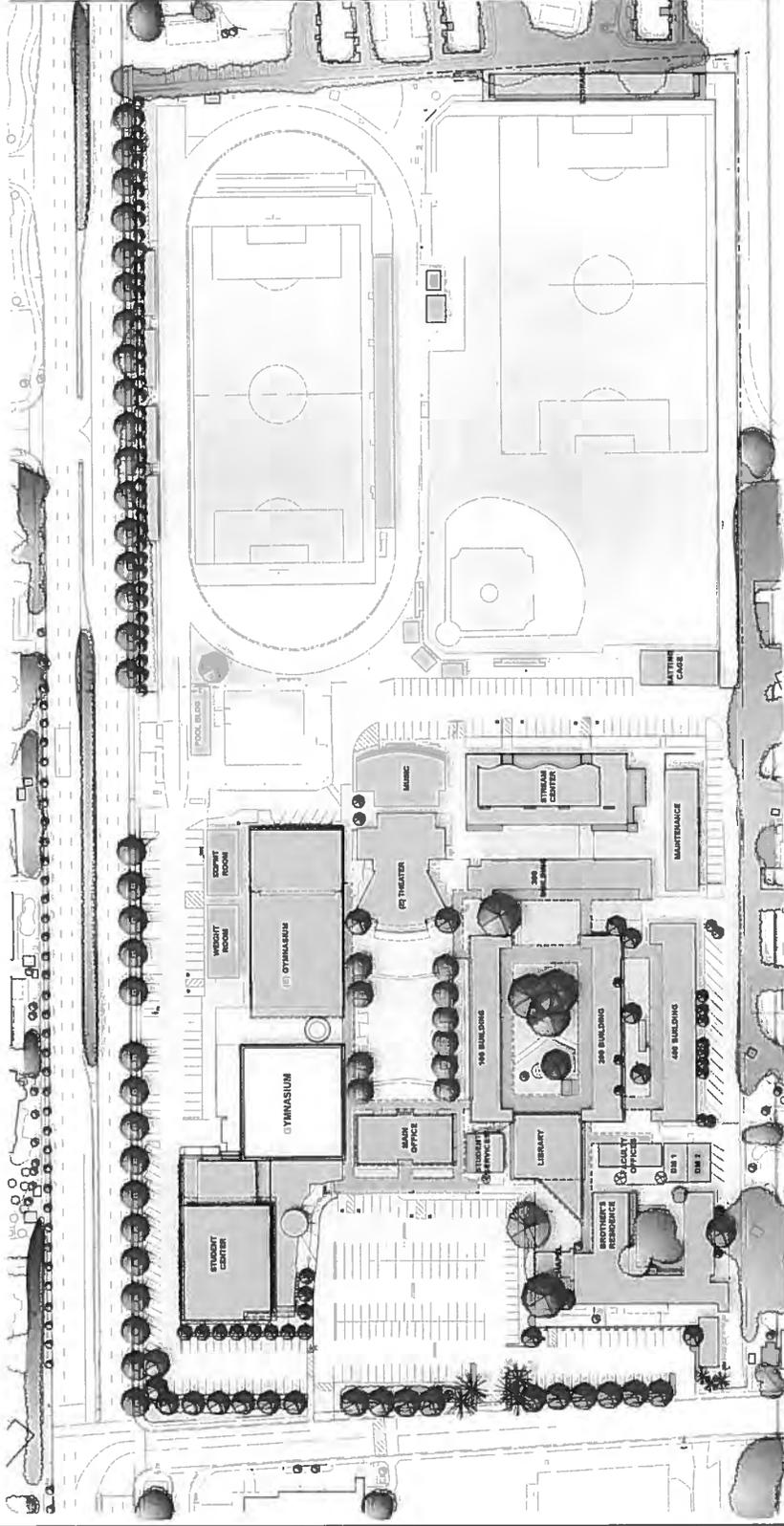
SITE PLAN - PHASE 2

SCALE  
PROJECT NUMBER: 30020.00

A-1 C



ISSUE SCHEDULE NO. DATE



**PHASE 1 (COMPLETE)**

- PORTABLE AND POND REMOVAL
- EXISTING GYMNASIUM & POOL PERFORMANCE
- ARTS CENTER
- NEW GYMNASIUM
- NEW POOL BUILDING

**PHASE 2 (1 YEAR)**

- PORTABLE AND POND REMOVAL
- EXISTING GYMNASIUM & POOL PERFORMANCE
- ARTS CENTER
- NEW GYMNASIUM
- NEW POOL BUILDING

**PHASE 3 (1-2 YEARS)**

- DEMOLISH GYMNASIUM
- NEW COMPETITION GYMNASIUM & POOL PERFORMANCE
- ATHLETIC CENTER

**PHASE 4 (3-5 YEARS)**

- EXISTING GYMNASIUM & POOL PERFORMANCE

**KEY**

- EXISTING BUILDING
- NEW CONSTRUCTION

DE LA SALLE

1500 WASHINGTON  
 CONCORD, CALIFORNIA

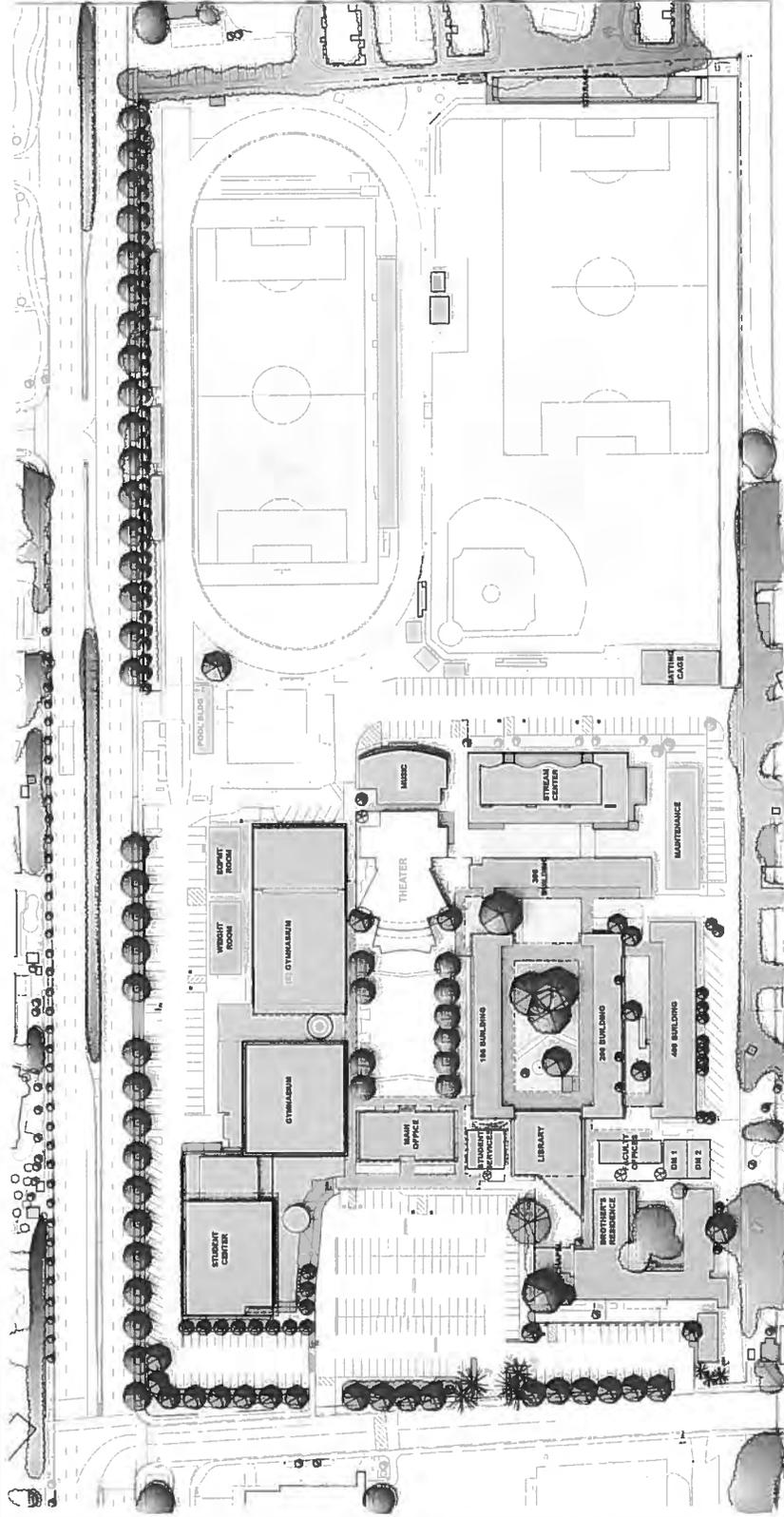
DE LA SALLE HIGH  
 SCHOOL

SHEET NO.

SITE PLAN - PHASE 4

SCALE  
 PROJECT NUMBER: 3003100

A 1 1



KEY

EXISTING BUILDING

NEW CONSTRUCTION

PHASE 4 (3-5 YEARS)

- THEATER RENOVATION & EXPANSION

PHASE 3 (0-5 YEARS)

- LIBRARY RENOVATION
- STUDENT CENTER RENOVATION
- GYMNASIUM RENOVATION

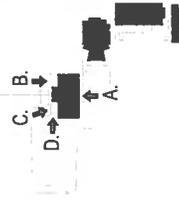
PHASE 2 (1 YEAR)

- NEW WRESTLING RING RENOVATION
- EXISTING WRESTLING RING RENOVATION
- NEW STREAM SCIENCE CENTER
- NEW WRESTLING RING

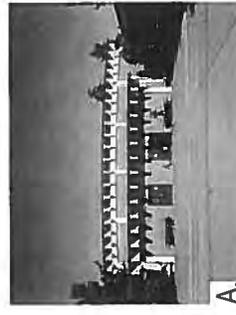
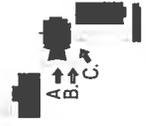
PHASE 1 (COMPLETE)

- STUDENT CENTER
- GYMNASIUM
- LIBRARY
- THEATER
- CLASSROOM BUILDINGS
- ADMINISTRATIVE BUILDING
- MAINTENANCE BUILDING
- POOL BUILDING
- SPORTS ROOM
- WOODS ROOM
- ART ROOM
- MUSIC ROOM
- CAFETERIA
- OFFICE BUILDING
- APR BUILDING
- DM 1
- DM 2
- BOILER ROOM
- MECHANICAL ROOM
- RESTROOMS
- STAIRWELL
- ELECTRICAL ROOM
- PLUMBING ROOM
- HEATING ROOM
- CENTRAL AIR CONDITIONING
- ROOF TOP AIR CONDITIONING
- UNDERGROUND PARKING
- LANDSCAPE
- WALKWAYS
- BIKE RACKS
- TRASH ENCLOSURE
- WATER TOWER
- GENERATOR
- TRANSFORMER
- TELEPHONE ROOM
- SERVER ROOM
- DATA CENTER
- STORAGE ROOM
- MECHANICAL ROOM
- PLUMBING ROOM
- ELECTRICAL ROOM
- HEATING ROOM
- CENTRAL AIR CONDITIONING
- ROOF TOP AIR CONDITIONING
- UNDERGROUND PARKING
- LANDSCAPE
- WALKWAYS
- BIKE RACKS
- TRASH ENCLOSURE
- WATER TOWER
- GENERATOR
- TRANSFORMER
- TELEPHONE ROOM
- SERVER ROOM
- DATA CENTER
- STORAGE ROOM

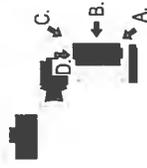
**GYMNASIUM**



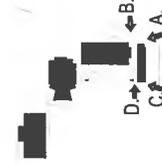
**THEATER**



**STEAM**



**MAINTENANCE**



**RATCLIFF**  
 5650 Doyle Street  
 Emeryville, CA 94608  
 Tel: 510 899 8100  
 www.ratcliff.com

ISSUE SCHEDULE NO. DATE

W/10/2014 CUP AMENDMENT RESUBMITTAL

DE LA SALLE

150 WASHINGTON BOULEVARD  
 CONCORD, CALIFORNIA

DE LA SALLE HIGH SCHOOL

SHEET TITLE

SITE KEY PLAN

SCALE: 1" = 100' 0"  
 PROJECT NUMBER: 15010101

**RATCLIFF**

5650 Doyle Street  
Emeryville, CA 94608  
Tel: 510.899.8100  
www.ratcliff.com

SHEET NO. DATE

1/10/2014 CUP AMENDMENT RESUBMITTAL

DE LA SALLE

155 WASHINGTON  
CONCORD, CALIFORNIA

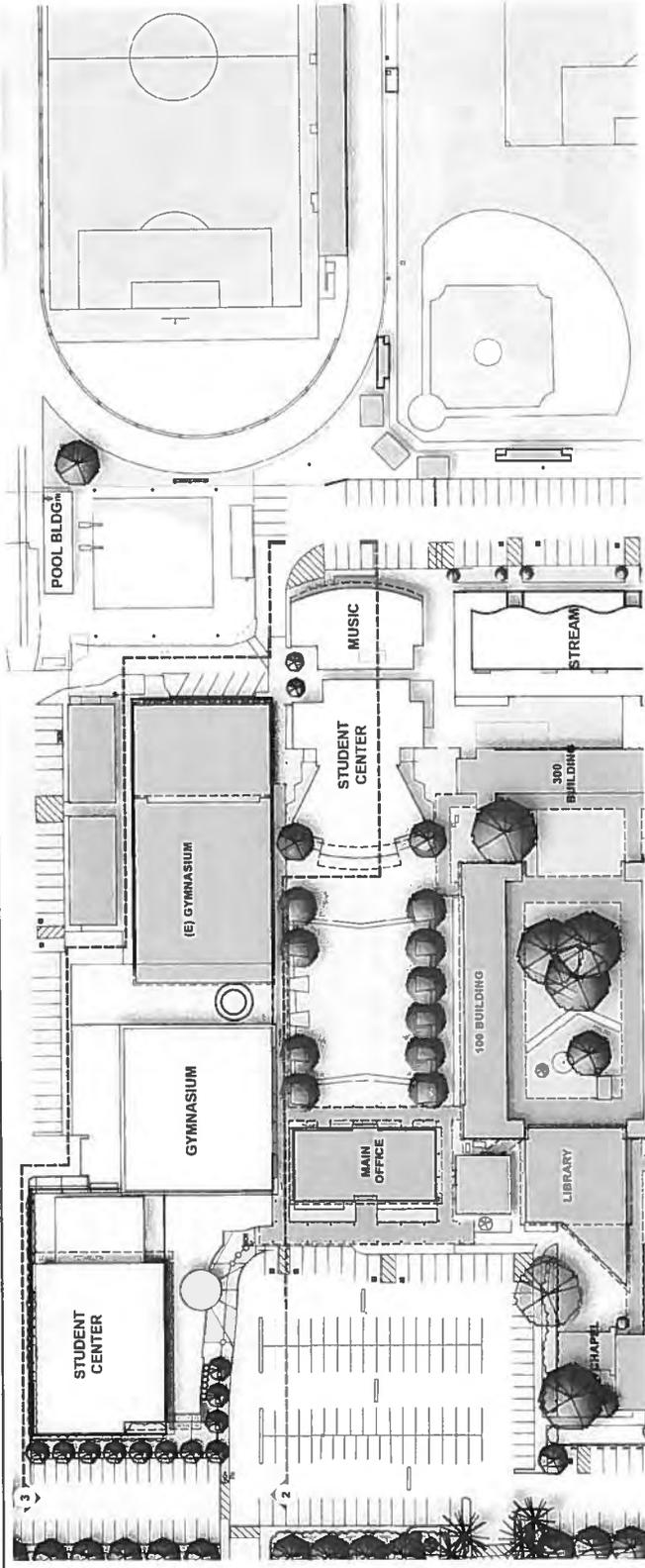
DE LA SALLE HIGH  
SCHOOL

SHEET TITLE

SITE ELEVATIONS &  
SECTION

SCALE: AS SHOWN  
PROJECT NUMBER: 150110

A 4 C



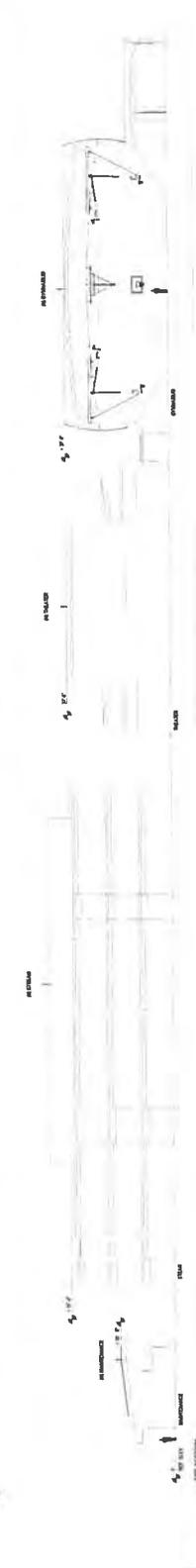
1 ENLARGED SITE PLAN  
1/8" = 1'-0"



3 NORTH-SOUTH ELEVATION VIEW FROM GREAT BLVD  
1/8" = 1'-0"



2 EAST-WEST ELEVATION VIEW FROM CAMPUS PLAZA  
1/8" = 1'-0"



3 SECTION  
1/8" = 1'-0"

**RATCLIFF**

6665 Dyer Street  
Emeryville, CA 94608  
Tel: 510 893 8100  
www.ratcliff.com

ISSUE SCHEDULE NO. DATE

CUP AMENDMENT RESUBMITTAL

1/10/2014

DE LA SALLE

155 WILSON AVENUE  
DUBLIN, CALIFORNIA

DE LA SALLE HIGH  
SCHOOL

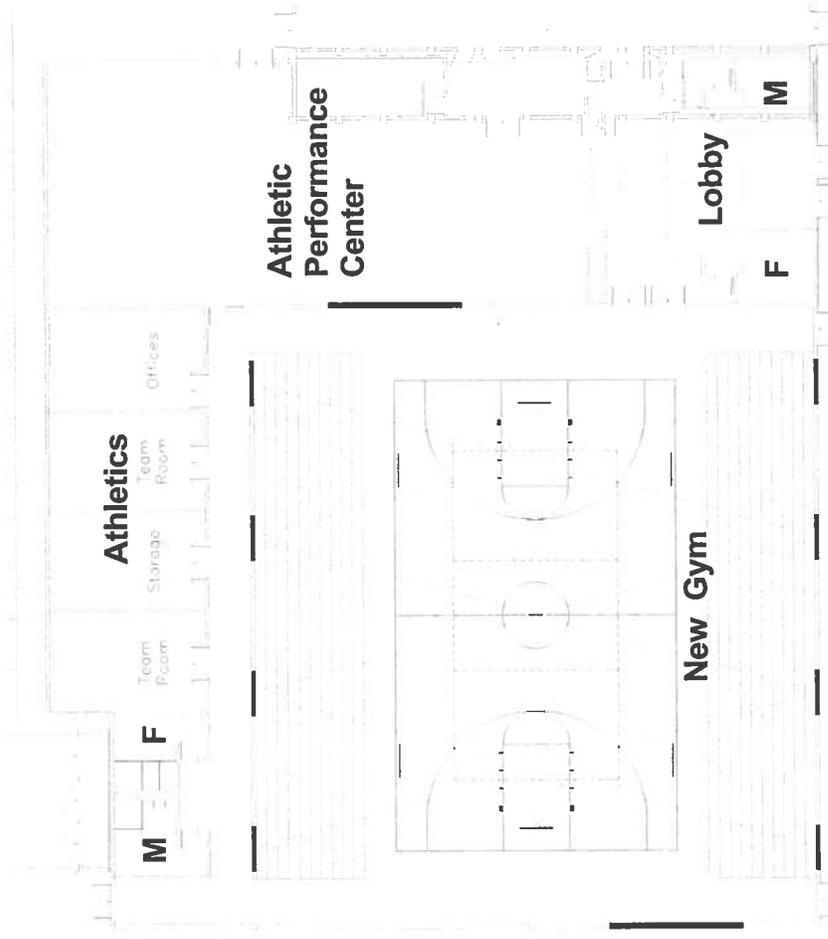
SHEET TITLE

GYMNASIUM FLOOR  
PLAN

SCALE: AS SHOWN  
PROJECT NUMBER: 330210

KEY PLAN

GYMNASIUM



1 GYMNASIUM FLOOR PLAN  
1/8\"/>



**RATCLIFF**

5640 Dinkh Street  
Emeryville, CA 94608  
Tel: 510 893 8100  
www.ratcliff.com

ISSUE SCHEDULE NO. DATE

1/10/2014 CUP AMENDMENT RESUBMITTAL

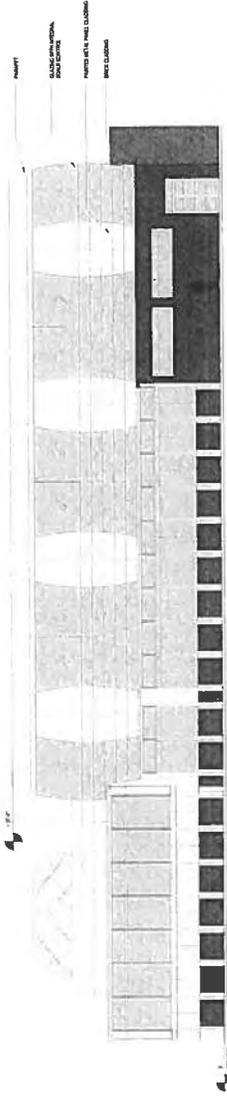
DE LA SALLE

150 WASHINGTON ST  
DUBLIN, CALIFORNIA

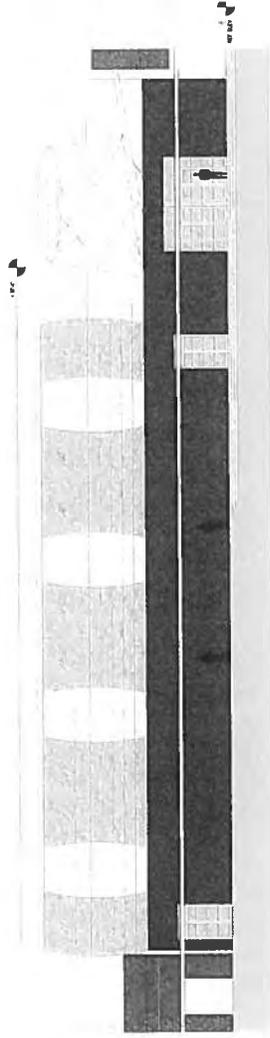
DE LA SALLE HIGH  
SCHOOL

GYMNASIUM  
ELEVATIONS &  
SECTION

SCALE: 1/8" = 1'-0"  
PROJECT NUMBER: 302810



2 WEST GYMNASIUM ELEVATION  
1/8" = 1'-0"



3 EAST GYMNASIUM ELEVATION  
1/8" = 1'-0"



1 GYMNASIUM SECTION  
1/8" = 1'-0"



2 GYMNASIUM SECTION  
1/8" = 1'-0"

# RATCLIFF

6660 Foothill Street  
Emeryville, CA 94608  
Tel: 510 899 6100  
www.ratcliff.com

DATE SCHEDULE NO. DATE

CUP AMENDMENT RESUBMITTAL

1/10/2014

DE LA SALLE

1425 UNIVERSITY  
CONCORD, CALIFORNIA

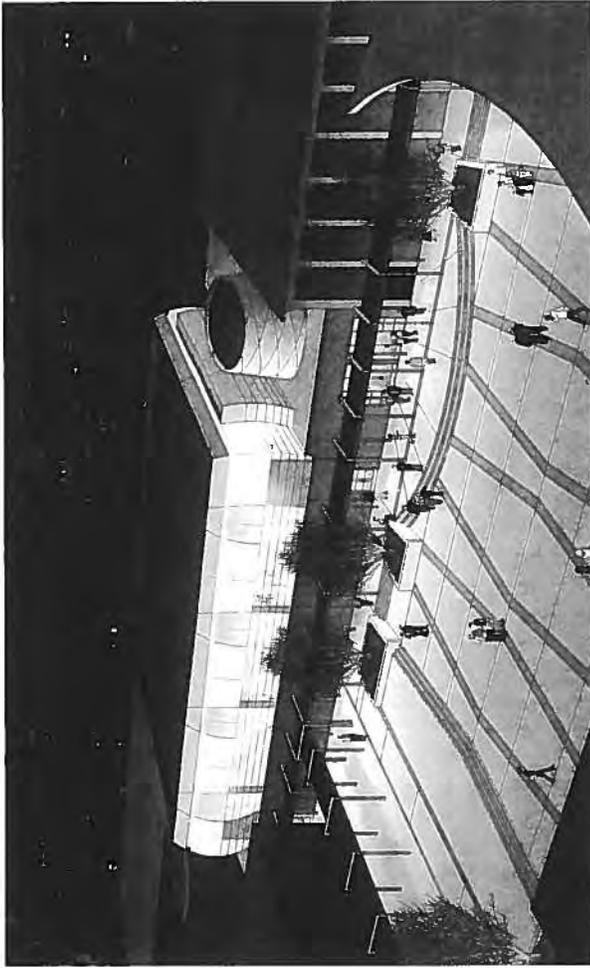
DE LA SALLE HIGH  
SCHOOL

SHEET TITLE

GYMNASIUM  
RENDERING

SCALE: 1/4" = 1'-0"  
PROJECT NUMBER: 2008030

C  
C  
V



1. GYMNASIUM RENDERING FROM CAMPUS PLAZA  
12/11/13

**RATCLIFF**  
 648 Drive Street  
 Emeryville, CA 94609  
 Tel: 510.999.6400  
 www.ratcliff.com

ISSUE SCHEDULE NO. DATE

1/10/2014 CUP AMENDMENT RESUBMITTAL

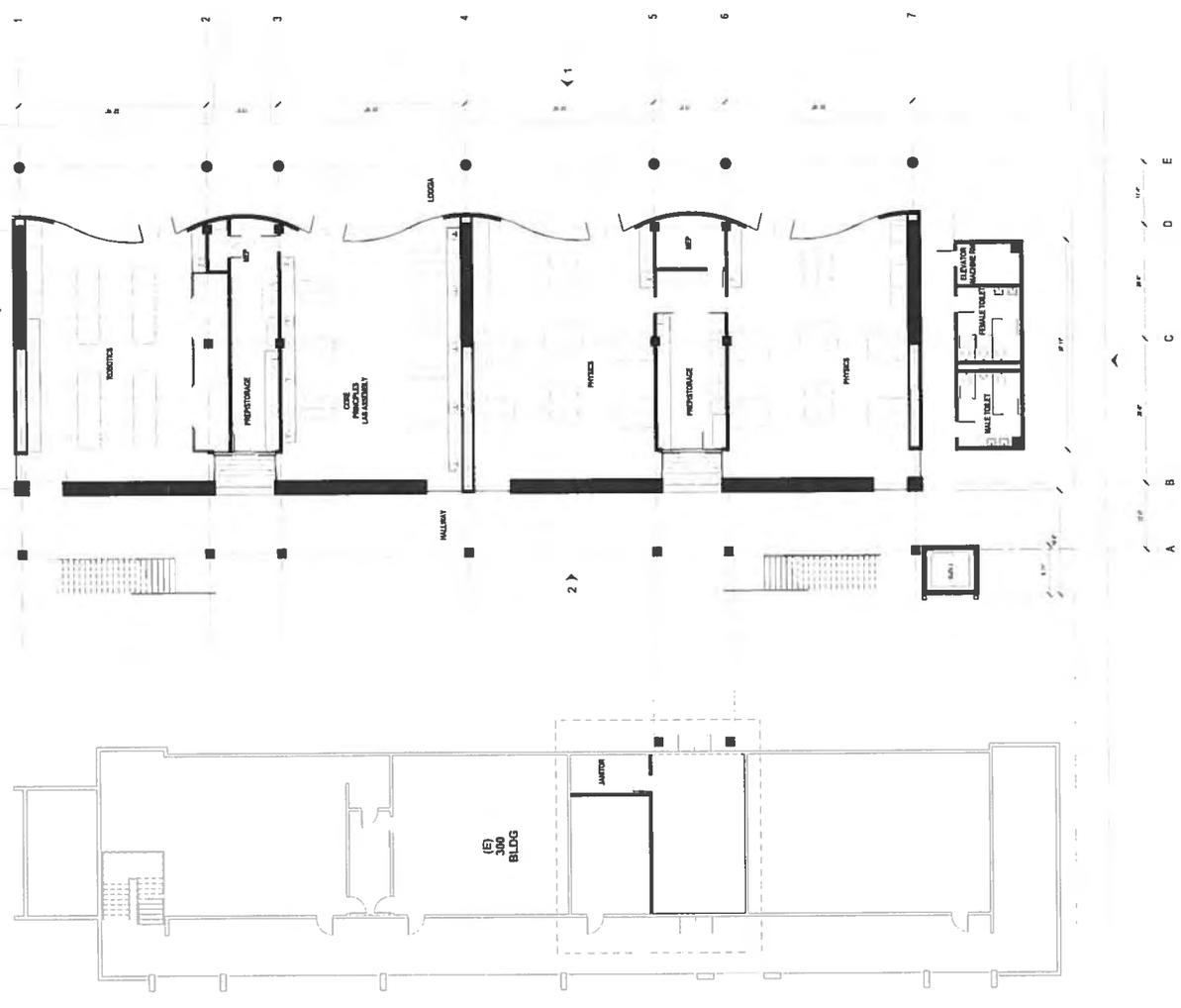
DE LA SALLE  
 UNIVERSITY OF  
 CALIFORNIA

DE LA SALLE HIGH  
 SCHOOL  
 SHEET TITLE  
 STREAM BLDG FIRST  
 FLOOR PLAN

SCALE  
 ALL DIMENSIONS  
 PROJECT NUMBER: 130825

U  
C  
C  
A

KEY PLAN



1 STREAM FIRST FLOOR PLAN  
 1/8" = 1'-0"



**RATCLIFF**

6555 Duane Street  
Emeryville, CA 94602  
Tel: 510 895 8400  
www.ratcliff.com

ISSUE SCHEDULE NO. DATE

CUP AMENDMENT RESUBMITTAL /10/2014

DE LA SALLE

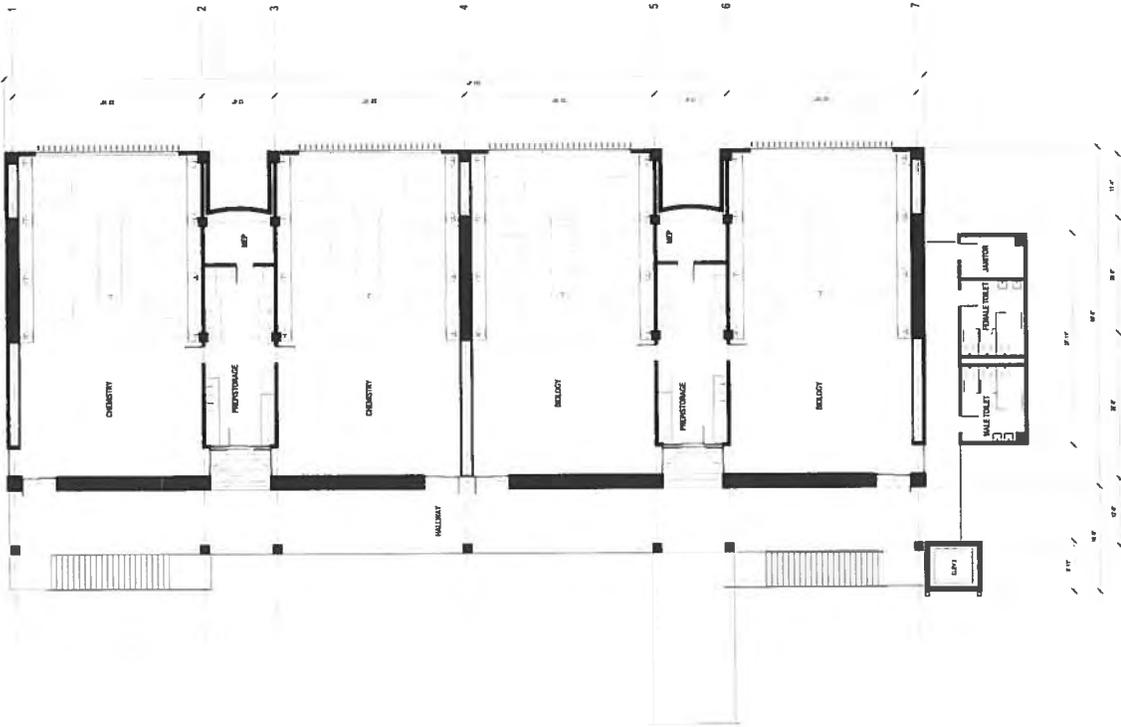
UNIVERSITY OF  
CALIFORNIA

DE LA SALLE HIGH  
SCHOOL

SHEET TITLE

STREAM BLDG THIRD  
FLOOR PLAN

SCALE: As indicated  
PROJECT NUMBER: 2009100



KEY PLAN



1 STREAM BLDG THIRD FLOOR PLAN  
10/11/14







# RATCLIFF

3555 Doyle Street  
Emeryville, CA 94608  
Tel. 510.899.8400  
www.ratcliff.com

ISSUE SCHEDULE NO. DATE

10/2014 CUP AMENDMENT RESUBMITTAL

DE LA SALLE

1100 WASHINGTON BOULE  
CONCORD, CALIFORNIA

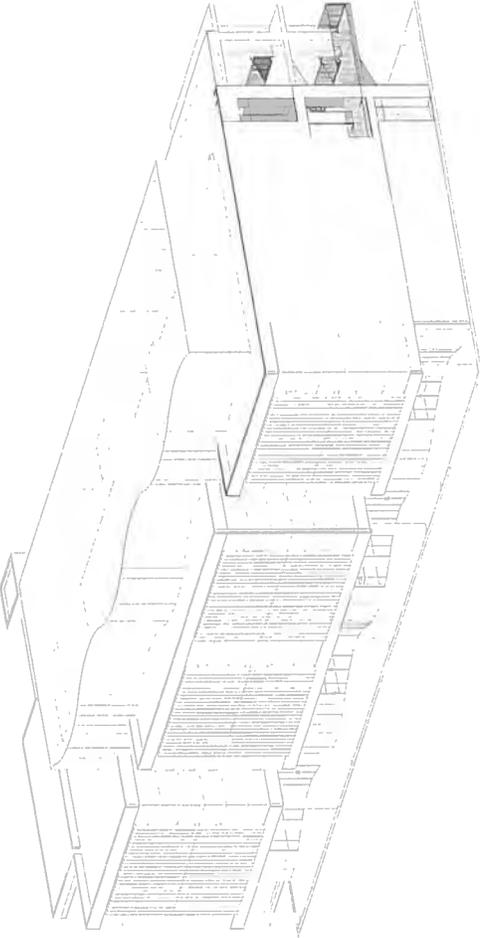
DE LA SALLE HIGH  
SCHOOL

SHEET TITLE

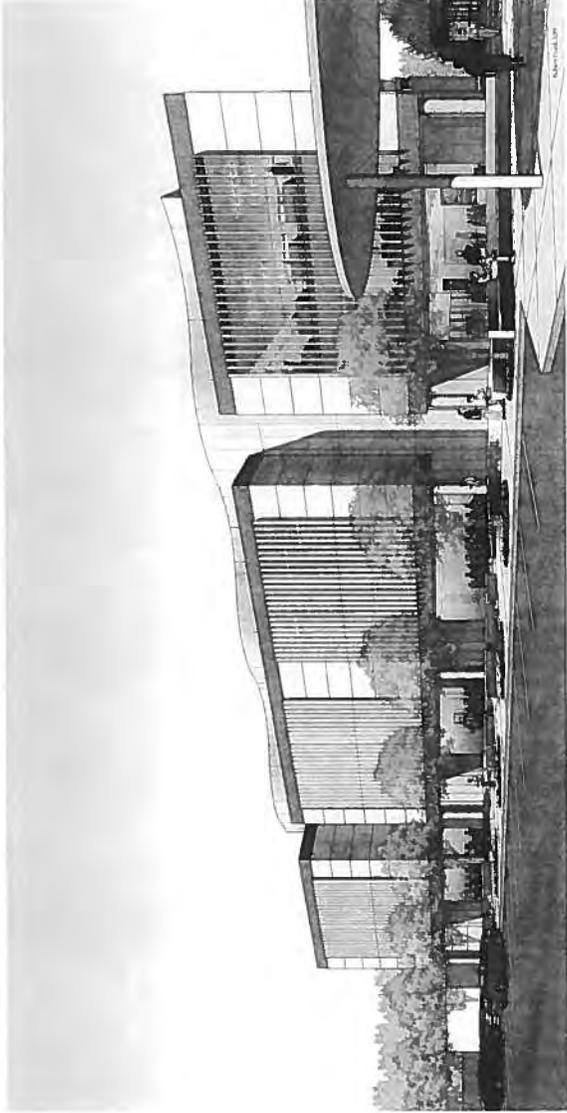
STREAM RENDERING

SCALE: AS SHOWN  
PROJECT NUMBER: 20252.00

A C



2. STREAM RENDERING (ORTHOGONAL VIEW AT NORTHWEST CORNER)  
NTS.



1. STREAM RENDERING (LAST ELEVATION RENDERING)  
1/8" = 1'-0"

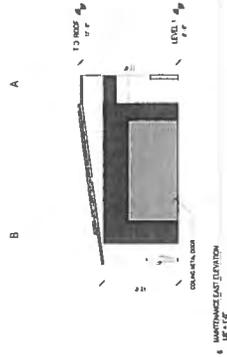


**RATCLIFF**

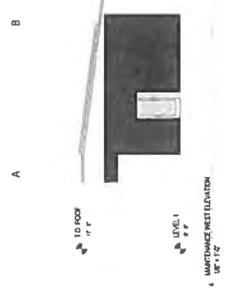
6800 De La Salle Street  
 Emeryville, CA 94608  
 Tel: 510.808.8400  
 www.ratcliff.com

ISSUE SCHEDULE NO. DATE

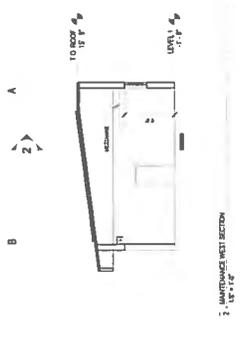
DE LA SALLE  
 1150 WASHINGTON BOULEVARD  
 CONCORD, CALIFORNIA  
 DE LA SALLE HIGH SCHOOL  
 SHEET TITLE  
 MAINTENANCE AND ELEVATIONS AND SECTION  
 SCALE: 1/8" = 1'-0"  
 PROJECT NUMBER: 2009100  
 1/10/2014 CUP AMENDMENT RESUBMITTAL



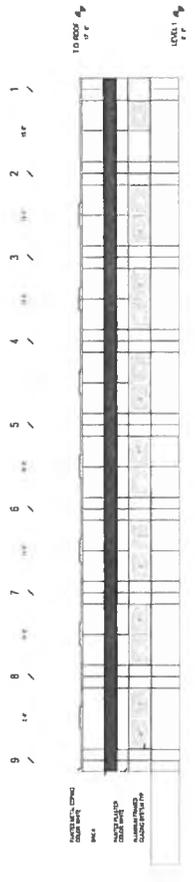
6 MAINTENANCE EAST ELEVATION  
 1/8" = 1'-0"



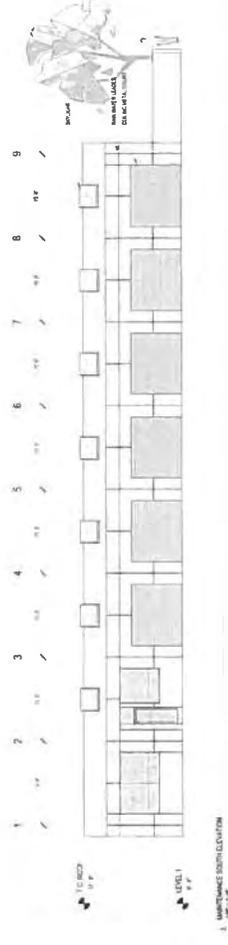
4 MAINTENANCE WEST ELEVATION  
 1/8" = 1'-0"



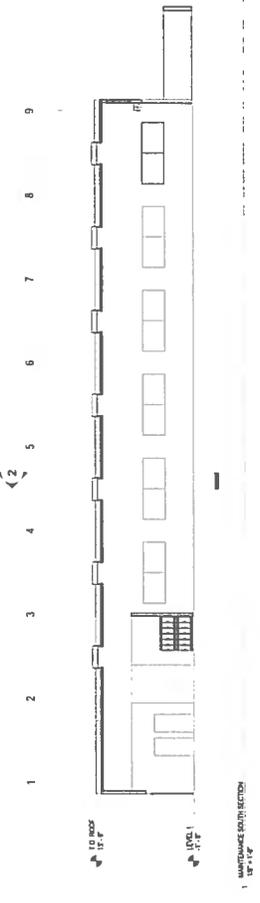
3 MAINTENANCE WEST SECTION  
 1/8" = 1'-0"



5 MAINTENANCE NORTH ELEVATION  
 1/8" = 1'-0"



1 MAINTENANCE SOUTH ELEVATION  
 1/8" = 1'-0"



2 MAINTENANCE SOUTH SECTION  
 1/8" = 1'-0"



# RATCLIFF

5865 Doyle Street  
Emeryville, CA 94608  
Tel: 415.434.2200  
www.ratcliff.com

ISSUE SCHEDULE NO. DATE

4/10/2014 CUP AMENDMENT RESUBMITTAL

DE LA SALLE

1130 WILSON DRIVE  
CONCORD, CALIFORNIA

DE LA SALLE HIGH  
SCHOOL

SHEET TITLE

THEATER ROOF PLAN

SCALE: As indicated  
PROJECT NUMBER: 20028-00

SHEET NUMBER

A-51

NOT TO SCALE

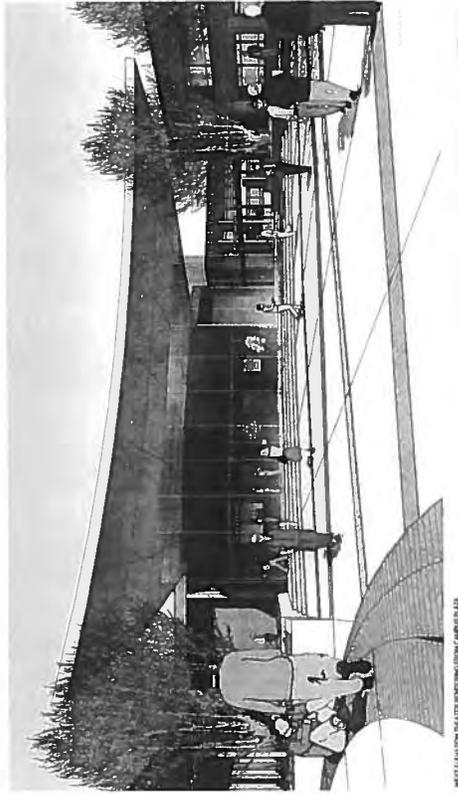
THEATER ROOF PLAN



NOTHING SHOWN

NOT TO SCALE

2 THEATER ROOF PLAN  
1/8" = 1'-0"



WEST ELEVATION THEATER ROOF STRUCTURE FROM CAMPUS PLAZA

## KEY PLAN

THEATER







**REPORT TO PLANNING COMMISSION**

DATE: April 16, 2014

**SUBJECT:** PL14000098-AP - Fast Auto and Payday Loans, Inc. dba Fast Auto Loans' Appeal of the Planning Division's determination that a "car title loan business" is most similar to a "check cashing business" as that land use classification is defined and used in the Concord Development Code.

**Recommendation:** Adopt Resolution 14-11PC denying the Appeal and finding that a "car title loan business" is most similar to a "check cashing business" as that land use classification is defined and used in the Development Code.

**I. Introduction**

The Planning Commission of the City of Concord, California has received an appeal of the Planning Division's determination that a "car title loan business" is most similar to a "check cashing business" as that land use classification is defined and used in the Concord Development Code including at Section 122-1580. The Planning Division's determination applied, and the Planning Commission's decision will apply, to all car title loan businesses that wish to operate in the City of Concord, including Fast Auto Loans' proposed site at 1545 Monument Boulevard, Concord CA. Pursuant to the California Environmental Quality Act of 1970, Public Resources Code § 21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, "CEQA"), consideration of and action on this appeal does not constitute a "project" within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Sections 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Even if such activities did constitute a project under CEQA, staff believes the activities fall within the "common sense" exemption set forth in 14 Cal Code Regs. Section 15061(b)(3), excluding projects 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...."

**A. Request**

Appeal of the Planning Division determination that a "car title loan business" is most similar to a "check cashing business" as that land use classification is defined and used in the Development Code.

**B. Location**

The Planning Commission's decision will have a City-wide effect in that it will determine whether and where car title loan businesses may operate in the City of Concord. Appellant's proposed site is located 1545 Monument Boulevard, Concord CA, APN128-280-041.

---

<b>C. Appellant</b> Edward Shaffer Archer Norris PLC 2033 N. Main Street, Suite 800 Walnut Creek, CA 94596-3759	<b>Business Owner(s)</b> Fast Auto Loans 8601 Dunwood Pl., #406 Atlanta, GA 30350
---	--

## II. Background

On January 17, 2014, Fast Auto and Payday Loans, Inc. dba Fast Auto Loans ("Appellant") filed a Business License Application for a "car title loans & payday advance service" business at the project site (copy attached as Exhibit B-1 and incorporated by reference). After City staff indicated that such activities were not allowed at the proposed site, Appellant submitted a new Business License Application dated January 22, 2014 which referenced a "car title loans only" business (copy attached as Exhibit B-2 and incorporated by reference). Because the Development Code does not specifically address car title loan businesses, City Business License staff suspended processing the Business License Application and referred the matter the Planning Division for interpretation.

After reviewing the scope and nature of Appellant's proposed business, and analyzing applicable Development Code provisions, the Planning Division determined that the proposed car title loan business use was most analogous to the "check cashing business" land use classification as defined and used in the Development Code. The Planning Division sent a letter to Appellant's counsel on February 26, 2014 with its official interpretation ("Interpretation") (copy attached as Exhibit C and incorporated by reference).

Appellant's appeal (a copy of the March 10, 2014 notice of appeal together with the March 10, 2014 supplemental memorandum are collectively attached as Exhibit D, incorporated by reference, and referred to herein as the "Appeal") asserts that Appellant is a financial institution which falls within the Development Code's definition of "Bank, Credit Union" and so is allowed by right at the proposed site, and – by extension – at all other areas in Concord where the "Bank, Credit Union" land use is allowed.

No business license has been issued to Appellant, and Appellant has submitted no other application to the Planning Division.

## III. General Information

### A. **General Plan**

The General Plan designation is CMU (Commercial Mixed Use).

### B. **Zoning**

The site is zoned CMX (Commercial Mixed Use).

### C. CEQA Status

Consideration of and action on the Appeal does not constitute a "project" within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Sections 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Even if such activities did constitute a project under the CEQA, staff believes the activities they fall within the "common sense" CEQA exemption set forth in 14 Cal Code Regs. Section 15061(b)(3), excluding projects 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."

### IV. Description of Proposed Business

The Appellant states that Fast Auto Loans (FAL) provides loans secured by equity in the borrower's vehicle.

### V. Analysis

The Planning Commission's decision on this matter will affect not only Appellant, but also other car title loan businesses that wish to operate in Concord. The Planning Commission's decision is not intended to enable existing legal non-conforming check cashing businesses to expand their services and offer car title loan transactions or similar financial products. However, the Development Code allows a non-conforming use to be replaced with another non-conforming of a similar classification or a less intensive use as long as the use is not intensified. Intensification of a use is defined as a change/extension of the hours of operation, increase in number of employees, generation of more traffic or noise, an increase in occupancy, or addition of more parking spaces.

#### A. Authority Regarding Interpretation of the City's Ordinances

The Development Code constitutes Chapter 122 of the Concord Municipal Code. Cities have broad latitude to interpret their own municipal codes<sup>1</sup> and courts will follow an agency's interpretation of its own laws and regulations unless clearly erroneous or unauthorized.<sup>2</sup> Concord's interpretation of its Development Code is subject to this deference.<sup>3</sup> As detailed below, City has satisfied applicable legal requirements with respect to both the Planning Division determination, and in connection with the analysis in this staff report.<sup>4</sup>

---

<sup>1</sup> See *City of Walnut Creek v. County of Contra Costa* (1980) 101 Cal.App.3d 1012, 1021; *MHC Operating Ltd. Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 219.

<sup>2</sup> See *Carson Harbor Village v. City of Carson* (1999) 70 Cal.App.4th 281, 287.

<sup>3</sup> See *Dept. of Health Services of County of Los Angeles v. Civil Service Commission* (1993) 17 Cal.App.4th 487, 494.

<sup>4</sup> Under *Chevron, USA Inc. v. NRDC* (1984) 467 U.S. 837, a two-part test exists to interpret a statute: (1) whether the drafter's intent is clear as to the precise issue involved, and (2) if the intent is unclear, deference is given to the governing agency's interpretation of the statute's language. (See *Id.* at 842-44.) The Appeal at pages 4-6 cites case law for the proposition that cities cannot interpret an ordinance to mean the opposite of what it says, or define words contrary to accepted English usage or official regulations. Because

Development Code Section 122-53 provides that the land use of a proposed business “must be allowed in the district applicable to the site” and that the requisite approval be obtained before the use can be established. If a specified use is not listed, and is determined by the Planning Division not to be included in the Use Classifications as a listed land use, then that use “is not allowed within the City.” (Development Code Sec. 122-54(a)(2).) Conversely, under certain circumstances, an unlisted use may be allowed if the Planning Division determines that a proposed use is similar to and compatible with a listed use. (Development Cod, Sec. 122-54(a)(3).) Per Development Code Section 122-1579, the Planning Division is to make such determinations based on the characteristics of the proposed use. Planning Division decisions are appealable to the Zoning Administrator, but may be referred to the Planning Commission, as is the case here. (Development Code Sec. 122-1216.)

Because the Planning Commission's review of this matter on appeal is “de novo” under Development Code Section 122-1220(c), the Planning Commission may (among other things): (a) uphold the Planning Division's interpretation and deny the appeal, (b) overturn the Planning Division's interpretation and grant the appeal, (c) find that car title loan businesses are more similar to another listed use, or (d) find that car title loan businesses are entirely disallowed in Concord. As discussed herein, staff recommends that the Planning Commission adopt option (a).

#### **B. Development Code Land Use Classifications.**

The Development Code includes the following land use classifications under “Banks and Financial Services”:

Bank, Credit Union. A financial institution that provides retail banking services. Examples include institutions engaged in the on-site circulation of money, including credit unions. This classification does not include check-cashing businesses.

[...]

Check Cashing Business. An establishment that provides compensation for checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes establishments offering deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33.

This classification does not include state or federally chartered banks, savings associations, credit unions, or industrial loan companies and retail sellers that cash checks or issue money orders incidental to the main business.

The Planning Division determined that car title loan businesses were most like check cashing businesses. Appellant asserts that car title loan businesses are most like banks and credit unions.

### C. Development Code Interpretation

Appellant asserts that the Development Code is unambiguous. If that statement were true, then based on the Development Code provisions and the legal authority cited above, omission of car title loan businesses from the Development Code's land use classifications suggests (according to Appellant) that such businesses are not disallowed throughout Concord. That said, City staff feels that the Development Code does offer some flexibility in that it authorized the Planning Division to analogize uses. As such, the City may – but is not required to – determine whether use characteristics of an unlisted land use are similar to listed land uses. City staff took that approach rather than simply finding that car title loans were entirely prohibited.

Appellant's websites (<http://www.fastauto.com><sup>5</sup> and <http://www.fastautoandpaydayloans.com><sup>6</sup>) describe its business, and thus the use characteristics of the proposed car title loan use.<sup>7</sup> Appellant's website (Exhibit E) indicates that Appellant provides short-term loans in amounts up to \$15,000 based on certain "required items (your car, clear car title, government-issued ID, and proof of income)", "a quick appraisal (5 minutes) of your vehicle", and "your cash needs". The process is advertised to take as little as 15 minutes. (*Id.*) Since the vehicle serves as collateral for the short-term loan, Appellant may repossess and sell the borrower's car if the borrower does not repay the loan pursuant to the agreement with Appellant. Appellant does not provide loan rates or terms on its website.

Rather than simply foreclosing Appellant's ability to do business in the Concord, the Planning Division analyzed these use characteristics and found them most similar to the Development Code definition of a check cashing business: "An establishment that provides compensation for checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes establishments offering deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33."

Based on its analysis of relevant facts and provisions of the Development Code, the Planning Division determined that a car title loan business would be most similar to the "check cashing business" land use classification as defined and used in the Development Code, and issued the Interpretation pursuant to the authority of Development Code Section 122-6 (Exhibit D).

While check cashing businesses (and thus car title loan businesses) are not permitted at the proposed site, a finding that such uses are analogous would enable car title loan businesses to operate in the IBP (Industrial Business Park) zoning district subject to an approved Use Permit.

---

<sup>5</sup> <http://www.fastauto.com>, copy as accessed on March 26, 2014 attached as Exhibit E.

<sup>6</sup> <http://www.fastautoandpaydayloans.com>, copy as accessed on March 26, 2014 attached as Exhibit F.

<sup>7</sup> The Appeal states at page 5 that it would be "impossible for [Fast Auto Loans] to provide payday loans." (Emphasis in the original.) However, Applicant's original Business License Application (see Exhibit B) indicated that the business would offer both car title loans and payday loans, and its websites (Exhibit E and Exhibit F) confirm that Applicant offers both car title loans and payday loans.

#### **D. Appellant's Contentions on Appeal**

Appellant does not dispute that its business falls within the "Banks and Financial Services" land use classification under Development Code Section 122-1580. Rather, Appellant asserts that its business falls within the "Bank, Credit Union" sub-classification.

Banks (without drive-throughs) are allowed with a zoning clearance (i.e., without Planning Commission or other discretionary approval) in the City's Office and Commercial Districts, Downtown Districts, and Business Park and Industrial Districts. Appellant asserts that because it is analogous to a bank or credit union, it is allowed to conduct its business at the proposed site by right. By extension, under Appellant's interpretation all other car title loan businesses would fall within the "Bank, Credit Union" use classification and be allowed by right within the City's Office and Commercial Districts, Downtown Districts, and Business Park and Industrial Districts.

#### **E. Analysis**

The Planning Division examined the use characteristics of car title loan business in making its determination that a car title loan business is more like a check cashing business than a bank or credit union under the Development Code. The Planning Division further considered the facts Appellant cited in its March 6, 2014 memorandum in declining to overturn its determination (copy of Appellant's memorandum and City's response email are attached as Exhibit G and incorporated by reference). Based on a subsequent review of the use characteristic of the proposed business, including the Appeal, the Planning Division did not rescind its determination.

##### **1. Car Title Loan Business Model**

Many car title loan businesses also offer check cashing, advance, or payday loan services, and are licensed under California Financial Code Section 22000, *et seq.*<sup>8</sup> A "finance lender" includes any person who is engaged in the business of making consumer loans or commercial loans." (Cal. Fin. Code Sec. 22009.) Appellant is licensed as a "finance lender" and appears to operate in a manner similar to other car title loan businesses.

Appellant does not offer the range of services similar to those provided by banks and credit unions. Rather, Appellant deals exclusively in short term car title loans up to \$15,000, secured by the borrower's vehicle's title. Interest rates for these loans far exceed typical bank loan rates and are paid immediately in cash.

---

<sup>8</sup> Title loan businesses which also offer check cashing, advance or payday loan services are required to be licensed under Financial Code § 22000, *et seq.* and § 23000, *et seq.* Appellant is licensed under both sections.

As further detailed in a recent study, car-title loans are secured by a borrower's title to a vehicle owned outright.<sup>9</sup> Lenders assess the car's wholesale value and lend a percentage of that value. (*Id.*) Car-title borrowers retain use of their car during the loan term, but provide the lender with a copy of the keys and the car title. (*Id.*) When the loan is due, borrowers may repay the loan with interest or extend the loan by paying only the monthly interest. (*Id.*) Because California only caps annual interest rates for loans up to \$2,500, most car title lenders – including Appellant – only offer loans of \$2,501 or more in order to avoid interest rate caps. (See Cal. Fin. Code Secs. 22303, 22304; Appeal.)

About half of all car-title borrowers do not have bank accounts. (*Id.*) A recent FDIC report notes that the unbanked, which make up about eight percent of the U.S. population, are more likely than the U.S. population as a whole to earn less than \$30,000 per year, be non-white, be unmarried, have less than a high school degree and be a foreign-born Spanish speaker. (*Id.* at footnote 8.) That study concludes that the combination of characteristics that comprise car-title loans and their typical clientele make the product very risky for borrowers, who are vulnerable to being trapped into long-term debt. (*Id.*)

## 2. Similar to “Check Cashing Business.”

Like car title loan businesses, check cashing establishments typically serve lower- income, financially vulnerable consumers,<sup>10</sup> and they sometimes engage in predatory financial practices in order to obtain profits, such as portraying interest rates in a manner that leads the borrower to believe the rate is lower than it actually is, or that leads the borrow to overestimate his or her ability to timely repay the loans. Lenders often profit not only from additional interest when loans are extended,<sup>11</sup> but may profit from repossession or foreclosure upon the collateral. In many situations, the amount of the loan is less than the value of the car, so the lender stands to profit from repossession.<sup>12</sup> While the mechanics of a car title loan business may differ somewhat from a check cashing business,<sup>13</sup> the operative characteristics are very similar. Each offers high interest rate, short term loans, does not offer traditional banking services, and is subject to different regulatory oversight than a bank or credit union.<sup>14</sup>

Check cashing businesses must be licensed under California Civil Code Section 1789.30-1789.38, and must obtain a permit from the Attorney General's Department of Justice. In fact,

<sup>9</sup> See e.g. Driven to Disaster: Car-Title Lending and Its Impact on Consumers, Jean Ann Fox and Tom Feltner, Consumer Federation of America Delvin Davis and Uriah King (2013), <http://www.responsiblelending.org/other-consumer-loans/car-title-loans/research-analysis/CRL-Car-Title-Report-FINAL.pdf>; copy as accessed March 31, 2014 attached as Exhibit H.

<sup>10</sup> See e. g., Cashed Out: Consumers Pay Steep Premium to "Bank" at Check Cashing Outlets, Jean Anne Fox, Patrick Woodall (2006) [http://www.consumerfed.org/elements/www.consumerfed.org/file/finance/CFA\\_2006\\_Check\\_Cashing\\_Study111506.pdf](http://www.consumerfed.org/elements/www.consumerfed.org/file/finance/CFA_2006_Check_Cashing_Study111506.pdf); copy as accessed on March 31, 2014 attached as Exhibit I.

<sup>11</sup> Exhibit E.

<sup>12</sup> See e.g., The Consumer Perils of a Car Title Loan, Autumn Caliero Giusti (2013) <http://www.bankrate.com/finance/auto/consumer-perils-car-title-loan.aspx>, copy as accessed on April 7, 2014 attached as Exhibit M.

<sup>13</sup> Check cashing businesses process checks for a fee, typically a percentage face value, with the percentage varying according to the type of check being cashed.

<sup>14</sup> <http://oag.ca.gov/casher>, copy as accessed on March 31, 2014 attached as Exhibit J. See also Civil Code Section 1789.31.

check cashing businesses are more regulated than car title loan businesses in that the loan amounts and applicable interest rates are capped. While other states have enacted similar regulations with respect to car title loan businesses, California has not yet done so.<sup>15</sup>

### 3. Not Similar to “Banks, Credit Unions.”

Under the Development Code's definition, a “Bank, Credit Union” provides retail banking services. However, the Development Code does not purport to provide an exhaustive list of requirements to qualify as a “financial institution that provides retail banking services.” Only one example is given – the on-site circulation of money. Simply because the Development Code does not list other retail services commonly associated with banks in its definition does not mean those services cannot be considered in the Planning Division's interpretation and analysis of the Development Code and Appellant's business. (See Development Code Sec. 122-6.)<sup>16</sup>

Most banks can and do offer retail banking services (e.g., customers can open accounts, offer a different type of loan collateral, etc.). Moreover, banks, credit unions, trust companies, and savings and loan associations are specifically exempted from the definition of “finance lenders”. (See Cal. Fin. Code Sec. 22050 (a).) The nature of finance lender licensing prohibits car title loan businesses – and thus Appellant – from offering the type of retail banking services that the Development Code contemplates banks and credit unions would provide. In other words, Appellant's finance lender licenses do not allow Appellant to operate as a bank or credit union, underscoring staff's conclusion that its proposed business does not fall within the “Bank, Credit Union” classification .

Appellant contends that a typical bank offers products which have the characteristics of Appellant's business model. However, typical banks do not deal exclusively in car title loans, and they offer a far wider range of financial services. Appellant also argues that since banks also may have high interest loan products (e.g., credit cards and automatic overdraft advances), Appellant is analogous to a bank. Though a typical bank could focus only on high interest loans, or credit card offerings, or charge a high interest rate on overdraft funds, that is not their sole function or typical business model.

Appellant's assertion that it checks borrowers' credit history and employment status like a typical bank contradicts corporate information on Appellant's website. The FAQs section of the Fast Auto Loan website states: “I have bad credit. Can I still qualify? Absolutely! Good credit, bad credit or no credit. For most title loan amounts, no credit check is required to qualify.” (Exhibit E.) While the Appeal implies that Appellant looks into a potential

---

<sup>15</sup> As of December 2012, according to the Consumer Federation of America, 30 states limit car title loans by authorizing low interest loans only or restrict them entirely. See <http://www.responsiblelending.org/other-consumer-loans/car-title-loans/tools-resources/car-title-lending-by-state.html>, copy as accessed on March 26, 2014 attached as Exhibit K.

<sup>16</sup> See also Development Code Section 122-1579: “If a particular land use is identified as an example of one category but exhibits the characteristics of another, the use shall be categorized as the latter.” Simply put, a land use must be classified by its substance (characteristics), not by its form (identification/name).

borrower's employment status the website belies that argument, acknowledging that employment status is essentially irrelevant to loan qualification (although it may affect the interest rate at which the loan is offered): "You do not need to be employed to qualify for a title loan. You do need proof of regular income and show an ability to repay the title loan." Appellant's own websites demonstrate that -- unlike a typical bank -- Appellant does not require its customers to have a savings or checking account to be eligible for a loan; does not require its customers to be credit-worthy to receive a loan; does not accept other types of assets as collateral for a loan; does not have loan products with terms and rates comparable to those generally offered by banks; does not offer checking and savings accounts; does not offer currency conversion; and does not offer safe deposit boxes.

Appellant also feels that the Planning Division erred because the Planning Division stated a typical bank accepts more than one type of asset as collateral for a loan. Appellant's response is that automobile loans from a bank are secured by the vehicle, bank property loans are secured only by the property, and credit cards are unsecured. The Planning Division's position was not that a loan secured by the item upon which the loan proceeds are spent does not exist at a typical bank, but that rather a typical bank would not require or only offer loan that are secured by a singular form of collateral—the borrower's car.

**4. Dissimilar to and Incompatible with Other CMX Zoning District Uses.**

Pursuant to Development Code Section 122-54 (a)(3), the Planning Division "may determine that a proposed use which is not listed...is allowable" by making required findings. The findings include:

- i. The characteristics of, and activities associated with, the use are similar to one or more of the listed uses and will not involve a greater intensity (such as increased traffic, noise, hours of operation, number of employees, outside storage, etc.) than the uses listed in the district;
- ii. The use will be consistent with the purposes of the applicable district;
- iii. The use will be consistent with the General Plan and any applicable Specific Plan and all development and Planning Permit requirements;
- iv. The use will be compatible with the other uses allowed in the district; and
- v. The use is not listed in another district.

The "characteristics of, and activities associated with" car title loan businesses are not "similar to one or more of the listed uses" in the CMX district. (*Id.*) As stated above, cash checking businesses are not allowed in the CMX district. The reasons for this are supported by General Plan Policy LU-1.2.2: *Pursue neighborhood planning strategies to conserve and enhance neighborhood livability and safety, and eliminate adverse characteristics that lead to neighborhood decline.* While listed under the Banks and Financial Services Use

Classification, check cashing businesses have similar operational characteristics to uses listed under "Retail, Restricted," including pawn shops, which "could have a negative economic effect on the surrounding retail uses and should be dispersed and properly located to minimize adverse impacts." Because car title loan businesses have similar characteristics, the same reasoning applies.

Car title loan businesses are not consistent with the purposes of the CMX district. According to the City's 2030 General Plan, areas zoned for businesses like check cashing business land uses (and, by analogy car title loan businesses) are not meant to have any residential housing in close proximity due the highly sensitive nature, and low intensity of residential uses in comparison to the types of "Restricted Uses" listed under both the Personal Services and Retail Use Classifications. The CMX district allows up to 40 residential units per net acre with the actual density averaging 19 units per net acres immediately proximate to the proposed site according to the 2010 Housing Element (see Housing Inventory Sites F8, F9, F10 and F12).

The Center for Responsible Lending, and Consumers for Auto Reliability both agree that car title loans increase the risk of defaults, vehicle repossessions, and ultimately unemployment due to the borrower's subsequent inability get to work. (See *Id.*) Consumer Attorneys of California further note that "repercussions of default on these loans can be devastating (consumers can lose their car, cash, and their good credit histories)..." (See *Id.*) These effects are contrary to General Plan policies.

Nor do car title loan businesses align with the stated purpose of the Development Code as it pertains to the CMX District:

The Development Code implements the policies of the Concord General Plan (General Plan) by classifying and regulating the uses of land and structures within the City. The Development Code is adopted to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents and businesses in the City of Concord (City). More specifically, the Development Code is intended to:

- (a) Guide physical development to:
  - (1) Preserve and enhance the character and quality of residential neighborhoods;
  - (2) Foster harmonious and workable relationships among land uses; and
  - (3) Achieve the arrangement and diversity of land uses envisioned by the General Plan.
- (b) Promote the economic stability of existing land uses that are consistent with the General Plan and protect them from incompatible or harmful land uses.
- (c) Ensure that land is used for the most appropriate and beneficial purpose for the City.

(d) Promote safe and efficient access and circulation systems for pedestrians, bicycles, and automobiles.

(e) Protect and enhance property values.

(Development Code Section 122-2.)

Establishment of car title loan businesses in any and all locations where consultative and financial service uses are permitted activity may result in displacement and reduced availability of full service banking institutions, creating a cycle of indebtedness and financial vulnerability for lower income citizens. Car title loan establishments typically serve lower-income, financially vulnerable consumers and may engage in predatory financial practices in order to obtain profit from high interest rates. The City has a legitimate interest in providing reasonable safeguards against economic loss to such patrons.

Many other states do not allow car title loan businesses at all due to their predatory lending nature, high interest rates, pattern of issuing loans without consideration of ability to repay, and the fact that many car title loans are less than the value of the cars which are required as collateral.<sup>17</sup> Significantly, the Center for Responsible Lending has analogized car title loan companies to payday lenders, stating:

Car title lending is particularly usurious, with lenders in California charging annual interest rates that range from 72 percent to as high as 180 percent. *Like payday lenders*, car title lenders target vulnerable borrowers who need quick cash. (Emphasis added.) Also, like payday lenders, they have no incentive to rigorously evaluate a borrower's ability to repay the loan because they are assured repayment either through borrower payments or the repossession and sale of the borrower's car."<sup>18</sup>

Based on the foregoing, car title loan businesses are not consistent with uses allowed in the CMX district. However, the requisite findings can be made to allow car title loan businesses in the IBP district, to the extent they Planning Commission finds they are similar to check cashing businesses.

## VI. Fiscal Impact

The proposed would have a negligible fiscal impact on the City.

---

<sup>17</sup> See footnote 15.

<sup>18</sup> Assembly Committee on Banking and Finance, Analysis of Assembly Bill 336 (2012), [http://www.leginfo.ca.gov/pub/11-12/bill/asn/ab\\_0301-0350/ab\\_336\\_cfa\\_20120106\\_123203\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asn/ab_0301-0350/ab_336_cfa_20120106_123203_asm_comm.html), copy as accessed on March 25, 2014 attached as Exhibit L.

**VII. Public Contact**

Notification was mailed to all owners and occupants of property within three-hundred (300) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code. This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

**VIII. Summary and Recommendations**

If the Planning Commission finds that car title loan businesses are analogous to check cashing businesses, car title loan companies will be authorized in the IBP zoning district, in the same manner as check cashing businesses are currently allowed. As such, Appellant would be able to conduct its business in the IBP district upon obtaining a Use Permit. Appellant would still be unable to establish its business at the proposed site, since check cashing businesses – and thus car title loan businesses – are not allowed within the CMX zoning district. Existing legal non-conforming check cashing business uses located outside of the IBP zoning district may not add car title loan services to their businesses, as that would constitute an impermissible enlargement or expansion of a legal nonconforming use. However, because car title loan businesses would be classified similar to check cashing businesses, they could replace existing legal non-conforming check cashing businesses in sites located outside of the IBP zoning district subject to meeting the limitations set forth in Section 122-1318 (a)(2) of the Development Code regarding the prohibition of use intensification.

Staff recommends the Commission deny the Appeal and find that a “car title loan business” is most similar to a “check cashing business” as that land use classification is defined and used in the Development Code, by adopting the attached Resolution.

**IX. Motion**

**Denial of Appeal**

I (Comm. \_\_\_\_\_) hereby move that the Planning Commission adopt Resolution 14-11PC denying the Appeal and finding that a “car title loan business” is most similar to a “check cashing business” as that land use classification is defined and used in the Development Code. (Seconded by Comm. \_\_\_\_\_.)

Prepared and Reviewed by: Carol R. Johnson, AICP  
Carol R. Johnson, AICP  
Planning Manager

Exhibits:

- A - Planning Commission Resolution 14-11PC
- B-1 - January 17, 2014 Business License Application
- B-2 - January 22, 2014 Business License Application

**Appeal of Planning Manager's Interpretation  
Regarding Car Title Loan Business**

**PL14000098-AP**

April 16, 2014

Page 13

---

- C - Interpretation
- D - Appeal
- E - <http://www.fastauto.com>, copy as accessed on March 26, 2014
- F - <http://www.fastautoandpaydayloans.com>, copy as accessed on March 26, 2014
- G - Appellant's memorandum and City's response email
- H - Driven to Disaster: Car-Title Lending and Its Impact on Consumers, Jean Ann Fox and Tom Feltner, Consumer Federation of America Delvin Davis and Uriah King (2013),  
<http://www.responsiblelending.org/other-consumer-loans/car-title-loans/research-analysis/CRL-Car-Title-Report-FINAL.pdf>; copy as accessed March 31, 2014
- I - Cashed Out: Consumers Pay Steep Premium to " Bank" at Check Cashing Outlets, Jean Anne Fox, Patrick Woodall (2006)  
[http://www.consumerfed.org/elements/www.consumerfed.org/file/finance/CFA\\_2006\\_Check\\_Cashing\\_Study111506.pdf](http://www.consumerfed.org/elements/www.consumerfed.org/file/finance/CFA_2006_Check_Cashing_Study111506.pdf); copy as accessed on March 31, 2014
- J - <http://oag.ca.gov/casher>, copy as accessed on March 31, 2014
- K - <http://www.responsiblelending.org/other-consumer-loans/car-title-loans/tools-resources/car-title-lending-by-state.html>, copy as accessed on March 26, 2014
- L - Assembly Committee on Banking and Finance, Analysis of Assembly Bill 336 (2012),  
[http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0301-0350/ab\\_336\\_cfa\\_20120106\\_123203\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0301-0350/ab_336_cfa_20120106_123203_asm_comm.html), copy as accessed on March 25, 2014
- M - The consumer perils of a car title loan, Autumn Caliero Giusti, Bankrate.com posted on October 29, 2013  
<http://www.bankrate.com/finance/auto/consumer-perils-car-title-loan.aspx>



BEFORE THE PLANNING COMMISSION  
OF THE CITY OF CONCORD,  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

A RESOLUTION DENYING AN APPEAL OF A  
PLANNING DIVISION DETERMINATION THAT  
A “CAR TITLE LOAN BUSINESS” IS MOST  
SIMILAR TO A “CHECK CASHING BUSINESS”  
AS THAT LAND USE CLASSIFICATION IS  
DEFINED AND USED IN THE CONCORD  
DEVELOPMENT CODE (PL140098 – AP)

Resolution No. 14-11PC

WHEREAS, on January 17, 2014, Fast Auto and Payday Loans, Inc. dba Fast Auto Loans (“Appellant”) filed a Business License Application for a “car title loans & payday advance service” business at the 1545 Monument Boulevard, Concord CA, APN128-280-041 (“Site”).

WHEREAS, on January 22, 2014, Appellant resubmitted a Business License Application for a “car title loans only” business at the Site; and

WHEREAS, the general plan land use designation for the Site is Commercial Mixed Use (CMU); and

WHEREAS, the Development Code does not contain a “car title loan business” land use classification; and

WHEREAS, the Development Code provides that an unlisted use may be allowed if the Planning Division determines that a proposed use is similar to and compatible with a listed use; and

WHEREAS, the Planning Division is to make such determinations based on the characteristics of the proposed use; and

WHEREAS, after analysis of relevant facts and provisions of the Development Code, the Planning Division determined that a car title loan business would be most similar to the “check cashing business” land use classification as defined and used in the Development Code; and

WHEREAS, check cashing businesses are allowed only in the IBP (Industrial Business Park) zoning district subject to an approved Use Permit, and are not allowed at the Site; and

WHEREAS, on February 26, 2014, the Planning Division issued an official interpretation that “car title loan business” is most similar to a “check cashing business” as that land use classification is defined and used in the Concord Development Code; and

1           **WHEREAS**, on March 10, 2014, Appellant appealed the Planning Divisions interpretation;  
2 and

3           **WHEREAS**, the Planning Commission, after giving all public notices required by State law  
4 and the Concord Municipal Code, held a duly noticed public hearing on April 16, 2014 to consider the  
5 Fast Auto Loan Appeal (PL140098 – AP); and

6           **WHEREAS**, at such public hearing, the Planning Commission considered all oral and written  
7 testimony, materials, and information received, including the oral reports from City staff and  
8 Appellant, the written report from City staff dated April 16, 2014 (“Staff Report”), the Appeal,  
9 exhibits presented, pertinent plans and documents, and other materials and information contained in  
10 the record of proceedings relating to the Appeal, which are maintained at the offices of the City of  
11 Concord Planning Division; and

12           **WHEREAS**, on April 16, 2014, the Planning Commission, after consideration of all pertinent  
13 plans, documents and testimony, declared their intent to deny the Fast Auto Loan Appeal (PL140098  
14 – AP), and to uphold the Planning Division’s February 26, 2014 interpretation.

15           **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:** that the Planning Commission  
16 does hereby deny the Fast Auto Loan Appeal (PL140098 – AP), uphold the Planning Division’s  
17 February 26, 2014 interpretation, and makes on the following findings:

18 CEQA

19 1. Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §  
20 21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the  
21 California Code of Regulations (collectively, “CEQA”), the Planning Commission’s action does not  
22 constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs.  
23 Sections 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct  
24 physical change in the environment, or a reasonably foreseeable indirect physical change in the  
25 environment. Even if such activities did constitute a project under CEQA, staff believes the activities  
26 they fall within the “common sense” exemption set forth in 14 Cal Code Regs. Section 15061(b)(3),  
27 excluding projects where “it can be seen with certainty that there is no possibility that the activity in  
28 question may have a significant effect on the environment....”

1 Appeal and Land Use Interpretation

2 2. As detailed in the Staff Report:

3 i. The characteristics of, and activities associated with, a “car title loan business” use is  
4 similar to a “check cashing business”, which is one the listed uses in the Development Code, and will  
5 not involve a greater intensity (such as increased traffic, noise, hours of operation, number of  
6 employees, outside storage, etc.) than the uses listed in the IBP district where check cashing  
7 businesses are allowed;

8 ii. Check cashing businesses are allowed in the IBP zoning district. As such, a car title  
9 loan business use will be consistent with the purposes of the IBP zoning district;

10 iii. The car title loan business use will be consistent with the General Plan and any  
11 applicable Specific Plan and all development and Planning Permit requirements;

12 iv. The car title loan business use will be compatible with the other uses allowed in the  
13 IBP zoning district; and

14 v. The car title loan business use is not listed in another district.

15 3. The car title loan business use shall be allowed in the same districts as the check cashing  
16 business use. The check cashing business use, and thus the car title loan business use, are allowed  
17 only in the IBP zoning district subject to an approved Use Permit.

18 4. Existing legal non-conforming check cashing business uses located outside of the IBP zoning  
19 district may not add car title loan services to their businesses, as that would constitute an  
20 impermissible enlargement or expansion of a legal nonconforming use.

21 5. This resolution shall become effective immediately upon its passage and adoption.

22 **PASSED AND ADOPTED** this 16th day of April, 2014, by the following vote:

23 **AYES:**

24 **NOES:**

25 **ABSTAIN:**

26 **ABSENT:**

27 \_\_\_\_\_  
28 Carol R. Johnson, AICP  
Secretary to the Planning Commission





<b>FOR OFFICIAL USE ONLY</b>
Business License No. <u>5015262</u>
Date Issued

**BUSINESS LICENSE APPLICATION**  
 as required under Concord Municipal Code, Charter 18, Article 1  
**Finance Department**  
 1950 Parkside Drive, MS/06, Concord, CA 94519-2578  
 PHONE (925) 671-3307 • FAX (925) 671-3353  
 www.cityofconcord.org

Please Check Applicable:  New Application     Change of Owner     Change of Information     Home Business     Out of City

Business Name Fast Auto and Payday Loans, Inc. Bus. Start Date 11/01/13  
 Corporate Name (if applicable) \_\_\_\_\_ Fictitious Name No. \_\_\_\_\_  
 Business Location 1546 Monument Blvd., Concord, Ca 94519 Resale No. \_\_\_\_\_  
(Cannot be P.O. Box or State of California Business & Professions Code Section 75338.5) Federal ID No. 58-2648383  
 Mailing Address 8601 Dunwood Pl., Suite 408, Atlanta, Ca 30350 State ID No. 480-7459-5  
 Contractors State Lic. No. \_\_\_\_\_  
 Phone No. 770-552-9840 Fax No. 770-552-1408 License Type \_\_\_\_\_  
 Description of Business Office use, car title loans & payday advance service Expiration Date \_\_\_\_\_  
 Corporation     Corp-Ltd Liability     Partnership     Sole Proprietor     Trust    Email Address \_\_\_\_\_

Enter below names of Owners, Partners, or Corporate Officers (Use additional sheets as necessary)

1st Owner Name Robert E. Reich Title Pres/CEO Driver Lic. No. R200-769-49-421-0  
(Cannot be P.O. Box) Home Address 8601 Dunwood Pl., #406, Atlanta, Ga 30350 Soc. Sec. No. \_\_\_\_\_  
(REQUIRED)  
 Home Phone No. 770-552-9840 Cell / Pager No. \_\_\_\_\_

2nd Owner Name Terry E. Fields Title VP/Sec/CFO Driver Lic. No. 316487646  
 Home Address 8601 Dunwood Pl., #406, Atlanta, Ga 30350 Soc. Sec. No. \_\_\_\_\_  
(Cannot be P.O. Box) Home Phone No. 770-552-9840 Cell / Pager No. \_\_\_\_\_  
(REQUIRED)

In case of emergency, please contact (For Police Use):  
 PLEASE LIST ONLY THE PEOPLE WHO ARE ABLE TO RESPOND, WITH A KEY, WITH IN 30 MINUTES  
 Contact Name Corrie Kates Phone No. 760-219-7448  
 Address 1590 Adams Avenue, #4403 Cell/Pager No. \_\_\_\_\_

Alarm Company, if applicable (attach additional sheet, if necessary)  
 Alarm Company Name \_\_\_\_\_ Alarm Permit No. \_\_\_\_\_  
 Address \_\_\_\_\_ Phone No. \_\_\_\_\_  
 Maintained By Alarm Company  Yes     No    Installation Date \_\_\_\_\_ Alarm Type  A - Audible     S - Silent

<input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> Property Mgmt. Information, if applicable	Leaseholder Information, if applicable (Leasing Agent)
Name <u>Bob J Speka</u>	Name <u>Benjamin N. Graham</u>
Address <u>4 Warford Terrace, Orinda CA 94563</u>	Address <u>8054 Summa Avenue, Baton Rouge LA 70809</u>
Phone No. _____	Phone No. <u>225-802-6619</u>

THIS BUSINESS LICENSE IS FOR REVENUE PURPOSES ONLY AND DOES NOT IMPLY CONFORMANCE WITH APPLICABLE CITY CODES AND ORDINANCES  
 YOU ARE REQUIRED TO CHECK YOUR PROPOSED BUSINESS LOCATION AND STRUCTURE WITH THE CITY PLANNING DEPARTMENT FOR COMPLIANCE  
 WITH ZONING CODES THIS BUSINESS LICENSE MUST BE RENEWED ANNUALLY AND POSTED IN A CONSPICUOUS PLACE  
 I DECLARE UNDER PENALTY OF PERJURY THAT TO THE BEST OF MY KNOWLEDGE, ALL INFORMATION CONTAINED ON THIS APPLICATION IS TRUE  
 AND CORRECT.  
 Signature of Owner or Representative: \_\_\_\_\_ Date: 1/17/2014  
 Title Project Manager

RETURN APPLICATION TO ABOVE ADDRESS AND MAKE CHECK PAYABLE TO CITY OF CONCORD.

**ZONING VERIFICATION - OFFICIAL USE ONLY**

Approved     Disapproved

Zoning \_\_\_\_\_ Associated Permit No.(s) \_\_\_\_\_ APN \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_ If not approved, why? \_\_\_\_\_





Business License No.
Class Code

as required under Concord Municipal Code, Charter 18, Article II

**Finance Department**  
 1950 Parkside Drive, MS/06, Concord, CA 94519-2578  
 PHONE (925) 671-3307 • FAX (925) 671-3353  
 www.cityofconcord.org

Please Check Applicable:  New Application     Change of Owner     Change of Information     Home Business     Out of City

Business Name **Fast Auto Loans** Bus. Start Date **03/01/14**  
 Corporate Name (If applicable) **Fast Auto and Payday Loans, Inc.** Fictitious Name No. \_\_\_\_\_  
 Business Location **1545 Monument Blvd., Concord, Ca 94519** Resale No. \_\_\_\_\_  
(Cannot be P.O. Box per State of California Business & Professions Code-Section 17336.5) Federal ID No. **58-2649383**  
 Mailing Address **8601 Dunwood Pl., Suite 406, Atlanta, Ca 30350** State ID No. **480-7459-5**  
 Contractors State Lic. No. \_\_\_\_\_  
 Phone No. **770-552-9840** Fax No. **770-552-1408** License Type \_\_\_\_\_  
 Description of Business **Office use, car title loans only** Expiration Date \_\_\_\_\_  
 Corporation     Corp-Ltd Liability     Partnership     Sole Proprietor     Trust    Email Address \_\_\_\_\_

Enter below names of Owners, Partners, or Corporate Officers (Use additional sheets as necessary)

1st Owner Name **Robert E. Reich** Title **Pres/CEO** Driver Lic. No. **R200-769-49-421-0**  
 Home Address **8601 Dunwood Pl., #406, Atlanta, Ga 30350** Soc. Sec. No. \_\_\_\_\_  
(Cannot be P.O. Box) (REQUIRED)  
 Home Phone No. **770-552-9840** Cell / Pager No. \_\_\_\_\_  
 2nd Owner Name **Terry E. Fields** Title **VP/Sec/CFO** Driver Lic. No. **316487646**  
 Home Address **8601 Dunwood Pl., #406, Atlanta, Ga 30350** Soc. Sec. No. \_\_\_\_\_  
(Cannot be P.O. Box) (REQUIRED)  
 Home Phone No. **770-552-9840** Cell / Pager No. \_\_\_\_\_

In case of emergency, please contact (For Police Use)  
 PLEASE LIST ONLY THE PEOPLE WHO ARE ABLE TO RESPOND, WITH A KEY, WITHIN 30 MINUTES  
 Contact Name **Corrie Kates** Phone No. **760-219-7448**  
 Address **1590 Adams Avenue, #4403** Cell/Pager No. \_\_\_\_\_

Alarm Company, if applicable (attach additional sheet, if necessary)  
 Alarm Company Name \_\_\_\_\_ Alarm Permit No. \_\_\_\_\_  
 Address \_\_\_\_\_ Phone No. \_\_\_\_\_  
 Maintained By Alarm Company  Yes     No    Installation Date \_\_\_\_\_ Alarm Type  A - Audible     S - Silent

<input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> Property Mgmt. Information, if applicable	Leaseholder Information, if applicable (Leasing Agent)
Name <b>Bob J Speka</b>	Name <b>Benjamin N. Graham</b>
Address <b>4 Warford Terrace, Orinda CA 94563</b>	Address <b>8054 Summa Avenue, Baton Rouge LA 70809</b>
Phone No. _____	Phone No. <b>225-802-6619</b>

THIS BUSINESS LICENSE IS FOR REVENUE PURPOSES ONLY AND DOES NOT IMPLY CONFORMANCE WITH APPLICABLE CITY CODES AND ORDINANCES. YOU ARE REQUIRED TO CHECK YOUR PROPOSED BUSINESS LOCATION AND STRUCTURE WITH THE CITY PLANNING DEPARTMENT FOR COMPLIANCE WITH ZONING CODES. THIS BUSINESS LICENSE MUST BE RENEWED ANNUALLY AND POSTED IN A CONSPICUOUS PLACE.

I DECLARE UNDER PENALTY OF PERJURY THAT TO THE BEST OF MY KNOWLEDGE, ALL INFORMATION CONTAINED ON THIS APPLICATION IS TRUE AND CORRECT.

Signature of Owner or Representative: \_\_\_\_\_ Date: **1/22/2014**  
 Title: **Project Manager**

RETURN APPLICATION TO ABOVE ADDRESS AND MAKE CHECK PAYABLE TO CITY OF CONCORD.

**ZONING VERIFICATION - OFFICIAL USE ONLY**

Approved     Disapproved

Zoning \_\_\_\_\_ Associated Permit No.(s) \_\_\_\_\_ APN \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_ If not approved, why? \_\_\_\_\_



CITY OF CONCORD  
1950 Parkside Drive  
Concord, California 94519-2578  
FAX:

EXHIBIT C

CITY COUNCIL  
Timothy S. Grayson, Mayor  
Ronald E. Leone, Vice Mayor  
Edi E. Birsan  
Daniel C. Helix  
Laura M. Hoffmeister

Thomas J. Wentling, City Treasurer  
Valerie J. Barone, City Manager



Telephone:

February 26, 2014

VIA U.S. MAIL

Edward L. Shaffer  
Archer Norris  
2033 North Main Street, Suite 800  
Walnut Creek, CA 94596

**Re: Fast Auto Loans**

Dear Mr. Shaffer:

City Attorney Mark Coon forwarded your February 20, 2014 letter to me for an interpretation of the land use classification for Fast Auto Loans (hereafter referred to as "FAL"). Development Code Section 122-6 states "The Planning Division has the authority to interpret any provision of the Development Code or its application to a specific site. Whenever the Planning Division determines that the meaning or applicability of a requirement is subject to interpretation, the Planning Division may issue an official interpretation." This letter serves as an official interpretation that FAL is similar to a Check Cashing Business, and thus not allowed under the CMX (Commercial Mixed Use) zoning that applies to the subject property at 1545 Monument Boulevard.

Development Code Section 122-1579 states "If a particular land use is identified as an example of one category but exhibits the characteristics of another, *the use shall be categorized under the latter.*"[emphasis added]

Your letter asserts that FAL meets the definition of a bank because it "exchanges loans for collateral" as a type of "retail bank service." However, unlike typical banks, FAL does not require its customers to have a savings or checking account to be eligible for a loan; does not require its customers to be credit worthy to receive a loan; does not accept other types of assets as collateral for a loan; and does not have loan products with terms and rates comparable to those generally offered by banks.

On the other hand, FAL is more similar to check cashing because it deals extensively or exclusively in short term loans with interest rates that far exceed typical bank loan rates and in small loan amounts paid immediately in cash.

Based on the foregoing, the City considers FAL to be more characteristic of a check cashing business, and as such, is not allowed by the CMX zoning that applies to the subject property.

To the extent that you disagree with this interpretation you have the right to make an appeal to the Planning Commission. Appeals and the required filing fee must be filed with the Planning Division

Edward L. Shaffer  
February 26, 2014  
Page 2

or City Clerk within ten (10) calendar days of the date of this letter (i.e., by 5:00 p.m. on March 10, 2014). The appeals procedure is set forth in Development Code Sections 122-1216 through 122-1222, a copy of which is enclosed for your convenience. The fee is composed of four elements: 1) Appeal fee to Planning Commission = \$99.00, 2) Public Notice in newspaper = At cost, 3) Poster Board for Site = \$12.00, 4) Mailed Notice to property owners within 300 feet of the site = \$250.00, for a TOTAL of \$361.00 + the cost for the public notice in the newspaper (to be determined after appeal filing).

Please feel free to contact me if you have any questions or would like further information on either this decision or the appeal process.

Sincerely,

A handwritten signature in cursive script that reads "Victoria Walker for".

Carol R. Johnson, AICP  
Planning Manager

Attach: (3)

Cc: Mark Coon, City Attorney  
Susanne Brown, Senior Assistant City Attorney  
Victoria Walker, Community and Economic Development Director  
Mary Rae Lehman, City Clerk

## CONCORD DEVELOPMENT CODE

### Division 3. Appeals and Calls for Review

#### Sections:

122-1216	Purpose
122-1217	Right of Appeal
122-1218	Time Limits for Appeals and Calls for Review
122-1219	Initiation of Appeals and Calls for Review
122-1220	Procedures for Appeals and Calls for Review
122-1221	Effective Dates
122-1222	New Appeal

#### 122-1216 Purpose

- (a) **Appeals.** To avoid results inconsistent with the purposes of the Development Code, any decision made in compliance with the Development Code made by the:
- (1) Planning Division may be appealed to the Zoning Administrator;
  - (2) Zoning Administrator may be appealed to the Planning Commission; and
  - (3) Planning Commission may be appealed to the City Council.
- (b) **Calls for Review.** As an additional safeguard to avoid results inconsistent with the purposes of the Development Code, any decision of the:
- (1) Zoning Administrator may be called up for review by the Planning Commission; and
  - (2) Planning Commission may be called up for review by the City Council.
- (c) **Referral to Planning Commission.** When a decision made by the Planning Division is appealed, the Zoning Administrator may refer the matter directly to the Planning Commission for a consideration and determination.

#### 122-1217 Right of Appeal

An appeal may be initiated by the applicant, property owner, or any interested person.

#### 122-1218 Time Limits for Appeals and Calls for Review

- (a) An appeal of a decision by an applicant or other interested person shall be initiated within ten (10) calendar days of the date of the decision.
- (b) When the appeal period ends on a weekend or holiday, the time limit shall be extended to the next working day.
- (c) Calls for Review shall be initiated before the end of the appeal period identified in Subsections (a) and (b) above, which is the effective date of the decision to be reviewed.

**122-1219 Initiation of Appeals and Calls for Review**

- (a) **Filing of an appeal.** An appeal accompanied by the fee identified in the City's Fee Schedule shall be filed with the Planning Division or City Clerk on a form provided and shall state specifically the following information, in addition to any information required by Concord Municipal Code Chapter 2, Article II, Division 2 (Appeals to City Council).
  - (1) The specific determination or interpretation that is claimed to be not in compliance with the purposes of the Development Code;
  - (2) The specific facts that are claimed to be in error or an abuse of discretion;
  - (3) The specific facts of the record which are claimed to be inaccurate; and
  - (4) The specific decision that is claimed to be unsupported by the record.
- (b) **Calls for Review.** A Call for Review may be filed by a member of the Planning Commission or the City Council to be reviewed in compliance with Section 122-1216(b) (Purpose) above, before the effective date of the decision. (See also Concord Municipal Code Chapter 2, Article II, Division 2 Sec 2-57 (Right of Councilmembers and City Manager to request review).)
- (c) **Effect on decision.** The timely filing of an appeal or Call for Review shall cause a stay (e.g., shall temporarily vacate all proceedings associated with the matter subject to the appeal) in the effective date of the action or decision from which the appeal or a Call for Review has been taken until a final decision on the matter has been rendered by the appropriate Review Authority.

**122-1220 Procedures for Appeals and Calls for Review**

- (a) **Hearing date.** An appeal or Call for Review shall be scheduled for a hearing before the appellate body no less than 12 and no more than 45 days of the City's receipt of an appeal (consistent with Concord Municipal Code Chapter 2, Article II, Division 2 Sec 2-52 (6) (Date), unless both the applicant and appellant consent to a later date.
- (b) **Notice and public hearing.** (See Concord Municipal Code Chapter 2, Article II, Division 2 Sec 2-52 (Appeal where public notice required), Sec 2-53 (Appeal where public notice not required), and Sec 2-55 (Procedure).)
  - (1) An appeal or Call for Review hearing shall be a public hearing only if the decision being appealed or reviewed required a public hearing.
  - (2) Notice of a public hearing shall be given in the same manner required for the decision being appealed or reviewed in compliance with Article VIII. Division 1 (Public Hearings).
  - (3) In addition to providing notice pursuant to Subsection (b), notice shall also be provided to all persons who spoke on the matter at any prior hearings or submitted written comments. Notice to such persons shall be mailed only if they provided their name and address at the time they spoke at the prior hearing.
- (c) **Plans and materials.**

- (1) At an appeal or Call for Review hearing, the appellate body shall conduct a hearing "de novo" and may consider new materials and testimony in addition to the same application, plans, and related project materials that were the subject of the original decision.
  - (2) The City Clerk shall advise the appellate body as to compliance with this provision.
- (d) **Hearing.** At the hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested party.
- (e) **Decision and notice.**
- (1) After the hearing, the appellate body shall affirm, modify, or reverse the original decision or remand the matter to the original Review Authority to cure a deficiency in the record or proceedings.
  - (2) The appellate body's decision shall be supported by the weight of the evidence presented at the hearing.
  - (3) Decisions on appeals or Calls for Review shall be rendered within 30 calendar days of the close of the hearing.
  - (4) The notice shall be mailed within five working days after the date of the decision to the applicant, the appellant, and any other party requesting notice.
- (f) **Failure to act.** Failure of the appellate body to act within the time limits identified in Subsections (a) and (e) above shall be deemed affirmation of the original decision.

**122-1221 Effective Dates**

- (a) **Planning Commission decision.** A decision by the Planning Commission regarding an appeal or Call for Review shall become final 10 calendar days after the effective date of the decision, unless appealed to the City Council in compliance with this Division.
- (b) **City Council decision.** A decision by the City Council regarding an appeal or Call for Review shall become final on the effective date of the decision.

**122-1222 New Appeal**

Following disapproval of an appeal or certification of a decision called for review, any matter that is the same or substantially the same shall not be considered by the same appellate body within the following 12-month period, unless the disapproval or certification was made without prejudice and so stated in the record.







TO: City Council  
 City of Concord  
 1950 Parkside Drive, MS/03  
 Concord, CA 94519-2578

  
**Concord**  
 2014 MAR 10 11:17 AM  
 NOTICE OF APPEAL  
 [Concord Municipal Code 2901.015]  
 CLERKS OFFICE  
 ADMINISTRATIVE  
 SERVICES

**FOR STAFF USE ONLY**

PUBLIC NOTICE FEE \$ 436.00  
(According to Fees and Charges Resolution)  
 DATE PAID 3/10/14  
 FEE REC'D BY MRV

DATE \_\_\_\_\_

I hereby appeal the decision / requirement of the Planning Manager  
(ADMINISTRATOR OR COMMISSION)  
 in approving (denying) the application of Fast Auto Loans  
(NAME OF APPLICANT)  
 for Zoning Clearance  
(TITLE OF ITEM BEING APPEALED) on February 26, 2014  
to

Please indicate the specific action(s) or requirement(s) being appealed: See Attached.

Appealing determination that Fast Auto Loans' business is not permitted in the CMX Zoning District, on the property at 1545 Monument Boulevard.

Fast Auto Loans Edward Shaffer, its attorney  
(PRINT) NAME OF APPELLANT SIGNATURE OF APPELLANT / REPRESENTATIVE

APPELLANT'S ADDRESS <u>8601 Dunwood Pl. #406, Atlanta, GA 30350</u>	HOME PHONE <u>770-552-9840</u>	BUSINESS PHONE
ADDRESS FOR NOTICES <u>- Same -</u>		
MY REPRESENTATIVE IS <u>Edward Shaffer, Archer Norris, 2033 N. Main St. #800, Walnut Creek, CA 94596</u>	BUSINESS PHONE <u>930-6600</u>	

FOR STAFF USE ONLY			
ADDRESS OF PROPERTY INVOLVED			
ASSESSOR'S PARCEL NUMBER(S)			MUNICIPAL CODE SECTION
FILE NUMBER	FILE TITLE	NAME OF RESPONSIBLE PLANNER	REVIEWED BY (PLANNING STAFF)
RECEIVED BY		PROJECT PLANNER	

CITY CLERK USE ONLY	
Received written appeal on _____	
Scheduled for Council agenda of _____ to set for Public Hearing on _____	
<input type="checkbox"/> Copies distributed to appropriate parties <span style="float: right;">DEPUTY CITY CLERK</span>	

*Car Johnson*  
*Sezanna Brown*





**ARCHERNORRIS**  
A PROFESSIONAL LAW CORPORATION

2033 North Main Street, Suite 800  
Walnut Creek, CA 94596-3759  
925.930.6600  
925.930.6620 (Fax)  
www.archernorris.com

**EDWARD L. SHAFFER**  
eshaffer@archernorris.com  
925.952.5409

## MEMORANDUM

**TO:** City Clerk, City of Concord

**FROM:** Edward Shaffer

**DATE:** March 10, 2014

**RE:** Fast Auto Loans – Appeal of Zoning Clearance Denial

---

This memo supplements the Notice of Appeal filed with the City Clerk on March 10, 2014 on behalf of our client Fast Auto and Payday Loans, Inc., dba Fast Auto Loans (“FAL”). FAL appeals the February 26, 2014 letter from Carol Johnson, Planning Manager, which denied FAL’s request for Zoning Clearance for its proposed auto equity loan business at 1545 Monument Boulevard based on the conclusion that this use is not permitted by the Development Code in the CMX Zoning District.

Ms. Johnson indicated that the appeal would be heard by the Planning Commission. We ask that the hearing be scheduled as soon as possible, to minimize the continued delay before FAL can renovate the property and open its business.

For the reasons described below, the Commission should reverse this determination and direct the Planning Division to issue its Zoning Clearance. The decision was based on inaccurate facts and assumptions about FAL’s business, and improper interpretation of defined terms in the Development Code. The Planning Division has exceeded the discretion allowed under recognized rules of law and governing statutes.

FAL’s business will only provide loans secured by equity in borrower’s vehicles (sometimes referred to as “car title loans”). On February 20, 2014, we sent the Planning Division a letter objecting to its treatment of FAL’s request for Zoning Clearance. In response, the February 26 letter declared that FAL’s business “is similar to a Check Cashing Business” and therefore not allowed under the CMX zoning at this property. There is no factual or legal support for this conclusion.

FAL’s request for Zoning Clearance, like that of any person proposing to do business in Concord, is entitled to the fair and reasonable application of the law. An objective review of FAL’s business will show that the conclusions reached by the Planning Division are not justified.

## Applicable City Codes

Development Code Table 122-131.1 lists possible uses in office and commercial districts. The following excerpt shows how “Banks and Financial Services” are treated:

Table 122-131.1 Office and Commercial Districts Allowed Uses and Permit Requirements						ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	CO	CMX	NC	SC	RC	
<b>Office, Commercial, and Retail Uses (cont.)</b>						
<b>Banks and Financial Services</b>						
Bank, Credit Union	--	ZC <sup>2</sup>	ZC <sup>3</sup>	ZC <sup>2,3</sup>	ZC	
Bank w/Drive-Through Service	--	UP	UP	UP	MP	§122-519 Drive-Through Facilities
Check Cashing Business	--	--	--	--	--	

In the CMX District, “Bank, Credit Union” is a permitted use, “Bank w/Drive-Through Service” requires a Use Permit, and “Check Cashing Business” is not allowed. These are defined terms, which can be found in Development Code section 122-1580:

### **Banks and Financial Services:**

**Bank, Credit Union.** A financial institution that provides retail banking services. Examples include institutions engaged in the on-site circulation of money, including credit unions. This classification does not include check-cashing businesses.

**Bank with Drive-Through Service.** A facility where banking services may be obtained by motorists without leaving their vehicles.

**Check Cashing Business.** An establishment that provides compensation for checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes establishments offering deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33.

The Planning Division claimed that the Code gives it authority to interpret these provisions. The letter recited supposed “facts” supporting its decision that FAL’s business fits the Code’s definition of “Check Cashing Business” rather than “Bank, Credit Union”.<sup>1</sup> As

<sup>1</sup> See Exhibit A, a simple chart comparing FAL Title Loans to Payday Loans. The Chart indicates FAL policies with an “\*.” Items without an “\*” are obligations arising under applicable law. Exhibit A also includes a copy of Section 10 CCR 1452 describing the financial; underwriting requirements imposed on FAL and a copy of the application that is filled out by FAL customers.

indicated below, the “facts” relied upon are simply incorrect. It is both clear and unambiguous that FAL’s proposed use (1) is not a Payday Lender/Check Cashing Service; and (2) falls within the definition of financial institution allowed by the Ordinance.

### Factual Analysis

The Planning Division letter recites a list of comparisons meant to support the claim that FAL’s business is not a permitted financial institution but instead a prohibited Check Cashing Business. As documented below, each statement is incorrect and not supported by any valid evidence. These criticisms demonstrate an unlawful prejudice against FAL’s business.

1. The letter claimed: “Unlike typical banks, FAL does not require its customers to have a savings or checking account to be eligible for a loan.”

*This is incorrect and an improper basis for the City’s decision: Banks commonly give consumer loans for car and home purchases, and issue credit cards, without requiring accounts. Furthermore, there is nothing in the City Code requiring borrower accounts to qualify as a financial institution.*

*If savings and checking accounts were a pre-requisite to being a “financial institution” under the Code, Concord would have effectively denied Zoning Clearance to mortgage loan offices.*

2. The letter claimed: “Unlike typical banks, FAL ... does not require its customers to be credit worthy to receive a loan.”

*This is incorrect and an improper basis for the City’s decision: FAL in fact does check borrowers’ credit history and employment status. Furthermore, there is nothing in the Code requiring credit checks to qualify as a financial institution.<sup>2</sup>*

3. The letter claimed: “Unlike typical banks, FAL ... does not accept other types of assets as collateral for a loan.”

*This is incorrect and an improper basis for the City’s decision: Bank auto loans are secured only by the vehicle, bank property loans are secured only by the property, and bank-issued credit cards are not secured by any collateral. Furthermore, there is nothing in the Code requiring multiple forms of assets for loans for a business to qualify as a financial institution.*

4. The letter claimed: “Unlike typical banks, FAL ... does not have loan products with terms and rates comparable to those generally offered by banks.”

*This is incorrect and an improper basis for the City’s decision: Many loan products offered by banks constitute short-term, high interest loans including bank-issued credit*

---

<sup>2</sup> See 10 CCR 1452 and Customer Application in Exhibit A.

*cards and automatic overdraft advances. Furthermore, there is nothing in the Code specifying the terms and rates of loans to qualify as a financial institution.*

5. The letter claimed: “FAL is more similar to check cashing because it deals extensively or exclusively in short term loans with interest rates that far exceed typical bank loan rates and in small loan amounts paid immediately in cash.”

*A. Short term loans: Banks make loans in all amounts. Credit cards and overdraft loans represent short-term loans, especially when used to receive cash advances. Revolving and equity lines of credit frequently are used as short-term loans.<sup>3</sup>*

*B. High interest rates: Interest rates on credit card, overdraft lines of credit, and other bank instruments are as high or higher than those charged by FAL.*

*C. Small loan amounts: Every credit card purchase represents a small loan, as do cash advances and overdraft advances.<sup>4</sup>*

*D. Loans paid immediately in cash: Every credit card purchase, ATM credit card cash advance, and overdraft cash advance represents an immediate cash payment to the borrower that is used to make a purchase.*

*The Code does not prescribe standards for loan terms, interest rates, loan amounts, or the medium in which loan proceeds are advanced to borrowers that must be met to qualify as a financial institution. These details are not even mentioned as relevant criteria for allowing new businesses.*

### **Legal Analysis**

California courts have set clear and specific rules and limits on the extent to which the City may interpret and apply its adopted regulations. On February 28, 2014, the Court of Appeal published a useful decision on this topic in *Tower Lane Properties v. City of Los Angeles*, 2014 Cal. App. LEXIS 196. The following quote in Headnote 2 presents the court’s recital of rules stated by previous decisions, and sets the framework for judging Concord’s treatment of FAL (the full quote with case citations is provided at the end of this memo).

A court begins with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent. The construction of a county ordinance is subject to the same standard. To ascertain such intent, the court considers the words of the ordinance itself, as they are the most reliable indicators of the drafter's purpose. The court may not speculate that the enacting body meant something other than what it said, nor add to or alter an ordinance to accomplish a purpose that does not appear on its face. For example, when a term has been expressly defined, a court cannot rewrite that definition to mean

---

<sup>3</sup> FAL’s loans are for a term of from 12 to 36 months. See Comparison Chart, Exhibit A.

<sup>4</sup> FAL loans are for amounts in excess of \$2501. See Comparison Chart, Exhibit A

something other than what has been prescribed. Additionally, the court construes the language in the context of the regulatory framework as a whole, keeping in mind the nature and purpose of the ordinance in which the language appears, and harmonizing, where possible, separate provisions relating to the same subject. When the intent is unambiguous, the plain meaning controls and there is no need for construction. Only if the language is unclear will the court look to extrinsic aids to determine the drafter's intent.

The Code definitions are not ambiguous, so they are not open to interpretation. The plain meanings of the Code definitions control. The City cannot “add to or alter [the Code] to accomplish a purpose that does not appear on its face.” The City cannot “rewrite [the] definition[s] to mean something other than what has been prescribed.” There is nothing in the Code to suggest that when the City Council adopted the Development Code in 2012 it intended to prohibit car title loan businesses.

The definition of “Bank, Credit Union” does not require that a financial institution provide every conceivable retail banking service to qualify. It also does not require that a business’ operation match those of a “typical” bank – whatever that is – or else it is prohibited. The definition was made broad to fit a variety of financial institutions – including FAL. The City cannot try to narrow that definition to fit particular uses that may not be in favor.

The Code definition for “Check Cashing Business” actually describes two distinct operations: (1) “An establishment that provides compensation for checks, warrants, drafts, money orders, or other commercial paper serving the same purpose”; and (2) “establishments offering deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33.” The first category does not involve loans and so is not relevant to this situation. The second category refers to operations that also are described as payday loans.

FAL’s proposed business will not provide payday loans, and cannot be found to be covered by the Code definition. FAL will not offer deferred deposits of personal checks in return for a loan. In fact, FAL’s business model makes it impossible for FAL to provide payday loans. California Financial Code §23000 et seq. (the “California Deferred Deposit Transaction Law”) regulates and licenses this type of deferred deposit operation. While §23037(b) prohibits the payday lender from accepting collateral, FAL takes a security interest in the borrower’s vehicle as collateral. Section 23035(a) limits the amount of any check given by a borrower for deferred deposit to \$300 while §23036(g) forbids the lender from accepting more than one check from a borrower for a single transaction, which we interpret as limiting payday loans to \$300 – much less than FAL’s typical loan and its minimum loan of \$2,501.

The courts prohibit agencies from applying guidelines, rules or restrictions that have not been formally adopted, especially when they contradict official regulations. In *City of Pasadena v. AT&T Communications of Cal., Inc.* (2002) 103 Cal.App.4<sup>th</sup> 981, the court refused to allow the city to give a word its opposite meaning, stating: “The City cannot issue informal guidelines rewriting the language of its ordinance. Nor can the City succeed by informing the public that the

ordinance means the opposite of what it says. If the City has a policy of defining words in the PMC in a way that contradicts accepted English usage, it is not a policy that we intend to encourage.” *Id.* at 985.

Another court refused to allow a city to require a subdivider to install utilities underground where there was no adopted regulation in effect when the tentative map was approved. *Bright Development v. City of Tracy* (1993) 20 Cal.App.4th 783. The court found that the city had no ordinance, policy or standard in effect, but that at best “City employees believed there was such an unwritten policy....” *Id.* at 797. The court concluded: “City's action in imposing the off-site undergrounding requirement on plaintiff was “so palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law.”[citation]” *Id.* at 800.

Concord’s planners cannot simply decide to prohibit car equity loan businesses on their own. The plain meaning of the Code must be applied. FAL is a financial institution offering the retail banking service of loans secured by the equity in vehicles. This is a permitted use in the CMX District and it is unfair and unlawful to prohibit FAL’s business. Forcing FAL to undergo this appeal process to assert its rights has imposed unnecessary costs, delay and uncertainty.

**CA(1)**† (1) “The rules governing statutory construction are well settled. **HN2**† We begin with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent.” (*Burden v. Snowden* (1992) 2 Cal.4th 556, 562 [7 Cal. Rptr. 2d 531, 828 P.2d 672].) The construction of a county ordinance is subject to **[6]** the same standard. (*Dep't of Health Servs. v. Civil Serv. Com.* (1993) 17 Cal.App.4th 487, 494 [21 Cal. Rptr. 2d 428].) To ascertain such intent, we consider the words of the ordinance itself, as they are the most reliable indicators of the drafter's purpose. (*Lewis C. Nelson & Sons, Inc. v. Clovis Unified Sch. Dist.* (2001) 90 Cal.App.4th 64, 69–70 [108 Cal. Rptr. 2d 715]; *People v. Gardeley* (1996) 14 Cal.4th 605, 621 [59 Cal. Rptr. 2d 356, 927 P.2d 713].) We may not speculate that the enacting body meant something other than what it said (see *Unzueta v. Ocean View School District* (1992) 6 Cal.App.4th 1689, 1697 [8 Cal. Rptr. 2d 614]), nor add to or alter an ordinance to accomplish a purpose that does not appear on its face (see *Burden v. Snowden, supra*, 2 Cal.4th at p. 562). For example, when a term has been expressly defined, we cannot rewrite that definition to mean something other than what has been prescribed. (*Curle v. Superior Court* (2001) 24 Cal.4th 1057, 1063 [103 Cal. Rptr. 2d 751, 16 P.3d 166].) Additionally, we construe the language in the context of the regulatory framework as a whole, keeping in mind the nature and purpose of the ordinance in which the language appears, and harmonizing, where possible, separate provisions relating to the same subject. (*Boston v. Penny Lane Centers, Inc.* (2009) 170 Cal.App.4th 936, 950 [88 Cal. Rptr. 3d 707]; **[7]** *Lewis C. Nelson & Sons, Inc. v. Clovis Unified Sch. Dist., supra*, 90 Cal.App.4th at pp. 69–70.) When the intent is unambiguous, the plain meaning controls and there is no need for construction. (*People v. Gardeley, supra*, 14 Cal.4th at p. 621; *Halbert's Lumber, Inc. v. Lucky Stores, Inc.* (1992) 6 Cal.App.4th 1233, 1239 [8 Cal. Rptr. 2d 298].) Only if the language is unclear will we look to extrinsic aids to determine the drafter's intent. (*Halbert's Lumber, Inc. v. Lucky Stores, Inc., supra*, 6 Cal.App.4th at p. 1239.)

# **EXHIBIT A**

## TITLE LOAN VERSUS PAYDAY LOAN COMPARISON

	TITLE LOAN	PAYDAY LOAN
Statute Code Section	California Financial Code Division 9. California Finance Lenders Law §22000-22757	California Financial Code Division 10. California Deferred Deposit Transaction Law §23000-23106
Size	Above \$2,501*	Limited to \$300 <i>Face amount of the check may not exceed \$300</i>
Term	12 to 36 months*	1 to 31 days
Structure	Multiple equal payments, fully amortizing installment loan	Single Pay Balloon
Underwriting	Requirement to assess ability to repay**	No requirement to assess ability to repay or other underwriting
Number Concurrent Loans	1 (One)	Unlimited
Personal Liability	None*	Full

\*Fast Auto Loans Policy

\*\* See attached application and code section requiring ability to repay analysis



BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
Copyright (c) 2012 by Barclays Law Publishers  
All rights reserved

\* This document is current through Register 2012, No. 34, August 24, 2012 \*

TITLE 10. INVESTMENT  
CHAPTER 3. COMMISSIONER OF CORPORATIONS  
SUBCHAPTER 6. CALIFORNIA FINANCE LENDERS LAW (FINANCE COMPANY RULES)  
ARTICLE 4. LOANS

10 CCR 1452 (2012)

§ 1452. Loan Size and Duration: Limitations

When making or negotiating loans, a finance company shall take into consideration, in determining the size and duration thereof, the financial ability of the borrowers to repay the same, to the end that the borrowers should be reasonably to repay said loans in the time and manner provided in the loan contracts.

AUTHORITY:

Note: Authority cited: *Section 22150, Financial Code*. Reference: *Section 22150, Financial Code*.

HISTORY:

1. New NOTE filed 12-29-83; effective thirtieth day thereafter (Register 83, No. 53).
2. Amendment of NOTE filed 2-21-85; effective thirtieth day thereafter (Register 85, No. 8).
3. Change without regulatory effect amending Note filed 6-14-95 pursuant to *section 100, title 1, California Code of Regulations* (Register 95, No. 24).

## CUSTOMER APPLICATION

CUSTOMER INFORMATION				Date			
Name			Date of Birth		S S #		
Address		City /State /Zip			Apt.#	How Long	
Residence: <input type="checkbox"/> Owned <input type="checkbox"/> Rented Type: <input type="checkbox"/> House <input type="checkbox"/> Apt. <input type="checkbox"/> Other		Phone #		<input type="checkbox"/> Home <input type="checkbox"/> Message		Listed Under	
Landlord / Mtg. Holder		Address			Phone #		
Identification Number # <input type="checkbox"/> DL <input type="checkbox"/> ID		Height	Weight	Hair	Eyes	Sex	Race

EMPLOYMENT								
Employer		Address			Phone #		Ext.	
Status: <input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Not Working		Paid: <input type="checkbox"/> Weekly <input type="checkbox"/> Every Two Weeks <input type="checkbox"/> Monthly		Day of Week Paid	Amount	How Long	Method: <input type="checkbox"/> Direct Deposit <input type="checkbox"/> Check <input type="checkbox"/> Other	
Supervisor		Occupation		Department		Shift		

VEHICLE INFORMATION				
Year	Make	Model	Tag	Color
Value		VIN #		

CO-APPLICANT							
Name / Maiden Name			Date of Birth	S S #			
Address		City /State /Zip			Apt.#	How Long	
Employer		Address			Phone #	Ext.	
Status: <input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Not Working		Paid: <input type="checkbox"/> Weekly <input type="checkbox"/> Every Two Weeks <input type="checkbox"/> Monthly		Day of Week Paid	Amount	How Long	
Identification Number # <input type="checkbox"/> DL <input type="checkbox"/> ID		Height	Weight	Hair	Eyes	Sex	Race

REFERENCES			Relationship
Name	Address		Phone

PLEASE FILL IN THE FOLLOWING SO WE CAN SERVE YOU BETTER IN THE FUTURE			
How Many Miles To Office? <input type="checkbox"/> 0-1 <input type="checkbox"/> 1-2 <input type="checkbox"/> 2-3 <input type="checkbox"/> less than 15 <input type="checkbox"/> over 15	What Is Your Educational Level? <input type="checkbox"/> GED <input type="checkbox"/> High School <input type="checkbox"/> Trade School <input type="checkbox"/> College		What Is Your Total Household Income? <input type="checkbox"/> \$8,000 <input type="checkbox"/> \$10 -15,000 <input type="checkbox"/> \$16 - 20,000 <input type="checkbox"/> \$21 - 25,000 <input type="checkbox"/> \$26 - 30,000 <input type="checkbox"/> \$31-35,000 <input type="checkbox"/> \$35 - 40,000 <input type="checkbox"/> over \$40
Have you ever done business with our company before?		<input type="checkbox"/> No <input type="checkbox"/> Yes	If so, how long ago? _____
Have you ever done business with another company like ours?		<input type="checkbox"/> No <input type="checkbox"/> Yes	If so, please list who: _____
How did you hear about us? <input type="checkbox"/> TV <input type="checkbox"/> Radio <input type="checkbox"/> Drive By <input type="checkbox"/> Referral			
<input type="checkbox"/> Other _____			

BANKING INFORMATION			
Name of Bank	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Loan		Account #
Name of Bank	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Loan		Account #

**TITLE SECURED LOAN QUALIFYING WORKSHEET**

Customer's Gross Monthly Income                   \$ \_\_\_\_\_

Co-Applicant /Other Gross Monthly Income    +   \$ \_\_\_\_\_

Total Gross Monthly Income                    -   \$ \_\_\_\_\_

**MINUS**

Rent/Mortgage                                    \$ \_\_\_\_\_

Utilities    \$ \_\_\_\_\_

Other Expense                                    \$ \_\_\_\_\_

Total Disposable Income                       = \$ \_\_\_\_\_

**I HEARBY CERTIFY THAT THE INFORMATION GIVEN HEREIN IS TRUE, COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I AUTHORIZE YOU TO VERIFY ANY AND ALL INFORMATION ON THIS APPLICATION.**

APPLICANT \_\_\_\_\_

CO-APPLICANT \_\_\_\_\_

**THIS SECTION IS FOR OFFICE USE ONLY**

**EMPLOYMENT** \_\_\_\_\_

**VERIFIED BY:** \_\_\_\_\_

With whom did you speak? \_\_\_\_\_

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

Position / Occupation: \_\_\_\_\_

Pay Day:        Weekly    Every 2 Weeks    Monthly    Other  
 Monday    Tuesday    Wednesday    Thursday    Friday    Saturday

Comments: \_\_\_\_\_

**REFERENCES**

Reference # 1        411        Answering Machine        Spoke with Reference

Comments: \_\_\_\_\_

Reference # 2        411        Answering Machine        Spoke with Reference

Comments: \_\_\_\_\_

Reference # 3        411        Answering Machine        Spoke with Reference

Comments: \_\_\_\_\_

Reference # 4        411        Answering Machine        Spoke with Reference

Comments: \_\_\_\_\_



Get The Cash You Need TODAY!

Find a location near you:

Enter Zip Code



HOME | ABOUT US | HOW IT WORKS | RATES, FEES & TERMS | CONSUMER DISCLOSURES | LOCATIONS

Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!

First Name   
Last Name   
ZIP   
Phone (  )   
Email   
Make   
Model   
Year

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

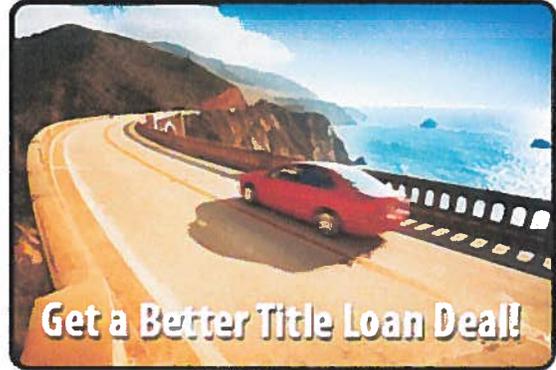
Most Cash Up To  
\$15,000!

Better Title Loan  
Rates!

Low Payments!

Any Car Or  
Truck!

Keep Your Car!



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

### Customer Service Commitment

Thank you for choosing Fast Auto Loans for your cash needs. Our loan representatives are friendly and understanding and will help you through the simple auto title loan application and approval process.

With our convenient network of neighborhood locations throughout California, there is always an office near you to take care of your needs. Submit our quick online form with your information and we'll call you back in minutes to begin your title loan process. It only takes 15 minutes at one of our California title loan locations to get your cash.

### WHY CHOOSE FAST AUTO LOANS?

We know you work hard for your money but sometimes we all need a little extra help with sudden unexpected expenses or necessities. At Fast Auto Loans we get that. That's why we've been helping people just like you, all over the state of California, get the extra cash they need with an auto title loan.

Get started today and we'll treat you with the respect you deserve and help you get a **BETTER DEAL** on a car title loan. If you need fast cash and own your car, visit Fast Auto Loans for a title loan today. At Fast Auto Loans every title loan is backed by our Better Deal Promise. **Get the MOST CASH (up to \$15,000), better title loan rates, low payments, great service and you keep your car.**

## TITLE LOANS

Required Items:

*Driver's License or State Issued I.D.  
Clear Car Title  
Proof of Income  
Vehicle for Inspection*  
**\$2,501 to \$15,000**

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.

This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business Oversight California Finance Lenders License.



Get The Cash You Need TODAY!

Find a location near you:

▶ Enter Zip Code **GO**



HOME | ABOUT US | HOW IT WORKS | RATES, FEES & TERMS | CONSUMER DISCLOSURES | LOCATIONS

Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!

First Name

Last Name

ZIP

Phone (  )

Email

Make

Model

Year

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

**Submit Form**

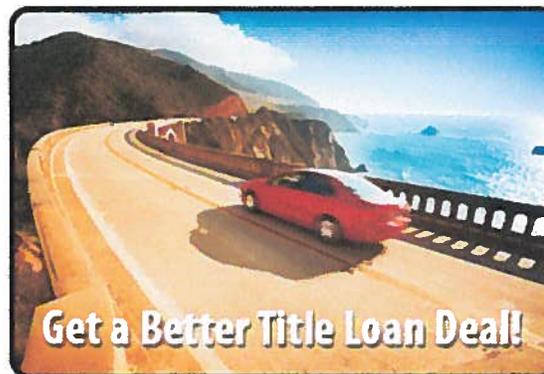
Most Cash Up To  
\$15,000!

Better Title Loan  
Rates!

Low Payments!

Any Car Or  
Truck!

Keep Your Car!



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

## About Us

Fast Auto Loans is a leading auto title loan lender in California, helping people get access to the cash they need for any emergency situation. Every day at several locations throughout California, we are committed to helping our customers get best deal on a car title loan.

If you own a vehicle and have a clear car title, you can qualify now! Why wait? Get started now! Loan representatives are standing by to get you the cash you need today! Our goal is to provide 100% customer satisfaction!

## TITLE LOANS

### REQUIRED ITEMS:

*Driver's License or State Issued I.D.*

*Clear Car Title*

*Proof of Income*

*Vehicle for Inspection*

**\$2,501 to \$15,000**

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.

This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business Oversight California Finance Lenders License.



Get The Cash You Need TODAY!

Find a location near you:

Enter Zip Code



[HOME](#) | [ABOUT US](#) | [HOW IT WORKS](#) | [RATES, FEES & TERMS](#) | [CONSUMER DISCLOSURES](#) | [LOCATIONS](#)

Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!

First Name

Last Name

ZIP

Phone (  )

Email

Make

Model

Year

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

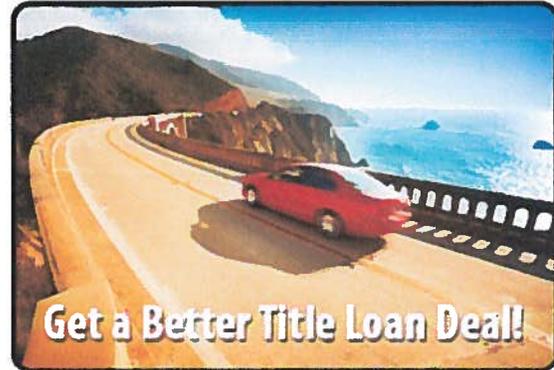
Most Cash Up To  
\$15,000!

Better Title Loan  
Rates!

Low Payments!

Any Car Or  
Truck!

Keep Your Car!



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

## How Everything Works

With Fast Auto Loans it is quick and easy to get the cash you need. The entire process takes as little as 15 minutes. Below are the easy steps you need to follow to get a car title loan.

- SUBMIT ONLINE FORM:** Simply submit the Fast Auto Loans quick online form with all required details.
- CALLBACK FROM LOAN REPRESENTATIVE:** A representative from your preferred location will call you directly to explain the title loan process and ensure that you know which required items (your car, clear car title, government-issued ID, and proof of income) to bring with you. Our loan representative will also answer any questions you may have about California auto title loans.
- AT LOCATION:** After you arrive at the Fast Auto Loans location, our loan representative will do a quick appraisal (5 minutes) on your vehicle and use this and your cash needs to establish your title loan amount. Next, a couple of minutes will be spent walking you through the application process and answering any last minute questions you may have about your car title loan.
- GET THE CASH & KEEP YOUR CAR:** Once we have answered all your questions and you are comfortable we simply give you the cash you needed. Remember, this all happens quickly and you'll be back in your car, truck, or SUV with your cash!

## TITLE LOANS REQUIRED ITEMS:

*Driver's License or State Issued I.D.*  
*Clear Car Title*  
*Proof of Income*  
*Vehicle for Inspection*  
**\$2,501 to \$15,000**

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.

This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business Oversight California Finance Lenders License.



**Get The Cash You Need TODAY!**

Find a location near you:

Enter Zip Code



[HOME](#) | [ABOUT US](#) | [HOW IT WORKS](#) | [RATES, FEES & TERMS](#) | [CONSUMER DISCLOSURES](#) | [LOCATIONS](#)

**Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!**

First Name

Last Name

ZIP

Phone (  )  -

Email

Make

Model

Year

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

**Submit Form**

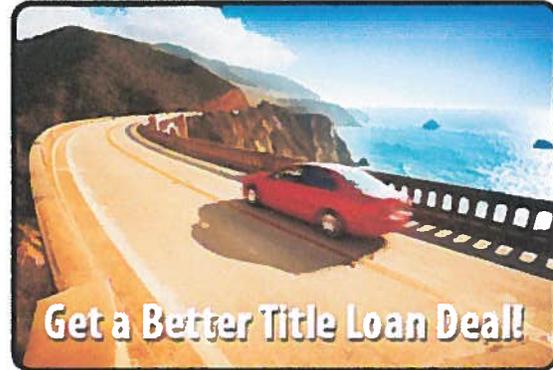
**Most Cash Up To  
\$15,000!**

**Better Title Loan  
Rates!**

**Low Payments!**

**Any Car Or  
Truck!**

**Keep Your Car!**



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

### Required Items

There are a few simple required items needed when obtaining a title loan in California. The items have been listed below. If you are in need of cash now, simply gather the following items and head down to the Fast Auto Loans location nearest to you.

When you apply for a California title loan, bring the following items when you visit a location:

- Clear and Free Title to your car, truck, or SUV
- Driver's License or State Issued I.D.
- Proof of Income
- Vehicle for Inspection

## TITLE LOANS

### REQUIRED ITEMS:

*Driver's License or State Issued I.D.*

*Clear Car Title*

*Proof of Income*

*Vehicle for Inspection*

**\$2,501 to \$15,000**

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.

This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business Oversight California Finance Lenders License.



**Get The Cash You Need TODAY!**

Find a location near you:

 Enter Zip Code 



[HOME](#) | [ABOUT US](#) | [HOW IT WORKS](#) | [RATES, FEES & TERMS](#) | [CONSUMER DISCLOSURES](#) | [LOCATIONS](#)

**Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!**

First Name

Last Name

ZIP

Phone (  )  -

Email

Make

Model

Year

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

**Submit Form**

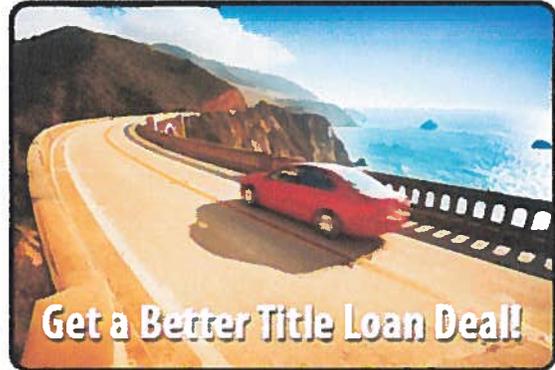
**Most Cash Up To  
\$15,000!**

**Better Title Loan  
Rates!**

**Low Payments!**

**Any Car Or  
Truck!**

**Keep Your Car!**



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

## TITLE LOANS – FAQ’S

### 1) What is a title loan?

A title loan is a short-term loan using a vehicle title as collateral for that loan. A Fast Auto Loans loan representative can assist you with detailed information. A title loan is designed as a short-term cash flow solution and not designed as a solution for long term financial problems.

### 2) How do I qualify for a title loan?

Just take your vehicle, the title, photo ID and proof of income to a Fast Auto Loans location near you. A loan representative will be happy to process your title loan, and get you the money you need.

### 3) What do I need to apply for a title loan?

All you need is your vehicle, the title, photo ID, and proof of income. Fast Auto Loans makes the title loan process hassle free unlike other competitors. We are committed to providing all our customers with unsurpassed customer service and ensuring they get the cash they need in the quickest possible time.

The process is simple:

- Bring your car with a clear car title to Fast Auto Loans.
- Fill out an application while our loan representative does a quick vehicle appraisal.
- Our loan representative will qualify you for a loan amount based upon your need, the appraised value of your vehicle, your ability to repay the loan, and applicable state law.
- Once approved, you will receive the cash you need and keep driving your vehicle. This process can take as little as 15 minutes.

**4) What is a clear or lien-free car title?**

A clear or lien-free car title simply means that you own your car outright, with no outstanding loans or judgments against it. To get a title loan with Fast Auto Loans you need to have a clear or lien-free car title.

**5) How much can I borrow?**

Your loan amount depends on the book value of your vehicle and ability to repay.

**6) Can I still drive my car? (Do I get to keep my car?)**

Yes! In California you keep your car when you take out a title loan with Fast Auto Loans.

**7) How long do I have to pay back the title loan?**

Loan terms vary depending on your needs. Our store loan representative will also give you the various loan options available based on your needs.

**8) I have bad credit. Can I still qualify?**

Absolutely! Good credit, bad credit or no credit. For most title loan amounts, no credit check is required to qualify. Fast Auto Loans is committed to getting you the cash you need. We will work with you under any credit situation. Remember, your credit score is not affected by applying for a title loan with Fast Auto Loans.

**9) How often can I get a title loan?**

Loan terms and frequency may vary. Please check with your loan representative at the Fast Auto Loans location for all the details.

**10) How long does it take to be approved?**

From the time you enter one our Fast Auto Loans locations, it takes as little as 15 minutes to be approved for a car title loan.

**11) Will my personal info be kept confidential?**

At Fast Auto Loans we are committed to keeping all the information you provide strictly confidential. Please see the privacy policy on the Fast Auto Loans website for details.

**12) Do I need to have a job to qualify?**

No! You do not need to be employed to qualify for a title loan. You do need proof of regular income and show an ability to repay the title loan.

**13) What if my car title is not in my name?**

To get a title loan with Fast Auto Loans you need to have the vehicle title in your name. You will need to go to the DMV and have the title transferred to your name.

**14) Do I need a checking account?**

You do not need a checking account to qualify for a title loan at Fast Auto Loans.

**15) What is the total amount of the loan, including the interest and fees?**

Please look at your loan agreement for all loan terms and fees. Your Fast Auto Loans loan representative will go through all loan terms and fees with you before you sign the loan agreement.

**16) What is the value assigned to my vehicle based on?**

The value assigned to your vehicle is based on the value as stated in a nationally recognized pricing guide, and the condition of the vehicle as determined by a physical inspection.

**17) Is it necessary to have a driver's license to get a title loan?**

You do not need a driver's license, but you do need a valid photo ID.

**18) How old do I have to be to get a California title loan?**

In California, you must be at least 18 years of age to qualify for a title loan.

**19) How do I get started?**

You can get started by submitting the online form with your basic information, after which you will be contacted by a friendly Fast Auto Loans loan representative who explain the application process. Applications are taken in person at the Fast Auto Loans branch.

**20) Does Fast Auto Loans report to the credit agencies if my loan defaults?**

Fast Auto Loans does not report to credit agencies if you default.

**21) Where is a location near me?**

We have several locations throughout California. The Fast Auto Loans website has a locator which locates the nearest location based on the zipcode you enter.

## TITLE LOANS

### REQUIRED ITEMS:

*Driver's License or State Issued I.D.*

*Clear Car Title*

*Proof of Income*

*Vehicle for Inspection*  
**\$2,501 to \$15,000**

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.

This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business Oversight California Finance Lenders License.



Get The Cash You Need TODAY!

Find a location near you:

Enter Zip Code



HOME | ABOUT US | HOW IT WORKS | RATES, FEES & TERMS | CONSUMER DISCLOSURES | LOCATIONS

Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!

First Name   
Last Name   
ZIP   
Phone (  )  -   
Email   
Make   
Model   
Year

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

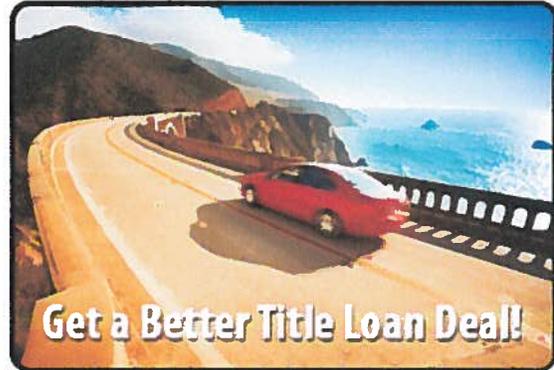
Most Cash Up To  
\$15,000!

Better Title Loan  
Rates!

Low Payments!

Any Car Or  
Truck!

Keep Your Car!



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

## RATES, FEES & TERMS

Fast Auto Loans is committed to providing you with the most competitive auto title loan rates and terms. For additional information about our competitive title loan rates and terms, please ask a Fast Auto Loans representative for details.

## TITLE LOANS

### REQUIRED ITEMS:

*Driver's License or State Issued I.D.*

*Clear Car Title*

*Proof of Income*

*Vehicle for Inspection*

**\$2,501 to \$15,000**

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.

This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business Oversight California Finance Lenders License.





Get The Cash You Need TODAY!

Find a location near you:

Enter Zip Code



HOME | ABOUT US | HOW IT WORKS | RATES, FEES & TERMS | CONSUMER DISCLOSURES | LOCATIONS

Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!

First Name   
Last Name   
ZIP   
Phone (  )   
Email   
Make   
Model   
Year

I certify that the above information is accurate and true and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

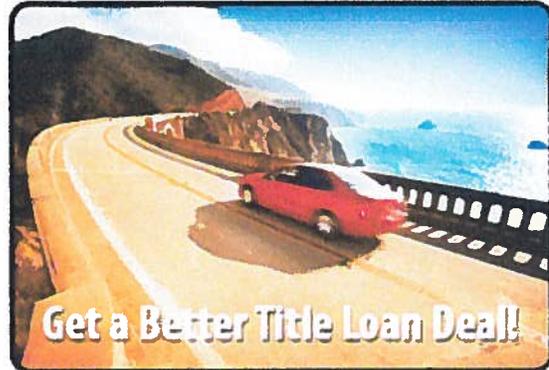
Most Cash Up To  
\$15,000!

Better Title Loan  
Rates!

Low Payments!

Any Car Or  
Truck!

Keep Your Car!



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

## CONSUMER DISCLOSURES

### POLICY ON RESPONSIBLE LENDING

Fast Auto Loans maintains a policy of providing consumers with the information and knowledge necessary to make informed, responsible loan decisions.

### FEDERAL & STATE REGULATIONS

Fast Auto Loans promotes the informed use of consumer credit by rigidly adhering to federal and state regulations requiring disclosures about interest rates, rollover limits, fees, charges and terms. Before consumers assume any obligation they will be presented, in writing, with the exact rates, fees, and other details of their car title loan as required by federal and state Law.

### INQUIRING THROUGH OUR WEBSITE

Inquiring on this website incurs absolutely no obligation. Based on your inquiry, a Fast Auto Loans customer service representative will call you to discuss your title loan needs.

### DETERMINATION OF INTEREST RATE/FEES/CHARGES

As noted above, federal and state law requires disclosures about the terms and cost of consumer credit. All rate and fee information will be disclosed to you by Fast Auto Loans at the location before you sign any agreement. Please review all the rate information provided to you by our customer service representative thoroughly and completely before signing any agreement. **You are under no obligation to accept the terms provided by Fast Auto Loans.**

#### **FAIR DEBT COLLECTION PRACTICES**

Fast Auto Loans undertakes all collection activity in strict compliance with the provisions of the Federal Fair Debt Collection Practices Act enforced by the Consumer Financial Protection Bureau and other Federal agencies. Fast Auto Loans follows all applicable laws, rules, and regulations. Applicable provisions of the Fair Debt Collection Practices Act prohibit the following:

- Contacting consumers by telephone before 8 a.m. or after 9 p.m.
- Contacting consumers by phone with the intent to annoy, harass, etc., or using abusive language at anytime.
- Collecting debt through deception or misrepresentation.
- Threatening legal recourse when no legal action is intended

#### **LATE PAYMENT POLICY**

Should an unexpected emergency arise which prevents you from making your payment on time, our loan representatives at Fast Auto Loans are trained to work with you on establishing payment arrangements in accordance with state regulations. If you fail to repay the loan pursuant to the terms of your agreement, your vehicle may be repossessed and sold. Additional charges may also apply.

#### **LOAN RENEWAL POLICY / REFINANCE POLICY**

For title loans you are allowed to renew/refinance your loan.

#### **CREDIT CHECKS**

There exists a common misconception that a poor credit history may result in a higher interest rate for a title loan. With Fast Auto Loans your credit score does not affect the interest rate, fees or charges determined for a title loan.

#### **NON-PAYMENT POLICY**

Your vehicle will be pledged to Fast Auto Loans as collateral for the loan. If you fail to repay the loan pursuant to the terms of your agreement, your vehicle may be repossessed and sold. Additional charges may also apply.

## **TITLE LOANS**

### **REQUIRED ITEMS:**

*Driver's License or State Issued I.D.*

*Clear Car Title*

*Proof of Income*

*Vehicle for Inspection*

**\$2,501 to \$15,000**

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.  
This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application.  
Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business  
Oversight California Finance Lenders License.





Get The Cash You Need TODAY!

Find a location near you:

Enter Zip Code



[HOME](#) | [ABOUT US](#) | [HOW IT WORKS](#) | [RATES, FEES & TERMS](#) | [CONSUMER DISCLOSURES](#) | [LOCATIONS](#)

Get \$2,501 to \$15,000 today!  
Title Loans in as Little as 15  
Minutes!

First Name   
Last Name   
ZIP   
Phone (  )  -   
Email   
Make   
Model   
Year

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#). I have read and understood the rates and terms.

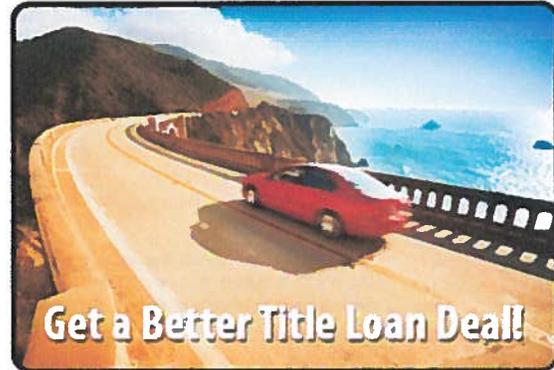
Most Cash Up To  
\$15,000!

Better Title Loan  
Rates!

Low Payments!

Any Car Or  
Truck!

Keep Your Car!



At Fast Auto Loans, our **Better Deal Promise** is something we take very seriously. If you need fast cash for medical bills, auto repairs or other unexpected bills, turn your car title into cash.

At **Fast Auto Loans** no one knows this business better than we do. Ask us how you can get the **most cash from \$2,501 upto \$15,000 and better title loan rates with low payments** that work for you.

### California Locations

Fast Auto Loans has several locations throughout the state of California. We make it possible for you to get the cash you need in as little as 15 minutes with the help of our friendly customer service representatives. Our representatives are standing by to assist you now! Simply choose a convenient location from the regions below and pay us a visit today. Your cash is waiting!

## TITLE LOANS

### Required Items:

- Driver's License or State Issued I.D.
- Clear Car Title
- Proof of Income
- Vehicle for Inspection

**\$2,501 to  
\$15,000**

- [Bakersfield](#)
- [Chico-Redding](#)
- [Fresno-Porterville-Tulare](#)
- [Los Angeles](#)
- [Palm Springs](#)



[Sacramento-Ceres-Modesto](#)

[San Diego](#)

[San Francisco-Oakland-San Jose](#)

[Homepage](#) | [Contact Us](#) | [Terms Of Use](#) | [Privacy Policy](#) | [XML](#)

© Fast Auto and Payday Loans, Inc. d/b/a Fast Auto Loans. All Rights Reserved.

This is a solicitation for an auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Certain Limitations apply. Auto title loans made pursuant to Department of Business Oversight California Finance Lenders License.



**Dreaming of some California Title Loan Cash?**  
 Right now is the time and right here is the place where you can get anywhere from **\$2,501** all the way up to **\$10,000** with a quick cash title loan from Fast Auto and Payday Loans, Inc. Turn your car in to cash to tackle almost any kind of money emergency that comes your way! Apply online right now and get fast approval, with no credit check hassles and no annoying long waits for your title loan cash.

**Our Quick, On-Line Form!**

FIRST NAME \_\_\_\_\_  
 LAST NAME \_\_\_\_\_  
 STREET ADDRESS \_\_\_\_\_  
 CITY \_\_\_\_\_  
 STATE  ZIP \_\_\_\_\_  
 HOME PHONE \_\_\_\_\_  
 OFFICE PHONE \_\_\_\_\_  
 CELL PHONE \_\_\_\_\_  
 EMAIL ADDRESS \_\_\_\_\_  
 TIME OF CONTACT  \_\_\_\_\_  
 METHOD OF CONTACT  \_\_\_\_\_  
 VEHICLE MAKE \_\_\_\_\_  
 MODEL \_\_\_\_\_  
 YEAR \_\_\_\_\_

I certify that the above information is accurate and true, and agree to receive all disclosures and notices in [electronic form](#)

**Get Cash In 15 Minutes!\***

**Keep Your Vehicle!**

**No Credit Check!\***

**Same Day Funding Available!**

Simply fill out the quick and easy Fast Auto and Payday Loans, Inc. online California title loan application. When you submit your information, the four California title loan stores that are in closest proximity to you will appear on your computer screen. All you need to do is pick one, and your California title loan application will be instantly sent to that store location. Then just answer the phone when a store representative calls you back to confirm your request for a title loan in California. You can ask them any questions you may have, and even get driving directions!

After that, just grab your simple paperwork and drive to your local Fast Auto and Payday Loans, Inc. title loan store. It only takes about 15 minutes to leave with the fast emergency cash you need, and you always will be allowed to keep and drive your vehicle during your title loan in California. That's all there is to it! Stop worrying about cash shortages and tap in to the equity that is trapped in your car or truck with a fast and easy title loan from Fast Auto and Payday Loans, Inc. today!



LOCATIONS|ABOUT|HOW IT WORKS|REQUIRED ITEMS

Homepage|Testimonials|Contact Us|Terms of Use|Privacy Policy|XML

© 2014. Fast Auto and Payday Loans, Inc. All Rights Reserved.

Disclosure: This is a solicitation for a auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Actual loan amounts may vary. Certain limitations apply. This company is licensed by the Department of Corporations and auto title loans will be made or arranged under the California Finance Lenders License numbers 6038415,603G554,603G560,603J567,603J786,603J997,603K052,603K059,603K064,603K080,603K193,603K222,603K356,6054391,6071740,6071741,6071742,6071743,6071745 & 6073047. This site is affiliated with one or more of the licensed vendors referenced herein.



LOCATIONS ABOUT HOW IT WORKS REQUIRED ITEMS

Welcome to...



### About Us

When life throws you a curveball and you end up with an unexpected expense you need to take care of, where are more and more Californians turning for emergency cash loans? Fast Auto and Payday Loans, Inc. does what banks and other "traditional" lenders can't, or won't, do. They put fast title loan cash in your pocket in as little as 15 minutes! With thirteen convenient locations all across the great state of California, Fast Auto and Payday Loans, Inc. has you covered when you need a title loan in California. By keeping the title loan application process simple and straightforward, you can rely on getting cash for your vehicle's title in just minutes, and minutes can really make a difference when you have a financial emergency on your hands. Fast Auto and Payday Loans, Inc. understands how difficult that can be, and they've done everything possible to make getting a title loan in California a quick and painless process.

The easy online application means you can apply for a vehicle title loan anytime from anywhere, and that saves you time and headaches when it comes time to visit a Fast Auto and Payday Loans, Inc. store location. Now add friendly, professional phone support from understanding neighborhood customer service title loan representatives, and you have a truly winning combination! Let Fast Auto and Payday Loans, Inc. show you how a California title loan is supposed to be! Why not get started right now? Your title loan in California is just a few clicks away!

from **\$2,501** to **\$10,000!**

**Get Cash In 15 Minutes!\***

**Keep Your Vehicle!**

**No Credit Check!\***

**Same Day Funding Available!**



LOCATIONS|ABOUT|HOW IT WORKS|REQUIRED ITEMS

[Homepage](#) | [Testimonials](#) | [Contact Us](#) | [Terms of Use](#) | [Privacy Policy](#) | [XML](#)

© 2014. Fast Auto and Payday Loans, Inc. All Rights Reserved

Disclosure: This is a solicitation for a auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Actual loan amounts may vary. Certain limitations apply. This company is licensed by the Department of Corporations and auto title loans will be made or arranged under the California Finance Lenders License numbers 6038415,603G554,603G560,603J567,603J786,603J997,603K052,603K059,603K064,603K080,603K193,603K222,603K356,6054391,6071740,6071741,6071742,6071743,6071745 & 6073047. This site is affiliated with one or more of the licensed vendors referenced herein.



[LOCATIONS](#) [ABOUT HOW IT WORKS](#) [REQUIRED ITEMS](#)

Welcome to...



### How A California Title Loan Works

A California title loan from Fast Auto and Payday Loans, Inc. is the fast and easy way to free up emergency cash by using the value of your vehicle to get a cash loan in just minutes. The concept is simple, and actually getting title loan cash is even easier than you may think. You can visit a location in person (don't forget to bring your required items) or you can get started from your computer or handheld device to save time and extra effort later.

First, simply fill out the easy online Fast Auto and Payday Loans, Inc. title loan application. When you submit it, the four closest title loan stores serving you will appear onscreen. Next, just click on the store you wish to use, and your title loan application will be immediately forwarded to their location, where a friendly California title loan customer service agent will call you back at the time you specify on your application. When they call, you can ask any questions you have about getting a title loan in California, what items you need to bring, or even get driving directions. After that, all that's left to do is go and get your title loan cash! Simply gather your required items and drive your vehicle to the title loan store for a fast inspection and to collect your title loan cash! You even get to keep and drive your vehicle during your vehicle title loan, so get started now!

When you use the easy online form you end up saving so much time later-most people get cash in just 15 minutes! So don't delay, get emergency cash the easy way, right now, today! Fast Auto and Payday Loans, Inc. is how people in California get the fast, emergency, short-term cash they need!

from **\$2,501** to **\$10,000!**

**Get Cash In 15 Minutes!\***

**Keep Your Vehicle!**

**No Credit Check!\***

**Same Day Funding Available!**



[LOCATIONS](#) [ABOUT HOW IT WORKS](#) [REQUIRED ITEMS](#)

[Homepage](#) | [Testimonials](#) | [Contact Us](#) | [Terms of Use](#) | [Privacy Policy](#) | [XML](#)

© 2014. Fast Auto and Payday Loans, Inc. All Rights Reserved.

Disclosure: This is a solicitation for a auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Actual loan amounts may vary. Certain limitations apply. This company is licensed by the Department of Corporations and auto title loans will be made or arranged under the California Finance Lenders License numbers 8038415, 803G554, 803G560, 803J567, 803J796, 803J997, 803K052, 803K059, 803K064, 803K080, 803K193, 803K222, 803K356, 8054391, 8071740, 8071741, 8071742, 8071743, 8071745 & 8073047. This site is affiliated with one or more of the licensed vendors referenced herein.



[LOCATIONS](#) [ABOUT HOW IT WORKS](#) [REQUIRED ITEMS](#)

Welcome to...



### California Title Loan Required Items

At Fast Auto and Payday Loans, Inc. it has never been easier to get a California title loan! With our easy online pre-approval and great phone support, by the time you arrive at any of our thirteen locations, your title loan cash will already be waiting for you. It usually only takes about 15 minutes for our customers to get in and out of one of our locations with their California title loan cash! When you go to one of our convenient title loan stores, please remember to bring the following items to ensure that you get your cash as fast as possible!

- Drivers License or State Issued I D
- Clear Car Title
- Proof of Income
- Vehicle for Inspection

That really is all you need to get a title loan in California with Fast Auto and Payday Loans, Inc., so why not get started right now? Remember, you always keep and drive your car during your California title loan! When it comes to getting fast cash for all your unexpected emergencies, Fast Auto and Payday Loans, Inc. can't be beat!

from **\$2,501** to **\$10,000!**

**Get Cash In 15 Minutes!\***

**Keep Your Vehicle!**

**No Credit Check!\***

**Same Day Funding Available!**



[LOCATIONS](#) [ABOUT HOW IT WORKS](#) [REQUIRED ITEMS](#)

[Homepage](#) | [Testimonials](#) | [Contact Us](#) | [Terms of Use](#) | [Privacy Policy](#) | [XML](#)

© 2014. Fast Auto and Payday Loans, Inc. All Rights Reserved.

Disclosure: This is a solicitation for a auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Actual loan amounts may vary. Certain limitations apply. This company is licensed by the Department of Corporations and auto title loans will be made or arranged under the California Finance Lenders License numbers 6038415,603G554,603G560,603J567,603J788,603J997,603K052,603K059,603K064,603K080,603K193,603K222,603K358,6054391,6071740,6071741,6071742,6071743,6071745 & 6073047. This site is affiliated with one or more of the licensed vendors referenced herein.



[LOCATIONS](#) [ABOUT HOW IT WORKS](#) [REQUIRED ITEMS](#)

Welcome to...



To locate a title loan store near you, just type in your 5-digit ZIP code in the box below. Our four nearest title loan stores will then be displayed.

ENTER YOUR ZIP CODE HERE:

from **\$2,501** to  
**\$10,000!**

**Get Cash In  
15 Minutes!\***

**Keep Your Vehicle!**

**No Credit Check!\***

**Same Day Funding  
Available!**



[LOCATIONS](#)[ABOUT HOW IT WORKS](#)[REQUIRED ITEMS](#)

[Homepage](#) | [Testimonials](#) | [Contact Us](#) | [Terms of Use](#) | [Privacy Policy](#) | [XML](#)

© 2014, Fast Auto and Payday Loans, Inc. All Rights Reserved

Disclosure: This is a solicitation for a auto title loan. This is not a guaranteed offer and requires a complete and approved application. Amount subject to vehicle evaluation. Actual loan amounts may vary. Certain limitations apply. This company is licensed by the Department of Corporations and auto title loans will be made or arranged under the California Finance Lenders License numbers 603B415,603G554,603G560,603J567,603J786,603J997,603K052,603K059,603K064,603K080,603K193,603K222,603K356,6054391,6071740,6071741,6071742,6071743,6071745 & 6073047. This site is affiliated with one or more of the licensed vendors referenced herein.



**Brown, Susanne**

**From:** Shaffer, Edward <eshaffer@archernorris.com>  
**Sent:** Thursday, March 06, 2014 11:19 AM  
**To:** Coon, Mark  
**Cc:** Brown, Susanne  
**Subject:** Fast Auto Loan - Rebuttal to Planning Division Denial  
**Attachments:** Rebuttal of Planning Denial (3\_6\_14).pdf

Mark and Susanne,

Please review the attached memo and supporting documents, which demonstrate that denial of Fast Auto Loan's business was improper. We ask you to instruct the Planning Division to reverse its denial and issue the Zoning Clearance, without requiring our client to undergo the cost, delay and uncertainty of an unnecessary discretionary appeal process.

Monday, March 10 is the City's deadline to file an appeal. If you are not able to effectuate this change by the end of Friday, do you have authority to toll the deadline while the matter is considered? We are available to meet if needed to discuss this information.

Ed Shaffer



The information and any attachments contained in this email message may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, any dissemination or copying is strictly prohibited. If you think that you may have received this email message in error, please notify the sender at the email address above.

If you have received this email in error, you are instructed to delete all copies and discard any printouts without reading the information contained within.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

<http://www.archernorris.com>





**ARCHERNORRIS**  
A PROFESSIONAL LAW CORPORATION

2033 North Main Street, Suite 800  
Walnut Creek, CA 94596-3759  
925.930.6600  
925.930.6620 (Fax)  
www.archernorris.com

**EDWARD L. SHAFFER**  
eshaffer@archernorris.com  
925.952.5409

## MEMORANDUM

**TO:** Mark Coon, Concord City Attorney  
**CC:** Susanne Brown, Senior Assistant City Attorney  
**FROM:** Richard Norris, Edward Shaffer  
**DATE:** March 6, 2014  
**RE:** Fast Auto Loans Zoning Clearance

---

Our client Fast Auto and Payday Loans, Inc., dba Fast Auto Loans (“FAL”) proposes operating a business at 1545 Monument Boulevard that will only provide loans secured by equity in borrower’s vehicles (sometimes referred to as “car title loans”). On February 20, 2014, we sent you a letter objecting to the Planning Division’s treatment of FAL’s request for Zoning Clearance. In response, we received a letter dated February 26 from Planning Manager Carol Johnson, declaring that FAL’s business “is similar to a Check Cashing Business” which is not allowed under the CMX zoning at this property.

The City’s conclusion is based on inaccurate facts and assumptions. In addition, the City’s interpretation of the City Code does not comply with applicable legal restrictions. We ask the City Attorney’s Office to consider the information and analysis in this memo (together with Ed Shaffer’s February 20 letter), and advise the Planning Division to retract its decision and issue the Zoning Clearance, without forcing FAL to undergo the cost and delay of an appeal.

FAL’s request for a Zoning Clearance, like that of any person proposing to do business in Concord, is entitled to the fair and reasonable application of the law. A fair and reasonable review of the business our client seeks to operate in Concord will confirm that the conclusions reached by the City’s Planning Department are not justified. We hope that you read through Ms. Johnson’s letter and then compare the conclusions upon which the Planning Department’s position is based to the facts and the law – which plainly and without reservation or ambiguity support our client’s position.

We ask for a quick response as the appeal application deadline is Monday, March 10. We are available to meet before then if you desire. Alternatively, do you have authority to toll

the March 10 appeal deadline, allowing FAL to file its appeal later if we are not successful in resolving the matter?

### Applicable City Codes

Development Code Table 122-131.1 lists possible uses in office and commercial districts. The following excerpt shows how “Banks and Financial Services” are treated:

Table 122-131.1 Office and Commercial Districts Allowed Uses and Permit Requirements						ZC - Permitted Use Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	CO	CMX	NC	SC	RC	
<b>Office, Commercial, and Retail Uses (cont.)</b>						
Banks and Financial Services						
Bank, Credit Union	--	ZC <sup>1</sup>	ZC <sup>1</sup>	ZC <sup>1</sup>	ZC	
Bank w/Drive-Through Service	--	UP	UP	UP	MP	§122-619 Drive-Through Facilities
Check Cashing Business	--	--	--	--	--	

In the CMX District, “Bank, Credit Union” is a permitted use, “Bank w/Drive-Through Service” requires a Use Permit, and “Check Cashing Business” is not allowed. These are defined terms, which can be found in Development Code section 122-1580:

#### Banks and Financial Services:

**Bank, Credit Union.** A financial institution that provides retail banking services. Examples include institutions engaged in the on-site circulation of money, including credit unions. This classification does not include check-cashing businesses.

**Bank with Drive-Through Service.** A facility where banking services may be obtained by motorists without leaving their vehicles.

**Check Cashing Business.** An establishment that provides compensation for checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes establishments offering deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33.

The City has claimed that the Code gives the Planning Department authority to interpret these provisions. The City claims to rely on “facts” in deciding that FAL’s business fits the Code’s definition of “Check Cashing Business” rather than “Bank, Credit Union”.<sup>1</sup> As indicated

<sup>1</sup> We have attached, as Exhibit A, a simple chart comparing FAL Title Loans to Payday Loans. The Chart indicates FAL policies with an “\*.” Items without an “\*” are obligations arising under applicable law. Exhibit A also

below, the “facts” upon which the City expressly relied are simply incorrect. FAL falls within the Code definition of a financial institution and does not fit the description of a Check Cashing Business. It is unfair and improper for City staff to force FAL to submit to a discretionary process where it is both clear and unambiguous that FAL’s proposed use 1) is not a Payday Lender/Check Cashing Service; and 2) falls within the definition of financial institution allowed by the Ordinance.

### Factual Analysis

The Planning Division’s letter recites a list of comparisons meant to support the claim that FAL’s business is not a permitted financial institution but instead a prohibited Check Cashing Business. As documented below, each statement is incorrect and not supported by any valid evidence. These criticisms demonstrate an unlawful prejudice against the business in which our client engages.

1. The City relies on the assertion that: “Unlike typical banks, FAL does not require its customers to have a savings or checking account to be eligible for a loan.”

*This is incorrect and an improper basis for the City’s decision: Banks commonly give consumer loans for car and home purchases, and issue credit cards, without requiring accounts. Furthermore, there is nothing in the City Code requiring borrower accounts to qualify as a financial institution.*

*If savings and checking accounts were a pre-requisite to being a “financial institution” under the Code, Concord would have effectively denied Zoning Clearance to mortgage loan offices.*

2. The City relies on the assertion that: “Unlike typical banks, FAL ... does not require its customers to be credit worthy to receive a loan.”

*This is incorrect and an improper basis for the City’s decision: FAL in fact does check borrowers’ credit history and employment status. Furthermore, there is nothing in the Code requiring credit checks to qualify as a financial institution.<sup>2</sup>*

3. The City relies on the assertion that: “Unlike typical banks, FAL ... does not accept other types of assets as collateral for a loan.”

*This is incorrect and an improper basis for the City’s decision: Bank auto loans are secured only by the vehicle, bank property loans are secured only by the property, and bank-issued credit cards are not secured by any collateral. Furthermore, there is nothing in the Code requiring multiple forms of assets for loans to qualify as a financial institution.*

---

includes a copy of Section 10 CCR 1452 describing the financial; underwriting requirements imposed on FAL and a copy of the application that is filled out by FAL customers.

<sup>2</sup> See 10 CCR 1452 and Customer Application in Exhibit A.

4. The City relies on the assertion that: “Unlike typical banks, FAL ... does not have loan products with terms and rates comparable to those generally offered by banks.”

*This is incorrect and an improper basis for the City's decision: many loan products offered by banks constitute short-term, high interest loans including Bank-issued credit cards and automatic overdraft advances. Furthermore, there is nothing in the Code specifying the terms and rates of loans to qualify as a financial institution.*

5. The City stated: “FAL is more similar to check cashing because it deals extensively or exclusively in short term loans with interest rates that far exceed typical bank loan rates and in small loan amounts paid immediately in cash.”

*A. Short term loans: Banks make loans in all amounts. Credit cards and overdraft loans represent short-term loans, especially when used to receive cash advances. Revolving and equity lines of credit frequently are used by borrowers as short-term loans.<sup>3</sup>*

*B. High interest rates: Interest rates on credit card, over draft lines of credit, and other bank instruments are as high or higher than those charged by FAL.*

*C. Small loan amounts: Every credit card purchase represents a small loan, as do cash advances and overdraft advance.<sup>4</sup>*

*D. Loans paid immediately in cash: Every credit card purchase, ATM credit card cash advance, and overdraft cash advance represents an immediate cash payment to the borrower used to make a purchase.*

*E. The Code does not prescribe standards for loan terms, interest rates, loan amounts, and the medium in which loan proceeds are advanced to borrowers that must be met to qualify as a financial institution, and in fact they are not even mentioned as relevant criteria.*

### Legal Analysis

California courts have set clear and specific rules and limits on the extent to which the City may interpret and apply its adopted regulations. On February 28, 2014, the Court of Appeal published its decision on this topic in *Tower Lane Properties v. City of Los Angeles*, 2014 Cal. App. LEXIS 196. The following quote in Headnote 2 presents the court’s recital of rules stated by previous decisions, and sets the framework for judging Concord’s treatment of FAL (the full quote with case citations is provided at the end of this memo).

A court begins with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent. The construction of a

<sup>3</sup> FAL’s loans are for a term of from 12 to 36 months. See Comparison Chart, Exhibit A.

<sup>4</sup> FAL loans are for amounts in excess of \$2501. See Comparison Chart, Exhibit A

county ordinance is subject to the same standard. To ascertain such intent, the court considers the words of the ordinance itself, as they are the most reliable indicators of the drafter's purpose. The court may not speculate that the enacting body meant something other than what it said, nor add to or alter an ordinance to accomplish a purpose that does not appear on its face. For example, when a term has been expressly defined, a court cannot rewrite that definition to mean something other than what has been prescribed. Additionally, the court construes the language in the context of the regulatory framework as a whole, keeping in mind the nature and purpose of the ordinance in which the language appears, and harmonizing, where possible, separate provisions relating to the same subject. When the intent is unambiguous, the plain meaning controls and there is no need for construction. Only if the language is unclear will the court look to extrinsic aids to determine the drafter's intent.

The Code definitions are not ambiguous, so they are not open to interpretation. The plain meanings of these definitions control. The City cannot “add to or alter [the Code] to accomplish a purpose that does not appear on its face.” The City cannot “rewrite [the] definition[s] to mean something other than what has been prescribed.” There is nothing in the Code to suggest that when the City Council adopted the Development Code in 2012 it intended to prohibit car title loan businesses.

The description of “Bank, Credit Union” does not require that a financial institution provide every retail banking service to qualify. It also does not require that a business’ operation match those of a “typical” bank – whatever that is – or else it is prohibited. The definition was made broad to fit a variety of financial institutions – including FAL. The City cannot try to narrow that definition to fit particular uses that may not be in favor.

The Code definition for “Check Cashing Business” actually describes two distinct operations: (1) “An establishment that provides compensation for checks, warrants, drafts, money orders, or other commercial paper serving the same purpose”; and (2) “establishments offering deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33.” The first category does not involve loans and so is not relevant to this situation. The second category refers to operations that also are described as payday loans.

FAL’s proposed business will not provide payday loans, and cannot be found to be covered by the Code definition. FAL will not offer deferred deposits of personal checks in return for a loan. In fact, FAL’s business model makes it impossible for FAL to provide payday loans. California Financial Code §23000 et seq. (the “California Deferred Deposit Transaction Law”) regulates and licenses this type of deferred deposit operation. Section 23037(b) prohibits the payday lender from accepting collateral – and FAL takes a security interest in the borrower’s vehicle as collateral. Section 23035(a) limits the amount of any check given by a borrower for deferred deposit to \$300 while §23036(g) forbids the lender from accepting more than one check from a borrower for a single transaction, which we interpret as limiting their loans to \$300 – less than FAL’s typical loan.

The courts prohibit agencies from applying guidelines, rules or restrictions that have not been adopted, especially when they contradict adopted regulations. The court in *City of Pasadena v. AT&T Communications of Cal., Inc.* (2002) 103 Cal.App.4<sup>th</sup> 981, refused to allow the city to give a word its opposite meaning, stating: "The City cannot issue informal guidelines rewriting the language of its ordinance. Nor can the City succeed by informing the public that the ordinance means the opposite of what it says. If the City has a policy of defining words in the PMC in a way that contradicts accepted English usage, it is not a policy that we intend to encourage." *Id.* at 985.

In a different situation, the court refused to allow a city to require a subdivider to install utilities underground where there was no adopted regulation in effect when the tentative map was approved. *Bright Development v. City of Tracy* (1993) 20 Cal.App.4<sup>th</sup> 783. The court found that the city had no ordinance, policy or standard in effect, but that at best "City employees believed there was such an unwritten policy..." *Id.* at 797. The court concluded: "City's action in imposing the off-site undergrounding requirement on plaintiff was "so palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law." [citation]" *Id.* at 800.

Concord planners cannot simply decide to prohibit car equity loan businesses on their own. The plain meaning of the Code must be applied. FAL is a financial institution offering the retail banking service of loans secured by the equity in vehicles. This is a permitted use in the CMX District and it is unfair and unlawful to require FAL to submit to the cost, delay and uncertainty of a discretionary process.

*Tower Lane Properties v. City of Los Angeles, 2014 Cal.App. LEXIS 196, 5-8*

**CA(1)** (1) "The rules governing statutory construction are well settled. **HN2** We begin with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent." (*Burden v. Snowden* (1992) 2 Cal.4th 556, 562 [7 Cal. Rptr. 2d 531, 828 P.2d 672].) The construction of a county ordinance is subject to **[6]** the same standard. (*Dep't of Health Servs. v. Civil Serv. Com.* (1993) 17 Cal.App.4th 487, 494 [21 Cal. Rptr. 2d 428].) To ascertain such intent, we consider the words of the ordinance itself, as they are the most reliable indicators of the drafter's purpose. (*Lewis C. Nelson & Sons, Inc. v. Clovis Unified Sch. Dist.* (2001) 90 Cal.App.4th 64, 69–70 [108 Cal. Rptr. 2d 715]; *People v. Gardeley* (1996) 14 Cal.4th 605, 621 [59 Cal. Rptr. 2d 356, 927 P.2d 713].) We may not speculate that the enacting body meant something other than what it said (see *Unzueta v. Ocean View School District* (1992) 6 Cal.App.4th 1689, 1697 [8 Cal. Rptr. 2d 614]), nor add to or alter an ordinance to accomplish a purpose that does not appear on its face (see *Burden v. Snowden, supra*, 2 Cal.4th at p. 562). For example, when a term has been expressly defined, we cannot rewrite that definition to mean something other than what has been prescribed. (*Curle v. Superior Court* (2001) 24 Cal.4th 1057, 1063 [103 Cal. Rptr. 2d 751, 16 P.3d 166].) Additionally, we construe the language in the context of the regulatory framework as a whole, keeping in mind the nature and purpose of the ordinance in which the language appears, and harmonizing, where possible, separate provisions relating to the same subject. (*Boston v. Penny Lane Centers, Inc.* (2009) 170 Cal.App.4th 936, 950 [88 Cal. Rptr. 3d 707]; **[7]** *Lewis C. Nelson & Sons, Inc. v. Clovis Unified Sch. Dist., supra*, 90 Cal.App.4th at pp. 69–70.) When the intent is unambiguous, the plain meaning controls and there is no need for construction. (*People v. Gardeley, supra*, 14 Cal.4th at p. 621; *Halbert's Lumber, Inc. v. Lucky Stores, Inc.* (1992) 6 Cal.App.4th 1233, 1239 [8 Cal. Rptr. 2d 298].) Only if the language is unclear will we look to extrinsic aids to determine the drafter's intent. (*Halbert's Lumber, Inc. v. Lucky Stores, Inc., supra*, 6 Cal.App.4th at p. 1239.)

# **EXHIBIT A**

## TITLE LOAN VERSUS PAYDAY LOAN COMPARISON

	TITLE LOAN	PAYDAY LOAN
Statute Code Section	California Financial Code Division 9. California Finance Lenders Law §22000-22757	California Financial Code Division 10. California Deferred Deposit Transaction Law §23000-23106
Size	Above \$2,501*	Limited to \$300 <i>Face amount of the check may not exceed \$300</i>
Term	12 to 36 months*	1 to 31 days
Structure	Multiple equal payments, fully amortizing installment loan	Single Pay Balloon
Underwriting	Requirement to assess ability to repay**	No requirement to assess ability to repay or other underwriting
Number Concurrent Loans	1 (One)	Unlimited
Personal Liability	None*	Full

\*Fast Auto Loans Policy

\*\* See attached application and code section requiring ability to repay analysis



BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
Copyright (c) 2012 by Barclays Law Publishers  
All rights reserved

\* This document is current through Register 2012, No. 34, August 24, 2012 \*

TITLE 10. INVESTMENT  
CHAPTER 3. COMMISSIONER OF CORPORATIONS  
SUBCHAPTER 6. CALIFORNIA FINANCE LENDERS LAW (FINANCE COMPANY RULES)  
ARTICLE 4. LOANS

10 CCR 1452 (2012)

§ 1452. Loan Size and Duration: Limitations

When making or negotiating loans, a finance company shall take into consideration, in determining the size and duration thereof, the financial ability of the borrowers to repay the same, to the end that the borrowers should be reasonably to repay said loans in the time and manner provided in the loan contracts.

AUTHORITY:

Note: Authority cited: *Section 22150, Financial Code*. Reference: *Section 22150, Financial Code*.

HISTORY:

1. New NOTE filed 12-29-83; effective thirtieth day thereafter (Register 83, No. 53).
2. Amendment of NOTE filed 2-21-85; effective thirtieth day thereafter (Register 85, No. 8).
3. Change without regulatory effect amending Note filed 6-14-95 pursuant to *section 100, title 1, California Code of Regulations* (Register 95, No. 24).

## CUSTOMER APPLICATION

CUSTOMER INFORMATION						Date	
Name			Date of Birth	SS #			
Address		City/State/Zip		Apt #	How Long		
Residence Type: <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> House <input type="checkbox"/> Apt. <input type="checkbox"/> Other		Phone #	<input type="checkbox"/> Home <input type="checkbox"/> Message		Listed Under		
Landlord / Mgt Holder		Address		Phone #			
Identification Number #	<input type="checkbox"/> DL <input type="checkbox"/> ID	Height	Weight	Hair	Eyes	Sex	Race

EMPLOYMENT					
Employer		Address		Phone #	Ext
Status: <input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Not Working	Paid: <input type="checkbox"/> Weekly <input type="checkbox"/> Every Two Weeks <input type="checkbox"/> Monthly	Day of Week Paid	Amount	How Long	Method: <input type="checkbox"/> Direct Deposit <input type="checkbox"/> Check <input type="checkbox"/> Other
Supervisor	Occupation	Department	Shift		

VEHICLE INFORMATION				
Year	Make	Model	Tag	Color
VIN #				

CO-APPLICANT							
Name / Maiden Name			Date of Birth	SS #			
Address		City/State/Zip		Apt #	How Long		
Employer		Address		Phone #	Ext		
Status: <input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Not Working	Paid: <input type="checkbox"/> Weekly <input type="checkbox"/> Every Two Weeks <input type="checkbox"/> Monthly	Day of Week Paid	Amount	How Long			
Identification Number #	<input type="checkbox"/> DL <input type="checkbox"/> ID	Height	Weight	Hair	Eyes	Sex	Race

REFERENCES			Relationship
Name	Address	Phone	

PLEASE FILE IN THE FOLLOWING SO WE CAN SERVE YOU BETTER IN THE FUTURE		
How Many Miles To Office? <input type="checkbox"/> 0-1 <input type="checkbox"/> 1-2 <input type="checkbox"/> 2-3 <input type="checkbox"/> less than 15 <input type="checkbox"/> over 15	What is Your Educational Level? <input type="checkbox"/> GED <input type="checkbox"/> High School <input type="checkbox"/> Trade School <input type="checkbox"/> College	What is Your Total Household Income? <input type="checkbox"/> \$8,000 <input type="checkbox"/> \$10 -15,000 <input type="checkbox"/> \$16 - 20,000 <input type="checkbox"/> \$21 - 25,000 <input type="checkbox"/> \$26 - 30,000 <input type="checkbox"/> \$31-35,000 <input type="checkbox"/> \$35 - 40,000 <input type="checkbox"/> over \$40
Have you ever done business with our company before?	<input type="checkbox"/> No <input type="checkbox"/> Yes	If so, how long ago? _____
Have you ever done business with another company like ours?	<input type="checkbox"/> No <input type="checkbox"/> Yes	If so, please list who: _____
How did you hear about us? <input type="checkbox"/> TV <input type="checkbox"/> Radio <input type="checkbox"/> Drive By <input type="checkbox"/> Referral		
<input type="checkbox"/> Other _____		

BANKING INFORMATION		
Name of Bank	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Loan	Account #
Name of Bank	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Loan	Account #

**TITLE SECURED LOAN QUALIFYING WORKSHEET**

Customer's Gross Monthly Income		\$	_____
Co-Applicant / Other Gross Monthly Income	+	\$	_____
Total Gross Monthly Income	=	\$	_____
	<b>MINUS</b>		
Rent/Mortgage		\$	_____
Utilities		\$	_____
Other Expense		\$	_____
Total Disposable Income	=	\$	_____

**I HEARBY CERTIFY THAT THE INFORMATION GIVEN HEREIN IS TRUE, COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I AUTHORIZE YOU TO VERIFY ANY AND ALL INFORMATION ON THIS APPLICATION.**

APPLICANT \_\_\_\_\_

CO-APPLICANT \_\_\_\_\_

**THIS SECTION IS FOR OFFICE USE ONLY**

**EMPLOYMENT VERIFIED BY:**

With whom did you speak? \_\_\_\_\_

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

Position / Occupation: \_\_\_\_\_

Pay Day:       Weekly    Every 2 Weeks    Monthly    Other

Monday    Tuesday    Wednesday    Thursday    Friday    Saturday

Comments: \_\_\_\_\_

**REFERENCES**

<b>Reference # 1</b>	<input type="checkbox"/> 411	<input type="checkbox"/> Answering Machine	<input type="checkbox"/> Spoke with Reference
Comments: _____			
<b>Reference # 2</b>	<input type="checkbox"/> 411	<input type="checkbox"/> Answering Machine	<input type="checkbox"/> Spoke with Reference
Comments: _____			
<b>Reference # 3</b>	<input type="checkbox"/> 411	<input type="checkbox"/> Answering Machine	<input type="checkbox"/> Spoke with Reference
Comments: _____			
<b>Reference # 4</b>	<input type="checkbox"/> 411	<input type="checkbox"/> Answering Machine	<input type="checkbox"/> Spoke with Reference
Comments: _____			

## **Brown, Susanne**

---

**From:** Brown, Susanne  
**Sent:** Thursday, March 06, 2014 4:56 PM  
**To:** 'Shaffer, Edward'  
**Subject:** RE: Fast Auto Loan - Rebuttal to Planning Division Denial

Dear Mr. Shaffer:

Thank you for your email and memorandum. We respectfully disagree with your position, and will not be directing the Planning Division to reverse its conclusion.

We also respectfully decline your request to extend the appeals deadline. As stated in Ms. Johnson's February 26, 2014 letter, that deadline is 5:00 pm on March 10, 2014. I understand that you have been in contact with the City Clerk with respect to a potential appeal.

Regards,  
Susanne Brown

**From:** Shaffer, Edward [<mailto:eshaffer@archernorris.com>]  
**Sent:** Thursday, March 06, 2014 11:19 AM  
**To:** Coon, Mark  
**Cc:** Brown, Susanne  
**Subject:** Fast Auto Loan - Rebuttal to Planning Division Denial

Mark and Susanne,

Please review the attached memo and supporting documents, which demonstrate that denial of Fast Auto Loan's business was improper. We ask you to instruct the Planning Division to reverse its denial and issue the Zoning Clearance, without requiring our client to undergo the cost, delay and uncertainty of an unnecessary discretionary appeal process.

Monday, March 10 is the City's deadline to file an appeal. If you are not able to effectuate this change by the end of Friday, do you have authority to toll the deadline while the matter is considered? We are available to meet if needed to discuss this information.

Ed Shaffer

---

Edward L. Shaffer

Partner

2033 North Main Street, Suite 800

Walnut Creek, CA 94596

E: [eshaffer@archernorris.com](mailto:eshaffer@archernorris.com)

T: 925.930.6600 | F: 925.930.6620

D: 925-952-5409



ARCHERNORRIS  
A PROFESSIONAL LAW CORPORATION

[WWW.ARCHERNORRIS.COM](http://WWW.ARCHERNORRIS.COM)

---

The information and any attachments contained in this email message may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, any dissemination or copying is strictly prohibited. If you think that you may have received this email message in error, please notify the sender at the email address above.

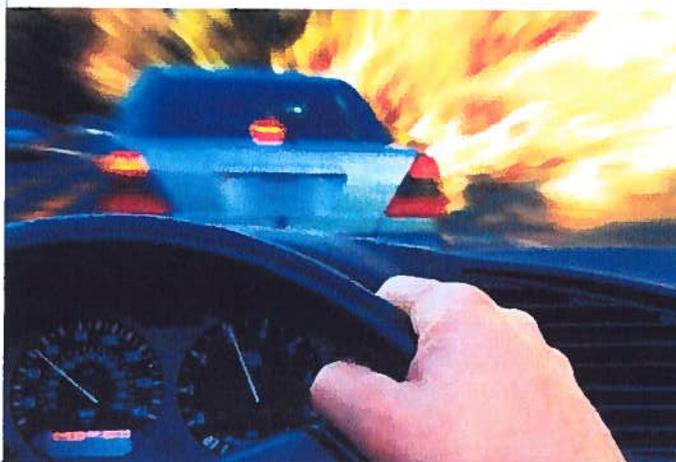
If you have received this email in error, you are instructed to delete all copies and discard any printouts without reading the information contained within.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

<http://www.archernorris.com>

Disclaimer Status WCx2033

---



## **Driven to Disaster: Car-Title Lending and Its Impact on Consumers**

Jean Ann Fox and Tom Feltner, Consumer Federation of America  
Delvin Davis and Uriah King, Center for Responsible Lending

February 28, 2013



[www.responsiblelending.org](http://www.responsiblelending.org)

Acknowledgements:

The authors wish to thank Robert Salvin and the Community Justice Project for providing data used in the report, and Patricia Rowan for providing data analysis.

---

**TABLE OF CONTENTS**

---

Executive Summary . . . . . 2

Background . . . . . 3

Analysis . . . . . 4

Conclusion and Policy Recommendations . . . . . 11

Appendices . . . . . 13

Endnotes . . . . . 17

---

## EXECUTIVE SUMMARY

---

This report serves as an update to *Car Title Lending: Driving Borrowers to Financial Ruin*, a joint 2005 publication of the Consumer Federation of America (CFA) and the Center for Responsible Lending (CRL). In this paper, we describe the structure of car-title loans; provide an overview and estimate of the size of the national car-title loan market; discuss the typical borrower's experience with car-title loans; and analyze newly acquired borrower-level data. We conclude with state and federal policy recommendations.

### Our key findings include:

- Approximately 7,730 car-title lenders operate in at least 21 states costing borrowers \$3.6 billion each year in interest on \$1.6 billion in loans.
- The average car-title borrower renews their loan eight times, paying \$2,142 in interest for \$951 in credit.
- Car-title loans' annualized percentage rates (APR) are especially excessive considering the value of the collateral and the relatively low amount of the loan. In our borrower-level data set, the median loan-to-value ratio was 26 percent, yet the APR was 300 percent.
- One in six borrowers in our data set also faced repossession, with repossession fees averaging half of the borrower's outstanding loan balance.

### These findings lead to the following policy recommendations:

- States should not grant exemptions to their existing annual interest rate limits on car-title loans. Car-title lenders often argue that their loans are short-term, making annualized limits inappropriate. According to our findings, most loans are renewed multiple times and last nearly a year. There is little direct evidence that access to high-cost, long-term debt is beneficial to the borrower.
- Like any consumer loan, car-title loans should be structured and priced based on an evaluation of the borrower's ability to repay the loan. Some lenders appear to underwrite based solely on the value of the asset—in this case a car—which is a well-established indicator of predatory lending.
- Borrowers should have adequate protections in the event of a default. Such protections include notice prior to repossession or sale of the vehicle, a right to redeem the vehicle, and a ban on deficiency balances.
- Policymakers must remain vigilant in enforcing their state lending laws. Like payday lenders, car-title lenders are often aggressive in exploiting any legal ambiguity to push their defective product into the market.

## BACKGROUND

As their name makes clear, car-title loans are secured by a borrower's title to a vehicle owned outright. While there are variations, this paper focuses primarily on 30-day car-title loans with balloon payments due at the end of the term (hereafter "car-title loans").<sup>1</sup> These loans average \$951 and are underwritten primarily based on the value of the vehicle that secures the loan.<sup>2</sup> The majority of state car-title loan laws either directly authorize 300 percent APR loans or set no interest rate caps at all. Car-title loans are commonly advertised with interest of 25 percent *per month*, which equates to an APR of 300 percent.

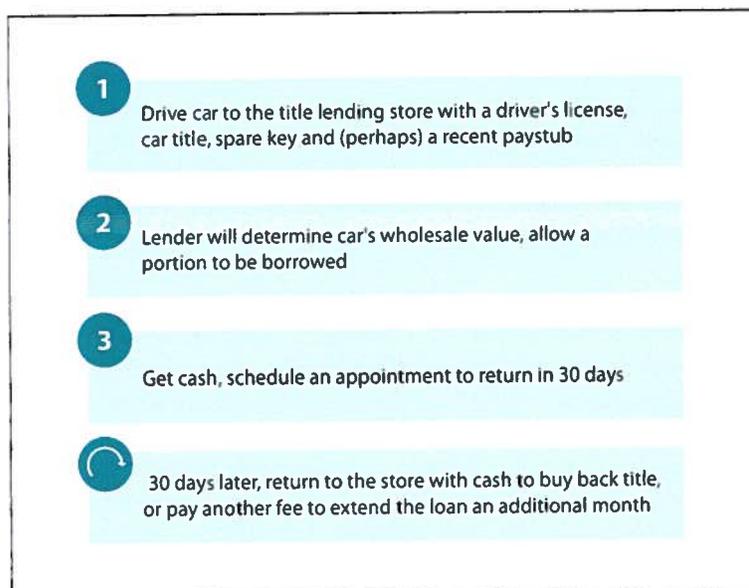
Car-title loans have many similarities to payday loans, as the chart below demonstrates. Just as most payday borrowers cannot afford to repay their loan in full and cover their living expenses for the next pay period, neither can most car-title borrowers.<sup>3</sup> Car-title lenders also often offer a "free" or heavily-discounted first loan.<sup>4</sup> These borrowers are likely to renew their loan multiple times, incurring several rounds of fees, allowing lenders to more than make up for the initial discount. Car-title lenders rely on the threat of repossession to ensure that the majority of borrowers repeatedly renew their loans when they cannot repay the full amount of the loan in just 30 days. As a result, short-term car-title loans turn into long-term, high-cost debt with borrowers paying more than twice in interest what they receive in credit.

**Table 1: Comparison of Typical Payday and Car-Title Loan Features**

Features	Payday Loans	Title Loans
Typical loan size	\$350	\$951
Fee/interest	\$16 per \$100 borrowed	\$25 per \$100 borrowed
Typical loan term	Two weeks	30 days
Typical APR	416 percent	300 percent
Loan term	Full payment due on next payday (usually in about two weeks)	Full payment due in one month
Collateral	Secured by personal check or access to bank account	Secured by car title

A typical car-title loan requires no credit check.<sup>5</sup> Unlike payday lending, car-title loan borrowers can qualify without having a bank account, and some car-title lenders do not even require proof of income or employment.<sup>6</sup> Lenders simply assess the car's wholesale value and offer to lend up to a certain percentage of that value. Car-title borrowers retain use of their car during the loan term but relinquish a copy of the keys and the title. Once the loan comes due, the borrower can either repay the entire amount borrowed (plus interest) or extend the loan by paying only the monthly interest.<sup>7</sup>

**Figure A: The Car-Title Loan Borrowing Process**



### **Characteristics of Car-Title Borrowers**

For many households, a car is not just a financial asset; it is necessary to get to work, school or child care. The very nature of car-title lending poses a significant risk to borrowers' financial well-being and their livelihood, particularly given the typical characteristics of car-title borrowers.

Based on trade association data, Professor Todd Zywicki notes that about half of all car-title borrowers are unbanked. A recent FDIC report notes that the unbanked, which make up about eight percent of the U.S. population, are more likely than the U.S. population as a whole to earn less than \$30,000 per year, be non-white, be unmarried, have less than a high school degree and be a foreign-born Spanish speaker.<sup>8</sup>

This income information for unbanked individuals is consistent with car-title borrower income reported by regulators in Illinois and New Mexico, who found that borrowers make less than \$25,000 on average (\$24,200 and \$24,493, respectively).<sup>9</sup> Additionally, most car-title loan borrowers appear to be renters. The most recent data available finds 80 percent of these borrowers rent their homes.<sup>10</sup>

---

## **ANALYSIS**

### **The Long-Term Debt Trap of Car-Title Loans**

The combination of characteristics that define car-title loans make the product very risky for borrowers and are likely to trap them into long-term debt. As previously discussed, these features include high-cost, short-term balloon payments, lack of underwriting, and collateralizing ownership of the borrower's car.

The combination of short-term balloon payments and minimal underwriting is particularly harmful to borrowers. Our analysis (see Appendix I) suggests that the typical borrower is unlikely to repay a car-title loan (both principal and interest) in just one month. If they do, they generally will not have enough money left to pay the next month of their regularly occurring expenses. For example, taking into account residual income after paying for only their most basic living expenses, borrowers making \$25,000 or \$35,000 a year are unable to retire their car-title loan debt when due in 30 days.<sup>11</sup> Even for borrowers who earn more, paying off a car-title loan in one month likely consumes a substantial portion of residual income that may be needed for other debt payments, child care, clothing, or other needs.<sup>12</sup>

Borrowers without sufficient disposable income are likely to end up renewing their loan multiple times—that is, paying the monthly interest only and repeatedly extending the loan for another 30 days. Many borrowers remain indebted until a windfall, such as a tax refund, allows them to finally pay off the balance.<sup>13</sup> As we discuss later in this report, other borrowers eventually go into default and face additional repossession fees even after paying two times more in fees and interest than they originally borrowed.

The president of TitleMax, one of the nation’s largest car-title lending chains with locations in many states, notes that “loans are typically renewed at the end of each month and thereby generate significant additional interest payments.”<sup>14</sup> In fact, the average TitleMax customer renews his or her loan eight times.<sup>15</sup>

In order to assess the borrower impact of renewals, we must estimate the average loan amount. Using the most recent state regulator data, we estimate a weighted average car-title loan amount of \$951 nationally, as shown in Table 2 below.

**Table 2: Weighted Average Car-Title Loan Amount**

	Average Car-title Loan Amount	Number of Car-title Stores
Illinois	\$785	491
New Mexico	\$855	194
Texas	\$990	1,776
Virginia	\$976	378
Weighted Average Car-title Loan	\$951	

Assuming a consumer will renew their loan eight times as in the TitleMax example, that consumer will be charged over \$2,100 in interest in order to borrow \$951 (see Table 3).

**Table 3: Total Cost to Car-Title Loan Borrower for a \$951 Loan, 25 Percent per Month Interest (300% APR)**

Loan principal	\$951
Interest (\$951*25%)	\$238
8 additional renewal fees (\$238*8)	\$1,904
Total interest paid	\$2,142
Total amount paid by borrower in both interest and principal for \$951 car-title loan	\$3,093

Our estimate of the costs of the typical car-title loan is similar to publicly-available data provided by state consumer credit regulators.

From October 2009 to November 2010, Illinois borrowers took an average of about 10 months to complete a loan of \$785.<sup>16</sup> During this time, they paid an average of \$1,531 in fees in addition to the principal. Put another way, the typical Illinois borrower faced the threat of auto repossession—of a vehicle already owned outright—and paid two times in interest the amount borrowed.

Additionally, CFA and CRL analyzed transaction-level data (“CFA/CRL dataset”) made by a Delaware lender and found that data consistent with the long-term, high-cost nature of car-title loans presented in this report.<sup>17</sup>

In the CFA/CRL dataset, the average borrower was in debt fully half the year. Around one in six borrowers (16 percent) is in continuous debt for at least one year.

In addition—and supporting our overall finding—the average borrower repaid \$2,462 in interest to borrow \$1,249 in principal—or nearly twice the amount initially borrowed. Among the 419 loans in our sample that were fully paid off, more than 96 percent paid at least as much in interest as they received in principal. Forty percent of borrowers paid back at least two times as much in interest as they received in principal.

#### Overview of the High-Cost Car-Title Loan Market

Twenty-one states currently have car-title lenders operating in their borders. With the exception of Arizona, New Hampshire and Georgia, every state with car-title lending also allows triple-digit APR payday lending. Most of these 21 states have laws specifically authorizing the car-title loan product, but in some, lenders exploit loopholes in other parts of the law to make these loans.

**Table 4: The 21 States with Car-Title Lending**

Alabama	(defined as a pawn transaction)
Arizona	
California	(>\$2,500)
Delaware	
Georgia	(defined as a pawn transaction)
Kansas	(open-ended)
Louisiana	(>\$350, loan term of over two months)
Idaho	
Illinois	
Mississippi	
Missouri	
Nevada	
New Hampshire	
New Mexico	
South Carolina	(>\$600)
South Dakota	
Tennessee	
Texas	
Utah	
Virginia	
Wisconsin	

Of the 21 states that have car-title lending, 17 have explicitly authorized it at triple-digit rates or set no rate caps. Over half of these 17 states have no limits on the interest or fees that lenders may charge.

In four other states (California, Kansas, Louisiana, and South Carolina), lenders exploit loopholes or definitional weaknesses in state laws to make these loans at triple-digit rates.<sup>18</sup> Examples of loopholes include the following:

- Car-title lenders in Kansas avoid a 36 percent annual rate cap that applies to closed-end small loans by making open-ended car-title loans at 264 to 360 percent.<sup>19</sup>
- In South Carolina, car-title loans are typically made for \$601 or more to avoid the small loan rate cap that covers loans of \$600 or less. Similarly, in California, small loan rate caps apply only to loans of \$2,500 or under, resulting in uncapped car-title loans made for larger amounts.<sup>20</sup>
- Although Louisiana specifically rejected an attempt to authorize car-title lending, car-title lenders operate under the terms of the Louisiana Consumer Credit Law. Licensed lenders make car-title loans for more than \$350 and have a duration exceeding two months in order to avoid the state's restrictions.<sup>21</sup>

Even where states allow car-title loans at triple-digit rates, car-title lenders sometimes charge even higher rates through a loophole or another statute not intended for their product. For example, even though the Missouri Title Loan law allows unlimited interest rate charges, it requires a 10% principal reduction for car-title loans upon the third refinancing. To avoid even this modest minimal principal reduction requirement, car-title lenders offer title loans under the state's installment loan law.<sup>22</sup>

Appendix III provides our estimates for the number of car-title locations operating in these states.<sup>23</sup> We estimate that there are approximately 7,730 car-title locations across the 21 states in which they operate.<sup>24</sup>

Although many states do not publish data on the operations of car-title lenders, five state regulators—in Illinois, Mississippi, New Mexico, Virginia and Tennessee—provide sufficient information to allow us to estimate the number of car-title loans per location, as shown in the table below:

**Table 5: Average Number of Loans Originated Per Licensee Annually**

	Number of Car-Title Stores*	Total Loans	Average Number of Loans per Store
Illinois <sup>25</sup>	491	84,742	173
Mississippi <sup>26</sup>	355	73,867	208
New Mexico <sup>27</sup>	190	12,607	66
Tennessee <sup>28</sup>	700	161,417	231
Virginia <sup>29</sup>	378	128,446	340
Weighted Average			218 <sup>30</sup>

\*Note: The reported number of licensees in this table may be different from in Appendix III, as the figures in this table come from annual reports rather than real-time, updated lists of active licensees.

As shown in the table above, we expect each car-title location on average originates 218 loans per year. Since there are a total of 7,730 car-title lenders throughout the 21 states with car-title lending, we estimate that about 1.7 million high-cost car-title loans are made each year (7,730 lenders \* 218 loans per lender).

Nationally, this means the total car-title loan market generates \$3.6 billion in interest payments while only generating of \$1.6 billion of actual loan volume (not including renewed principal).

**Table 6: National Car-Title Loan Market Size**

Total Car-Title Loans Nationally	1.7 Million
Average Loan Amount	\$951
Total Loan Volume Originated	\$1.6 Billion
Average Interest Paid Per Loan	\$2,142
Total Interest Paid	\$3.6 Billion

Some car-title lenders also use a high-cost installment loan model.<sup>31</sup> Like 30-day balloon payment car-title loans, some of these installment loans feature triple-digit APRs and are not underwritten for the borrower's ability to repay the loan. Essentially, these lenders build high-cost renewals into the loans up-front.<sup>32</sup> For example, recently-released data from Texas show that for installment car-title loans, the average fee charged per \$100 was \$131.67.<sup>33</sup>

The remaining 29 states and the District of Columbia do not have a noticeable presence of high-cost car-title lenders, likely because they do not sanction the product or because their legal rates are not high enough to attract high-cost car-title lenders.<sup>34</sup> More than half of American adults—53 percent—live where car-title loans are not offered.

Additionally, as a result of the 2006 Military Lending Act, car-title loans cannot legally be made to active duty service members or their dependents, regardless of where they live.<sup>35</sup> This protection was enacted after the Department of Defense grew concerned about active-duty service members becoming deeply indebted to high-cost lenders, putting their security clearances—and their financial well-being—at risk.<sup>36</sup>

### Asset-Based Lending in the Car-Title Loan Market

Asset-based lending generally refers to making loans without regard to a borrower's ability to repay the loan. Instead, lenders base the decision to lend on the value of the collateral or with the expectation the borrower will have multiple transactions. A classic example of asset-based lending were subprime mortgage loans made in the height of the mortgage bubble of the 2000s, when lenders often did not even ask for proof of borrower income. Borrowers who could not afford their loans had no choice but to continually refinance their loans based on the value of their homes. Eventually, many faced foreclosure as housing values plummeted.

Joint guidance by three federal banking regulators stated that "[l]oans to borrowers who do not demonstrate the capacity to repay the loan, as structured, from sources other than the collateral pledged are generally considered unsafe and unsound." Notably, these provisions applied to all types of bank-originated credit, not simply mortgages.<sup>37</sup> The collapse of the mortgage market led Congress and several states to prohibit this practice for all home loans in the Wall Street Reform and Consumer Protection Act of 2010.<sup>38</sup>

There is ample evidence suggesting that car-title lenders perform little or no underwriting to determine whether a borrower can repay the loan.<sup>39</sup> Many lenders advertise that they will guarantee a certain amount of credit to the borrower without any regard to the borrower's income, as the advertisements below illustrate:

In this troubled economy, we are here whenever you need a little extra cash, and we promise that we will deal with you honestly and confidentially. We provide title loans and payday loans to make your life easier, and our process is fast and simple. If your vehicle runs and you have a clear title, you can get at least \$300 **GUARANTEED!** If you have an active

CAR TITLE	Cash Advances and Title Loans™
1 Car Title	• Government income O.K.
2 Job	• Prior bankruptcy O.K.
a) Only if car is worth less than \$2000.00 rough value. If more, no job required.	• Bad credit O.K.
	• No proof of employment** O.K.
	• No Proof of insurance** O.K.
	• Car does not need to be paid off* O.K.

*For a Title Loan, just bring:*

- \* Your auto and auto title
- \* Two forms of I.D. (1 with photo)
- \* Proof of residence

Source: Mintel Comperemedia direct mail database, accessed June 2010.

Even lenders who ask for income verification generally do not perform an “ability to repay” analysis to ensure that the loan can be repaid in the initial one-month term in light of other obligations that the borrower faces. As Zywicki has noted, for car-title lenders “[m]ost scrutiny focuses on the value of the car rather than the borrower.”<sup>40</sup> A letter from a title-lender trade association to the Consumer Financial Protection Bureau also contrasts their product from other lenders by noting they make loans “...based on an appraisal of the value of the car” while other lenders make loans primarily “based on an evaluation of the consumer’s credit.”<sup>41</sup> Consequently, borrowers with multiple obligations often cannot afford to repay the loan in the short time frame and cover other debts and expenses.<sup>42</sup>

Asset-based lending in the auto-title loan market is as abusive as in the mortgage lending context, especially since for many car-title loan borrowers their car is their most important asset. As mentioned earlier, a car is often more than just an asset; it is also necessary for employment, particularly in areas ill-served by public transportation.

In the absence of meaningful underwriting, lenders protect themselves from losses on car-title loans by lending a relatively small percentage of the car value and threatening repossession to ensure that the borrower decides to prioritize servicing their car-title debt over other obligations. Looking at borrowers in the CFA/CRL dataset, the median loan-to-value (LTV) ratio for car-title borrowers was 26.4 percent.<sup>43</sup>

**Table 7: Summary of CFA/CRL Dataset used in LTV Calculations**

Median Loan Size	\$845
Median Car Value	\$3,150
Median Loan-to-Value Ratio	26.4%
Median APR	300%

Our analysis of the CFA/CRL dataset further found that one out of every six loans (17 percent) incurred a repossession fee. The repossession fee—most typically between \$350 and \$400—is added to the borrower’s running balance, causing the borrower to become even more indebted despite also losing the collateral.<sup>44</sup> These fees and others, despite the low loan-to-value ratio, mean nearly all proceeds of the repossession sale go directly to the lender.<sup>45</sup>

Essentially, the lender receives more than twice the principal loaned in interest charges despite the ability to repossess and sell the borrower’s car in the event of default.

---

## CONCLUSION AND POLICY RECOMMENDATIONS

---

Car-title loans carry inherently unsuitable terms that cause already vulnerable borrowers to pay more in fees than they receive in credit while putting one of their most important assets at risk. Other than assessing the resale value of the borrower's car, lenders do little, if any, meaningful analysis of the borrower's ability to repay the loan. As a result, most car-title loans—though structured as short-term—repeatedly generate new interest and origination fees for the lender upon each renewal.

Non-purchase loans secured by ownership of a vehicle should be strictly regulated. Protections are necessary to prevent vulnerable consumers from losing their most valuable asset and means of transportation. Any loan secured by an important asset—such as a household's means of transportation to work—must come with significant safeguards, as is now standard in home mortgage lending. Lenders should not be permitted to make high-cost loans underwritten primarily by the borrower's equity in a vehicle and without evaluating a borrower's ability to repay.<sup>46</sup> A good starting point for these protections are the Federal Deposit Insurance Corporation (FDIC) Affordable Small Dollar Loan Guidelines, which suggest that small loans be made under the following parameters to be sustainable for borrowers:

### FDIC Small Loan Guidelines

- Loan amount: \$2,500 or less
- Minimum 90-day loan term
- 36% APR or lower
- Approval: Generally within 24 hours; streamlined underwriting, including proof of identity, address, income, and credit report (while a minimum credit score is not required, the report can shed light on repayment ability based on other obligations)

Policymakers and regulators at either the state or federal levels, including the Consumer Financial Protection Bureau, can enact the following protections related to loan terms and underwriting processes.

- **States should not grant exemptions to their existing interest rate limits for car-title loans.** In addition, many states with car-title lending have caps of around 36 percent on the annual interest rates that may be charged for small loans. Car-title lenders, along with their payday counterparts, have persuaded some state legislatures to exempt them from this limit, arguing that their loans are very short-term and, therefore, an annual interest rate limit is inappropriate to apply. Yet as we have seen, most loans are renewed multiple times and are therefore not short term. In addition, although many of these lenders argue that they cannot make loans at less than triple-digit rates, other lenders continue to make small loans within limits of around 36 percent, with or without a car title as collateral.<sup>47</sup>
- **Car-title loans should be structured as installment loan products with reasonable limits on interest and an evaluation of the borrower's ability to repay the loan.** An installment product should include equal monthly payments that amortize the loan over the term, giving borrowers the chance to pay down their debt gradually, and should not include a final balloon payment. As the FDIC's report on its small-loan pilot program notes, "a longer loan term was critical to loan performance because it gave consumers more time to recover from a financial emergency than a single pay cycle...."<sup>48</sup>

Extending the minimum loan term is not enough. As demonstrated in Illinois and New Mexico—two states with longer-term installment car-title loans—this protection is not effective in the absence of reasonable limits on interest rates and a full consideration of the borrower's ability to repay the loan when due. Pairing a longer loan term having equal amortizing payments with solid underwriting standards was found to be the key to success in the FDIC's small loan pilot program.

- **Borrowers should have adequate protections in the event of a default.** Such protections include notice prior to repossession or sale of the vehicle, a right to redeem the vehicle, and a ban on deficiency balances (in which the borrower owes principal plus accrued interest and fees to the lender if the sale of their car does not cover the outstanding debt owed). Sales of repossessed vehicles should be commercially reasonable with any surplus returned to the borrower.
- **Policymakers must remain vigilant in enforcing their state lending laws.** Car-title lenders should not be able to evade small-loan rate caps and other protections. Car-title loan companies in several states have taken advantage of narrow definitions in laws, or loopholes or gaps in the law, to charge higher rates than their state legislatures intended.

## APPENDIX I:

### Share of residual funds (after basic expenses) committed to repayment of title loan

Annual Salary	\$25,000	\$35,000	\$45,000	\$55,000
Monthly Pre-Tax Income	\$2,083.33	\$2,916.67	\$3,750.00	\$4,583.33
Minus pensions/ Social Security*	\$111.92	\$182.08	\$272.75	\$383.75
Minus Federal, State, and Local Taxes*	(\$16.75)	\$24.08	\$66.08	\$116.58
Total take home pay	\$1,988.17	\$2,710.50	\$3,411.17	\$4,083.00
<b>Basic Obligations</b>				
Food*	\$367.92	\$394.75	\$448.67	\$535.00
Housing (including utilities)*	\$953.33	\$1,082.17	\$1,192.42	\$1,399.00
Transportation*	\$233.92	\$ 313.42	\$313.58	\$403.25
Healthcare*	\$211.33	\$ 223.67	\$244.75	\$287.83
Total basic obligations	\$1,766.50	\$2,014.00	\$2,199.42	\$2,625.08
Funds remaining to service title loan	\$221.67	\$696.50	\$1,211.75	\$1,457.92
\$700 loan plus 22% (\$175) fee	875	875	875	875
Amount due as a percent of funds remaining	395%	126%	72%	60%

\*Source: 2009 Survey of Consumer Expenditures (Bureau of Labor Statistics), annual figures converted to monthly payments

---

## APPENDIX II: CASE STUDY LOAN-TO-VALUE METHODOLOGY

---

In order to estimate loan-to-value ratios, car values are taken from the online version of NADA Used Car Guides and values were estimated between November and December of 2012. We selected NADA over other used car valuation sites because it required us to make fewer assumptions about the vehicles, which we deemed important given the limited information available. Loan documents provided the year, make and model of the vehicle, as well as the date the loan was originated. Using these factors, we calculated an estimated mileage figure based on the age the car would be at the month of origination, and an average mileage per year of 13,476 according to the U.S. Department of Transportation Federal Highway Administration. By using car values 2-7 years after the loan was made, our findings are very conservative, because they lead to higher loan-to-value ratios (LTVs) than were present at origination due to depreciation over the course of the loan.

Below is a table of the assumptions we made in estimating car values and calculating loan-to-value ratios.

Category	Assumption	Categorization of Assumption
Mileage	13,476 miles/year between model year and origination month (U.S. DOT)	Average
Optional Equipment	None	Conservative
Model	Base four-door Model (except where loan docs include specifics)	Conservative (Precise)
Pricing Option	Average trade-in	Average
Other	Valuation as of December 2012	Conservative—values will reflect two-seven additional years of depreciation

Once vehicle values were collected using NADA data, we collected valuation on a sample of data from Kelley BlueBook as a quality control check on our choice of value source. We found that the difference in loan-to-value ratios between the two sources was not statistically significant ( $p=.28$ ).

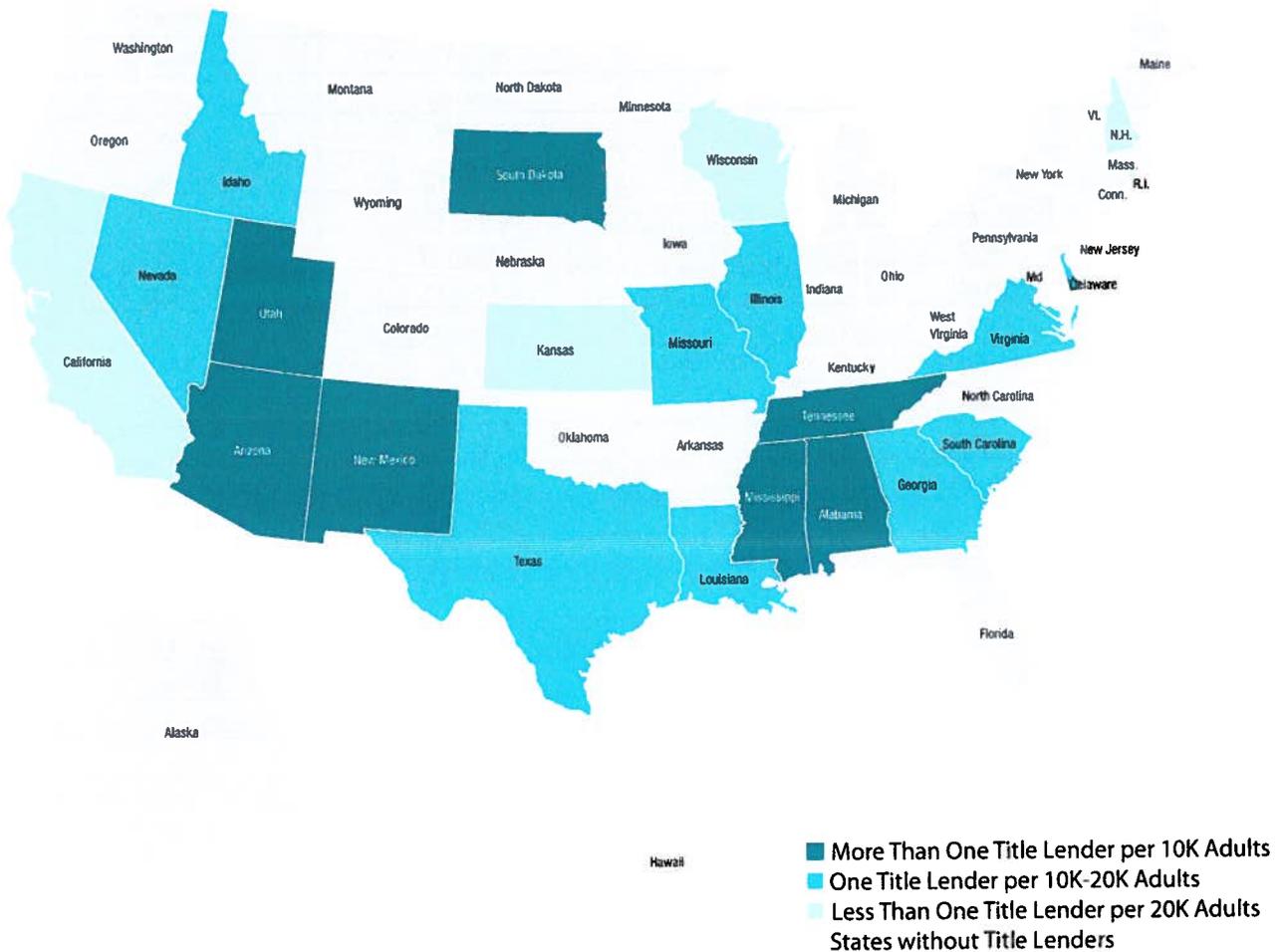
In calculating loan-to-value, the median value was chosen to report as a protection against the influence of outliers on our estimates. The range of LTV for the dataset was 4.5 percent to 176.3 percent.

**APPENDIX III: NUMBER OF LICENSEES AND RELATIVE CONCENTRATION PER STATE**

Rank	State	Car-title Lenders	Adult Population (age 18+)	Concentration (Adult Population per Licensee)
1	Alabama	672	3,647,277	5,427
2	Tennessee	835	4,850,104	5,809
3	Mississippi	355	2,211,742	6,230
4	South Dakota	89	611,383	6,869
5	Utah	251	1,892,858	7,541
6	New Mexico	194	1,540,507	7,941
7	Arizona	479	4,763,003	9,944
8	South Carolina	352	3,544,890	10,071
9	Texas	1,776	18,279,737	10,293
10	Nevada	197	2,035,543	10,333
11	Idaho	108	1,138,510	10,542
12	Delaware	56	692,169	12,360
13	Missouri	343	4,563,491	13,305
14	Virginia	378	6,147,347	16,262
15	Illinois	518	9,701,453	18,729
16	Louisiana	180	3,415,357	18,974
17	Georgia	375	7,196,101	19,190
18	New Hampshire	43	1,037,380	24,125
19	Kansas	86	2,126,179	24,723
20	Wisconsin	162	4,347,494	26,836
21	California	281	27,958,916	99,498
	U.S. TOTAL	7,730	111,701,441	
	AVERAGE CONCENTRATION			14,450

## APPENDIX IV: CAR-TITLE LOAN MARKET BY STATE

### Car-Title Lending Concentrations by State



\*\*CA and SC only cap APRs up to loan amounts of \$2,500 and \$600 respectively.  
 LA's payday loan restrictions only include loans up to 2 months and \$350.  
 GA and AL title lenders define their loans as pawn transactions.  
 KS allows CTL as an open-ended line of credit, while TX allows CTL to use a "Credit Services Organization" model.

---

## ENDNOTES

---

1 CFA Survey of Car-Title Loan Laws, see: [www.consumerfed.org/pdfs/Resources/CTL.StateLawTermChart12.2.12.pdf](http://www.consumerfed.org/pdfs/Resources/CTL.StateLawTermChart12.2.12.pdf) Over half of authorization laws require 30 day terms. Additionally, the CEO of Title Max (the largest car-title lender in the country) stated that 83 percent of their outstanding loans have a term of 30 days. Affidavit of John Robinson, President of Titlemax Holdings LLC, U.S. Bankruptcy Court for the Southern District of Georgia, Savannah Division (April 20, 2009).

2 See Table 2.

3 See Appendix I.

4 For example, a search for title loan advertisements on the Mintel Comperemedia direct mail database found loans offered interest free for the first month by MoneyStore and QuickPawn, as well as loans offered with \$100 off interest charges at Allied Cash. Database accessed by authors June 2010.

5 For example, TitleMax, in response to the "Frequently Asked Question" "What if I have bad credit? Am I still eligible for a title loan" responds: "Absolutely! Your credit score doesn't matter. TitleMax can give you a title loan whether you have good credit, bad credit, or no credit. And your credit score isn't affected by applying/obtaining a title loan with TitleMax." In the next FAQ, it states: "You do not need good credit. TitleMax does not check your credit or use your credit history in any way during the approval process." See <http://www.titlemax.biz/faqs/>, URL visited 9/13/12.

6 "No proof of employment." See direct mail database, Comperemedia, assessed June 2010. "Lenders may [emphasis added] verify employment, income, and perform a credit check, but practice is not uniform. Most scrutiny focuses on the value of the car rather than the borrower." Todd Zywicki's *Consumer Use and Government Regulation of Title Pledge Lending*, George Mason University School of Law Mercatus Center (2010), pg 13.

7 For an overview of the car-title loan origination process see Nathalie Martin and Ozymandias Adams, *Grand Theft Auto Loans: Repossession and Demographic Realities In Title Lending* (April 17, 2012). *Missouri Law Review*, Vol. 77; UNM School of Law Research Paper No. 2012-03. Available at SSRN: <http://ssrn.com/abstract=2041575> and Todd J. Zywicki, *Consumer Use and Government Regulation of Title Pledge Lending*, 22 *LOY. CONSUMER L. REV.* 425, 433 (2010).

8 The FDIC's *National Survey of Unbanked and Underbanked Households* found that eight percent of U.S. households are unbanked. However, 21.7 percent of African Americans, 19.3 percent of Latinos, and 15.6 percent of Native Americans are unbanked. In addition, the unbanked are more likely to be unmarried, have incomes of less than \$30,000, less than a high school education, and a foreign born Spanish speaker than the U.S. population as a whole. See <http://www.fdic.gov/householdsurvey/>.

9 Veritec report to the Illinois Regulator, *Title Lending Activity from December 2009-November 2010*. Data on file with authors. The regulator reports borrower monthly income for each loan occurring in a given month. We have taken the average of that monthly income and computed an annual income. Summary of Title Loans, Calendar Year 2009, Financial Institutions Division, New Mexico Regulation and Licensing Department (2010). The median incomes for car-title borrowers in these states are less than half of the states' household median incomes. The New Mexico regulator reported the average income of New Mexico title loan borrowers is \$24,493, compared to a median household income in that state of \$44,631. Similarly, the Illinois regulator reports an average income of title loan borrowers of \$24,200, compared to a median household income of \$56,576. State median household incomes are the Census Bureau's 2007-2011 state-level estimates.

10 Illinois Department of Financial Institutions, *Short-Term Lending 1999 Final Report*, available at <http://www.idfpr.com/dfi/ccd/pdfs/Shortterm.pdf>.

11 See Appendix I

12 *Id.*

13 For example, a report from TMX (TitleMax) notes that "we have historically experienced a reduction of 9% to 14% in our title loans receivable in the first quarter of each fiscal year, primarily associated with our customers' receipts of tax refund checks." See *Management's Discussion and Analysis of Financial Condition and Result of Operations*, TMX Finance LLC and Affiliates (2010). On file with authors. Payday borrowers similarly rely on irregular cash infusions to truly break the cycle of repeat borrowing. According to a recent study by Pew, forty-one percent need an outside cash infusion to eliminate payday loan debt— including getting help from friends or family, selling or pawning personal possessions, taking out another type of loan, or using a tax refund. See *Payday Lending in America: How Borrowers Choose and Repay Payday Loans* at <http://www.pewstates.org/research/reports/how-borrowers-choose-and-repay-payday-loans-85899452131>.

14 Affidavit of John Robinson, President of Titlemax Holdings LLC, U.S. Bankruptcy Court for the Southern District of Georgia, Savannah Division (April 20, 2009).

15 *Id.*

16 Veritec report to the Illinois Regulator, Title Lending Activity from December 2009-November 2010. Data on file with authors.

17 We gained access to records made public during litigation against a large title loan company. Records were made available to the authors of this study by Robert F. Salvin, Esq., Community Justice Project, made public through *Salvatico v. Carbucks of Delaware, Inc.* On file with the authors.

18 Recent developments in Ohio suggest that auto-lenders are using the state Credit Services Organization (CSO) Act to act as “brokers” for third-party entities licensed under other statutes. The legality of these transactions are dubious as state law counts broker fees towards the small loan rate cap of 28% and further precludes the actual lender from acting as CSO in order to circumvent state law. Legal analysis on file with the authors. At the time of the writing of this paper, insufficient information was available to quantify Ohio’s auto-title loan market. See <http://www.policymattersohio.org/popular-auto-title-loans-offer-fast-cash-at-steep-price>.

19 Leah A. Plunkett & Ana Lucia Hurtado, “Small-Dollar Loans, Big Problems: How States Protect Consumers From Abuses and How the Federal Government Can Help,” *Suffolk University Law Review*, Vol. XLIV, NO. 1, 2011, p. 70-71.

20 S.C. Code Ann. §37-3-201 (2002); CA, CAL. FIN. Code § 22303.

21 La. Rev. Stat. Ann. Section 9: 3519, 3530. Title lenders in Louisiana can charge 36% interest or a \$25 finance charge, plus a \$50 loan origination fee and a \$20 documentation fee. A \$351 loan with a term of 61 days could therefore carry an APR of 162%.

22 See Matthew Hathaway, “Missouri lenders find ways to avoid title-loan regulations,” *St. Louis Post-Dispatch* (Aug. 2, 2010), available at [http://www.stltoday.com/business/article\\_bb9ee593-ca73-5a62-aa1a-115824889903.html](http://www.stltoday.com/business/article_bb9ee593-ca73-5a62-aa1a-115824889903.html) (reporting that 20 percent of Missouri’s 298 licensed title lending stores are also licensed under Missouri’s small loan law, while a third are also licensed under the installment loan law, and that lenders market and sell loans under these laws as “title loans”). The practice of state law-shopping is the subject of a class action lawsuit pending in Missouri.

23 In a few states where these lenders obtain licenses specifically for car title lending, we have a high degree of confidence that we have captured each lending location accurately. In states where title lenders obtain a more general consumer finance license, we have attempted to identify which lenders offer these loans and thus may be modestly understating the true number of locations. Finally, in some cases, there is either no statewide licensing for car title lenders (as in the case of Georgia) or it is otherwise hard to identify which entities are making these loans (as in the case of Louisiana). Because of this, our estimates of the total number of title lenders in these states are most likely conservative. We estimated the number of title lenders in these states by calling small loan licensees to inquire whether they make title loans, looking at websites of these licensees, and/or reviewing advertisements.

24 In California, Idaho, Illinois, Kansas, Mississippi, New Mexico, Tennessee, Utah, and Virginia, the state regulator has provided a list of locations licensed to provide title loans. In Missouri, our estimate accounts for both the regulator’s reported number of title loan licensees as well as title lenders operating under separate small loan licenses. See Matthew Hathaway, “Missouri Lenders Find Ways to Avoid Title-Loan Regulations,” *St. Louis Post-Dispatch* (August 2, 2010). Title lenders in Alabama, Arizona, Delaware, Louisiana, Nevada, South Carolina, South Dakota, and Texas do not obtain specific title loan licenses but instead are part of a larger group of small loan licensees (or in the case of Texas, CSC licensees). In this case, we attempted to identify which of this larger group of lenders provide title loans through internet searches and phone calls to these companies. Finally, title lenders in Georgia are not licensed by the state, so we estimated the number of locations through Yellow Pages and web searches.

25 Veritec report to the Illinois Regulator, Title Lending Activity from December 2009-November 2010. Data on file with authors. Because the number of licensees varies by month, we take an average throughout this time period.

26 *Annual Report: January 1, 2009-December 31, 2009*, Mississippi Department of Banking and Consumer Finance (2010).

27 To estimate the number of loans originated annually in New Mexico, we divided the total loan volume originated in 2009 (\$10,785,123.44) by the average loan size in that year (\$855.52). See *Summary of Title Loans, Calendar Year 2009*, Financial Institutions Division, New Mexico Regulation and Licensing Department (2010).

28 To estimate the number of loans originated annually in Tennessee per licensee, we divided the total reported loans originated in 2008 (the most recent year available) by the number of licensees which reported activity in that year. See *The 2010 Report on the Title Pledge Industry*, Tennessee Department of Financial Institutions (March 2010).

29 Virginia Bureau of Financial Institutions, *The 2011 Annual Report of the Bureau of Financial Institutions: Payday Lender Licensees, Check Cashers, Motor Vehicle Title Lender Licensees Operating in Virginia at the Close of Business December 31, 2011*, available at <http://www.scc.virginia.gov/bfi/annual/ar04-11.pdf>.

30 We use a weighted average because the New Mexico numbers, which are significantly smaller than all other states, unnecessarily skew the average downward.

31 More robust data is necessary for a refined analysis of the various permutations of car-title loans.

32 The Cash Store, a Texas-based car-title lender charges 577% APR for a \$1,000, 154-day installment loan (versus its 365% APR for its one-month single payment auto). Interestingly, in Texas cities that have passed the ordinances with the limitations on refinancing, Cash Store only offers the installment product. See <http://www.cashstore.com/images/Texas%20Title%20Loan%20APR%20and%20Rate%20Card.pdf>. For another example of a high-cost installment loan see <http://www.autoequitycash.com/docs/Texas%20Auto%20Title%20Multi%20Pay%20Discl%20Source%20Doc%205000.pdf>.

33 Texas Office of the Consumer Credit Commissioner data on Q2 2011 published 9/7/12, available at <http://www.occc.state.tx.us/pages/publications/090712%20Q%20CAB%20Data%20Report.pdf>, last viewed 9/14/12.

34 Seven states permit relatively low-cost loans to be secured by the borrower's vehicle title. Florida caps rates at 30 percent APR and Iowa's Uniform Consumer Credit Code limits rates to either 21 percent or 36 percent APR. Kentucky caps rates for title loans at 36 percent APR, as does New Hampshire. Montana voters passed a ballot initiative November 2, 2010 to cap rates for payday and car title loans at 36 percent annual interest. Minnesota's Pawnbroker Law permits loans at three percent a month plus \$20 per month in fees, making a \$500 title loan cost \$35 per month or 84 percent APR. Oregon caps one-month title loans at 36 percent per year plus an initial \$10 per \$100 up to \$30 loaned as a one-time fee. A title loan in Oregon can be renewed two times at only 36 percent APR. Consequently, Oregon title loans average only \$267 with total volume of only \$3.6 million (2011 Payday and Title Loan Report, Oregon Department of Consumer and Business Services). In the remaining states, small loan rate caps, usury laws, or title regimes that do not permit loans or pawn transactions based on a title to function. For example, Colorado's small loan law was amended to preclude any collateral for high cost small loans. While lenders could make loans secured by vehicles under Colorado's Uniform Consumer Credit Code, in fact no lenders are licensed to do so.

35 John Warner National Defense Authorization Act for Fiscal Year 2007, Sec. 987. See, also, Department of Defense, 32 CFR Part 232, "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents; Final Rule, effective date October 1, 2007. Title loans covered by this cap are closed-end loans secured by the title to a vehicle, having terms of 181 days or less. See 32 CFR Part 232.3 (ii). In some states, title loans do not meet the Defense Department's definitions and therefore could be made in excess of 36% annual interest. For example, loans of longer than 181 days are made in Illinois and California, and open-end title loans are made in Kansas.

36 See *Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents*, Department of Defense (August 9, 2006).

37 See 2001 Interagency Expanded Guidance for Subprime Lending Programs (Feb. 2, 2001), available at <http://www.occ.gov/news-issuances/bulletins/2001/bulletin-2001-6a.pdf>.

38 See e.g., 2008 "Highlights of Final Rule Amending Home Mortgage Provisions of Regulation Z (Truth in Lending)" "<http://www.federalreserve.gov/newsevents/press/bcreg/regz20080714.htm>. For higher-priced loans, these amendments "prohibit a lender from making a loan without regard to borrowers' ability to repay the loan from income and assets other than the home's value." See, also, underwriting standards for all residential mortgage loans enacted in 2010 by the Title XIV of Dodd-Frank Wall Street Reform and Consumer Protection Act, at 15 USC §1639c (a)(3) "A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources *other than the consumer's equity in the dwelling or real property that secures repayment of the loan...*" (emphasis added).

39 Loan Max, generally considered the second largest car-title lender in the country specifically states on their website: "Many lenders require several proofs of income, a proof of employment, numerous utility bills, proofs of insurance, and even tax returns or business licenses. At LoanMax, we require your title, your vehicle, and a photo ID.\* It's that easy!" See <https://www.loanmaxtitleloans.net/BenefitsOfTitleLoan>. Retrieved February 23, 2013.

40 Zywicki, *op. cit.*, *Title Pledge Lending at 13*.

41 American Association of Responsible Auto Lenders written response to the Consumer Protection Financial Bureau's proposed "larger participants" rule. August 15, 2011. On file with the authors.

42 See Appendix I for full analysis.

43 See Appendix II for more details.

44 This is comparable to other available sources on annualized default or repossession rates. See Affidavit of John Robinson, President of Titlemax Holdings LLC, U.S. Bankruptcy Court for the Southern District of Georgia, Savannah Division (April 20, 2009) and Robert Reich, President of Community Loans of America and Texas Car Title Loans Services, Testimony before the Texas Senate Committee on Business and Commerce (February 22, 2011) reporting a charge-off rate of 11% of loan volume and 15 percent default rate respectively.

45 Interviews by the authors with Professor Nathalie Martin of the University of New Mexico and Jay Speer, Executive Director of the Virginia Poverty Law Center. Despite low LTV ratios, borrowers rarely see any surplus proceeds of the auto sale. First is the problem of compounding, default interest. The typical car-title loan rate is 20 percent rate per month and continues to accrue. Additionally, there is a repossession fee that averages around \$300-\$400 and storage fees can be up to \$25 per day for the period between repossession and sale.

46 See FTC's Credit Practices Rule. 16 CFR §444.2(a)(4)

47 Calls to each New Hampshire branch of Loan Max, New England Auto Finance and OneMain Financial branches found that all three make loans with auto as collateral for 36% annually or less. October 10, 2011. Loan Max charges 35.9 percent annually with "no other fees." New England Auto Finance charges 3% a month and charges an application fee of \$50 and a \$25 title check fee. Loan terms are for 12 months. OneMain Financial (which is affiliated with or spun off from CitiFinancial) charges 18 to 36 percent annually, with no additional fees. Loan terms range from 12 to 60 months. New Hampshire subsequently repealed its 36 percent rate cap at the request of some lenders who argued that credit was not otherwise available.

48 [http://www.fdic.gov/bank/analytical/quarterly/2010\\_vol4\\_2/FDIC\\_Quarterly\\_Vol4No2\\_SmallDollar.pdf](http://www.fdic.gov/bank/analytical/quarterly/2010_vol4_2/FDIC_Quarterly_Vol4No2_SmallDollar.pdf).



---

### ***About the Center for Responsible Lending***

The Center for Responsible Lending is a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is affiliated with Self-Help, one of the nation's largest community development financial institutions.

Visit our website at [www.responsiblelending.org](http://www.responsiblelending.org).

#### **North Carolina**

302 West Main Street  
Durham, NC 27701  
Ph (919) 313-8500  
Fax (919) 313-8595

#### **California**

1330 Broadway  
Suite 604  
Oakland, CA 94612  
Ph (510) 379-5500  
Fax (510) 893-9300

#### **District of Columbia**

910 17th Street NW  
Suite 500  
Washington, DC 20006  
Ph (202) 349-1850  
Fax (202) 289-9009



Consumer Federation of America

## Cashed Out: Consumers Pay Steep Premium to “Bank” at Check Cashing Outlets

Jean Ann Fox

Patrick Woodall<sup>1</sup>

November 2006

### Executive Summary

Many consumers without traditional bank accounts pay high fees to perform basic financial transactions such as cashing checks and paying bills at fringe financial outlets. This report documents the significant fees that check cashing outlets charge to cash checks, sell pre-paid debit cards, make wire transfers and extend short-term payday loans. Consumer Federation of America (CFA) has surveyed the fee schedules and posted disclosures of check cashing outlets for the past twenty years. The surveys have consistently found that consumers without bank accounts (the unbanked) and those who use check cashers for speed and convenience pay a steep price for these services and many of these costs have been rising even as technology has reduced the costs of these transactions for banks over the past two decades. Check cashers also make two-week term payday loans based on personal checks held for future deposit at effective annual interest rates between 390 and 780 percent. Additionally, CFA examined the effectiveness of state consumer protection laws regulating check cashing outlets and found that the state laws provide minimal protection to the most financially vulnerable consumers.

- **Cost to Cash Benefit Checks Increased:** In 2006, the 2.44 percent charged by average check cashing outlets to cash Social Security checks was 15.6 percent more expensive than the 2.11 percent charged a decade earlier. The 2006 rate was significantly (53 percent) higher than the 1.59 percent charged in 1987.<sup>2</sup> On average, it costs \$24.45 on average to cash a \$1,002 Social Security check in 2006.

---

<sup>1</sup> Fox is Director of Consumer Protection and Woodall is Senior Researcher. Abigail Ludwig was Research Assistant for this report.

<sup>2</sup> CFA's surveys in 1987 and 1997 primarily focused on Social Security benefit checks.

- **Cost to Cash Paychecks Grows:** The cost to cash hand-written paper checks has grown steadily over the past two decades. In 2006, the 4.11 percent charge to cash a paper payroll check was 75.6 percent higher than the 2.34 percent charged in 1997 and 152.7 percent higher than the 1.62 percent charged to cash a paycheck in 1987. A blue-collar worker using check cashing outlets to cash their paycheck pays an average \$19.66 every week to cash a \$478.41 check.
- **Payday Loans at Check Cashing Outlets are Expensive:** Two-thirds of check cashers in states that authorize them also make payday loans, cash loans based on the borrower's personal check held for future deposit by the lender. Typical loans are for over \$300, due on the borrower's next payday, and cost \$15 to \$30 per \$100 loaned or 390 to 780 percent annual percentage rate. Average payday loans at check cashing outlets were offered with more than 400 percent annual percentage rate. To qualify for a payday loan, a consumer only needs a bank account and a source of income.

## I. Introduction

Consumers without bank accounts conduct basic financial transactions largely outside the mainstream banking system. These unbanked consumers still need to cash their payroll or government benefit checks and pay their bills. Most unbanked consumers purchase these transaction services at fringe financial outlets which provide many of the services that traditional transaction or checking accounts provide but typically for higher fees.<sup>3</sup> Check cashing outlets are the most commonly used fringe financial establishments. These outlets are more common in lower- and moderate-income commercial urban neighborhoods than traditional bank branches, but increasingly check cashing outlets are expanding into suburban areas to follow their customers who hold lower-wage jobs at basic-skills service-oriented jobs.<sup>4</sup>

Financial services have diverged into a two-tiered system with consumers segregated by income and financial sophistication. More affluent consumers receive a wide range of services from federally regulated depository institutions including banks, thrifts and credit unions. Many lower-income consumers without bank accounts or adequate balances in bank accounts receive lower-level and higher-cost services from a patchwork of storefront operations that fall between the regulatory cracks and lack adequate consumer protections. These unbanked and underbanked consumers represent a considerable market opportunity for financial services companies. In 2005, the unbanked and underbanked bought \$3 trillion of goods and services with cash and money orders.<sup>5</sup> Too often, these consumers pay a premium to get access to their funds at fringe financial outlets.

---

<sup>3</sup> Samolyk, Katherine A., FDIC Division of Insurance and Research "The Unbanked: What do we know about them?" Undated, on file with author.

<sup>4</sup> Kelsky, Richard B., "Securing Customer Dignity," *Cheklis*, Fall 2003, pages 36, 38.

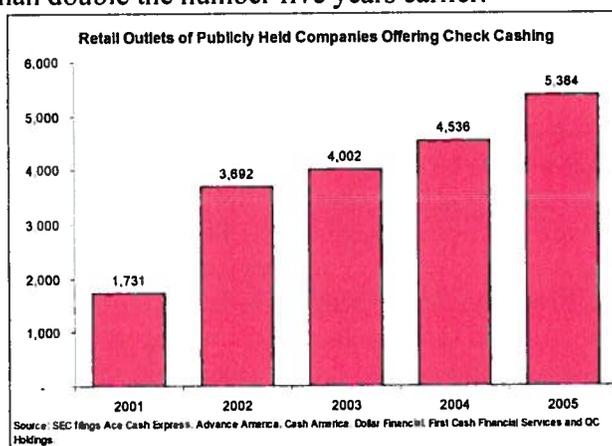
<sup>5</sup> "Unbanked: Why Some Say the Time is Now," *American Banker*, June 7, 2006.

Even consumers with bank accounts may utilize check cashers out of convenience. Some consumers may utilize check cashers which are more conveniently located and open for business where they work or live than bank branches. Additionally, consumers with low balances in checking accounts may be unable to cash checks at their banks without sufficient off-setting balances and instead must deposit checks and wait for them to clear. These consumers may then have to wait for the check hold period to expire before they can convert the deposited check into cash.<sup>6</sup> Check cashers provide immediate cash without waiting for the check to clear but at a high cost. One national check cashing firm noted that “customers might save money by depositing their checks in a bank and waiting for them to clear.”<sup>7</sup>

## II. Check Cashing Industry

The number of check cashing outlets grew steadily during the 1990s and the industry continued to rapidly expand over the past five years. Between 1994 and 2000, the check cashing industry more than doubled in size. In 2000, there were more than 6,000 check cashing outlets that generated \$1.5 billion in fees.<sup>8</sup> By 2005, there were an estimated 13,000 check cashing stores – more than double the number five years earlier.<sup>9</sup>

Check cashing outlets continue to generate significant revenues. Although the rise in electronic transactions and direct deposit of payroll and Social Security checks have impacted the check cashing industry, a significant number and dollar value of paper checks are redeemed at check cashing outlets every year. More than 180 million checks worth more than \$55 billion are processed by the check cashing industry every year.<sup>10</sup> The other



ancillary business lines also generate significant revenue for check cashers. Check cashers sell about a fifth (22 percent) of the money orders in the U.S. worth about \$20 billion and wire a tenth of the country’s money transfers worth \$4 billion per year.<sup>11</sup>

<sup>6</sup> Under rules set by the Federal Reserve, a bank can hold a local check deposit made on Friday until the next Tuesday before the customer can access the funds. Some checks can be held as long as five days, even if the check is drawn on the bank where it is deposited.

<sup>7</sup> ACE Cash Express, SEC 10K filing, June 30, 2006 at 5.

<sup>8</sup> National Community Investment Fund, Retail Financial Services Initiative, *From the Margins to the Mainstream: A Guide to Building Products and Strategies for Underbanked Markets* “Using Fringe Products as a Doorway to the Mainstream: Building Check-Cashing Partnerships” November 11, 2005.

<sup>9</sup> ACE Cash Express, SEC 10K filing, June 30, 2006 at 5.

<sup>10</sup> Rhine, Sherrie L.W, William H. Greene and Maude Toussaint-Comeau, “The Importance of Check-Cashing Businesses to the Unbanked: Racial/Ethnic Differences” *The Review of Economics and Statistics*, Vol. 88, No. 1, March 28, 2006 at 146-157.

<sup>11</sup> Goldman, Gerald and James R. Wells, Financial Service Centers of America, Inc., “Check Cashers are Good Bank Customers,” 2002 at 8.

The majority of check cashing outlets are independent storefront operations or small, local chains, but national chain operations are growing. The nine national check cashing companies control less than 35 percent of the national market.<sup>12</sup> A CFA analysis of publicly-traded personal financial service companies found that the number of retail outlets offering check cashing services more than tripled between 2001 and 2005 – from 1,731 in 2001 to 5,384 in 2005 – a 211 percent increase.<sup>13</sup> The check cashing chains expect their market share to increase through consolidation and expansion because the national companies benefit from economies of scale, integrated technology and the ability to more easily offer new products.<sup>14</sup>

Consumers that utilize check cashing outlets are relying on check cashers more frequently. About half (49 percent) of check cashing customers use check cashing outlets once or twice a month and about a third (29 percent) use check cashing outlets at least once a week.<sup>15</sup> More than a quarter (26 percent) of check cashing outlet consumers reported that they were using check cashing services more than in the past.<sup>16</sup> Moreover, check cashing companies expect the market for check cashing and other non-bank financial services to increase because the real income of moderate- and lower-income households is expected to stagnate or decline.<sup>17</sup>

#### *A. Check Cashing Business Model and Products*

Check cashers typically offer a fairly wide range of services to their customers. For most retail outlets, cashing checks is the core business. Check cashers process checks for a fee, typically a percentage of the check's face value that varies by the type of check being cashed. Beyond cashing government and payroll checks, selling money orders, making wire transfers and offering short-term payday loans, many check cashing outlets offer other services. These may include paying utility bills, direct deposit accounts, pawn shop services, selling mass transit fare cards or tokens, selling pre-paid telephone cards, offering currency exchange services, as well as selling postage, lottery tickets and business services like photocopying and fax services.<sup>18</sup> Check cashing is also provided through electronic terminals, such as at retail stores and through 7-Eleven Stores' Vcom machines in over a thousand locations.<sup>19</sup>

---

<sup>12</sup> ACE Cash Express, SEC 10K filing, June 30, 2006 at 5.

<sup>13</sup> CFA analysis of Securities and Exchange Commission 10K filings for Ace Cash Express, Advance America, Cash America, Dollar Financial, First Cash Financial Services and QC Holdings.

<sup>14</sup> Dollar Financial Corp., SEC 10K filing, June 30, 2006 at 5.

<sup>15</sup> Mower, Eric, Associates Market and Research Services, report commissioned by the Financial Service Centers of America, "FiSCA Customer Satisfaction Research Final Report," October 13, 2000.

<sup>16</sup> *Ibid.*

<sup>17</sup> ACE Cash Express, SEC 10K filing, June 30, 2006 at 4.

<sup>18</sup> Goldman, Gerald and James R. Wells, Financial Service Centers of America, Inc., "Check Cashers are Good Bank Customers," 2002 at 8; CFA found that about an eighth (13.4 percent) of the outlets offer the ability to make direct deposits into a limited bank account and a minority of outlets (7 stores accounting for 4.1 percent) offered pawnshop services.

<sup>19</sup> [www.7-eleven.com/products/vcom.asp](http://www.7-eleven.com/products/vcom.asp), visited November 2, 2006. Vcom is a 24-hour check cashing machine that also provides ATM services, Western Union money orders and transfers, bill payment, and

## **CFA 2006 Survey of Check Cashing Outlets Finds High Costs**

In the summer of 2006, CFA and participating organizations surveyed 172 check cashing outlets in 22 states.<sup>20</sup> The survey determined the services available, the costs for these services and the availability of disclosures. CFA compared the 2006 survey to the results of similar surveys conducted in 1997 and 1987 to determine the longitudinal cost of services at check cashing outlets.

### ***Check Cashing Services and Fees***

Check cashing outlets are most likely to cash government checks and are more likely to cash computer generated payroll checks than hand-written payroll checks. Only half were willing to cash personal checks. Nearly one in five (18.0 percent) of the outlets required consumers to become “members” or to purchase check cashing identification cards in order to cash their checks. There was an average membership fee of \$3.61 at the outlets that disclosed their membership fees. Half of the outlets that had membership fees (14 of the 31 outlets that charged membership fees) charged an additional first time use fee averaging \$2.65.

The high cost of cashing checks at check cashing outlets exceeds the cost of processing the checks. The cost of processing checks is fairly low and the risk is fairly minimal. For example, the per item cost to process government checks under the Federal Reserve automated clearinghouse is about four cents.<sup>21</sup> Moreover, losses from uncollected checks also are low. The Financial Service Centers of America, the check cashers’ trade association, found that less than 1 percent of checks presented to check cashers are returned and between 80 and 90 percent of these checks are ultimately collected.<sup>22</sup> For the national chains, the figure is much lower. ACE Cash Express calculates that returned uncollected checks account for 0.11 percent of the company’s fee revenue.<sup>23</sup> Dollar Financial calculated that net write-offs after collection accounted for 0.31 percent of the checks that were cashed.<sup>24</sup>

---

Verizon Long Distance Services. Ad states “...there are NO CREDIT CHECKS. So your approval is virtually guaranteed.”

<sup>20</sup> More than half (57.6 percent) of the surveyed outlets were in high traffic commercial areas. About a third (32.0 percent) were in inner-city neighborhoods and more than half (56.4 percent) were in predominantly minority areas. One sixth (16.3 percent) of the outlets were in suburban areas outside the city limits. Local consumer groups across the country were provided a survey instrument and instructions on collecting information from check cashing outlets. Information was collected from advertisements in phone directories, phone calls to outlets, information posted or available to consumers at the check cashing outlets and from store personnel. Outlets were selected from phone book listings and surveyors often made multiple phone calls and visits to solicit the necessary information from the outlets.

<sup>21</sup> Federal Reserve Bank of Richmond, 2006 Check Forward Collection Service – Richmond Office Processed at the Baltimore Office, see footnote 5, effective August 1, 2006.

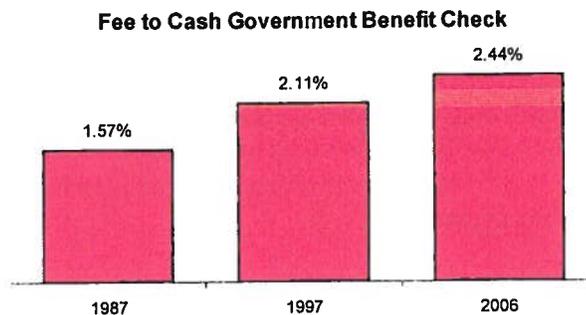
<sup>22</sup> Goldman, Gerald and James R. Wells, Financial Service Centers of America, Inc., “Check Cashers are Good Bank Customers,” 2002 at 2.

<sup>23</sup> ACE Cash Express, SEC 10K filing, June 30, 2006 at 10.

<sup>24</sup> Dollar Financial Corp., SEC 10K filing, June 30, 2006 at 10.

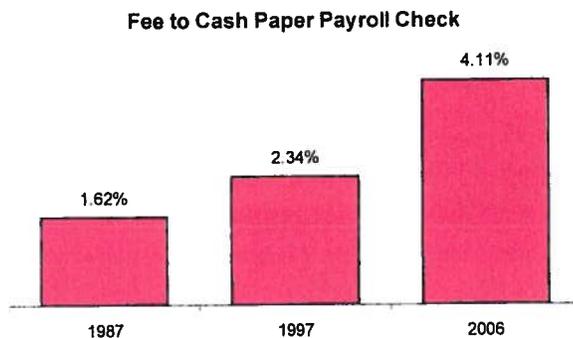
- **Cashing Government Benefit Checks:** Nearly all (162 or 94.2 percent) of the outlets would cash government benefit checks. The fees ranged from 1 percent of the check's value to 5 percent, with an average charge of 2.44 percent. One in ten (16 outlets or 9.9 percent) of the outlets that cash benefit checks refused to inform the surveyors on the phone what they charged to cash Social Security checks. Some of the companies had flat fees of a dollar or two, several charged a small percentage fee and an additional flat fee of about a dollar and some had fee schedules that charged slightly higher percentage fees for smaller checks.

- **Cost to Cash Benefit Checks Increased:** In 2006, the 2.44 percent charged by average check cashing outlets to cash Social Security checks was 15.6 percent more expensive than the 2.11 percent charged a decade earlier. The 2006 rate was significantly (53 percent) higher than the 1.59 percent charged in 1987.<sup>25</sup>



- **Other Government Checks:** Although nearly all the outlets cashed government benefits checks, slightly fewer outlets (162 or 94.2 percent) cash other government checks such as tax refunds, charging an average of 2.78 percent of the value of the check and ranging between 1.00 percent and 5.90 percent.

- **Paychecks:** Nearly all (93.0 percent) of the outlets cashed computer-generated payroll checks generally from large or institutional employers and charged an average of 2.52 percent of the check's value, ranging between 1.00 percent and 5.00 percent. About three out of five (62.8 percent) of outlets cashed hand-written paychecks and charged an average of 4.11 percent, ranging from 1.00 percent to 10.00 percent of the value of the check. Fees for hand-written paper payroll checks were 63.1 percent higher than for computer-generated checks.



- **Cost to Cash Paychecks Grows:** The cost to cash hand-written paper checks has grown steadily over the past two decades. In 2006, the 4.11 percent charge to cash a

<sup>25</sup> CFA's surveys in 1987 and 1997 primarily focused on Social Security benefit checks.

paper payroll check was 75.6 percent higher than the 2.34 percent charged in 1997 and 152.7 percent higher than the 1.62 percent charged to cash a paycheck in 1987.

- **Most Expensive to Cash Personal Checks:** Only half (50.0 percent) of the outlets would cash personal checks and they charged an average of 8.77 percent of the check's value with prices ranging from 2.00 percent to 15.00 percent of the face value of the check. In 2006, the 8.77 percent charged to cash personal checks is slightly (16.4 percent) lower than the 9.36 percent charged in 1997 but nearly twice as high as the 4.51 percent charged in 1987. More outlets cashed personal checks in 2006. In 1987, 19 percent of outlets cashed personal checks compared to 40 percent in 1997 and 50 percent in 2006.

### **Payment Services:**

Many of the check cashing outlets offer payment services for consumers to pay bills or transfer money. Bill payment services are either formal arrangements with utilities or independent operations. An Office of the Comptroller of the Currency (OCC) survey found that about two out of five (42 percent) unbanked consumers used money orders to pay bills and the majority of them (67 percent) purchased their money orders at check cashing outlets.<sup>26</sup> The OCC survey found that more than one in seven (15 percent) of unbanked consumers used bill payment services at check cashing outlets.<sup>27</sup>

- **Money Orders:** More than four out of five (84.9 percent) of the outlets sell money orders for consumers to pay bills. Four (2.3 percent) provide free money orders and an additional 8 (4.6 percent) provide free money orders in conjunction with other transactions like check cashing. The average fee for a \$100 money order at the outlets that charged fees was \$1.08, ranging from 50¢ to \$16. The average fee is slightly higher than the 50¢ average to buy a \$50 money order in the 1997 study and slightly higher than the ninety-five cents charged by the United States Postal Service for a money order.
- **Wire Service or Remittances:** More than four out of five check cashing outlets offered wire transfer services (83.1 percent). Although 143 of the outlets offered money orders, only 112 or 78.3 percent, disclosed their fees to make a wire transfer to surveyors. The average fee for a \$200 money order remittance to be delivered the next business day in Mexico was \$11.71 and ranged from \$3.00 to \$30.00.
- **Utility Payment Services:** More than half (55.2 percent) of the outlets offer bill paying services for consumers to pay their utility and other bills. The average fee to electronically pay an electric utility bill was \$1.29 and ranged from 78¢ to \$12.95.

---

<sup>26</sup> Dunham, Constance R., Senior Financial Economist, Economic and Policy Analysis Department, Office of the Comptroller of the Currency, "The Role of Banks and Nonbanks in Servicing Low- and Moderate-Income Communities," Federal Reserve of Chicago, *Proceedings*, April 2001 at 54, Figures 7 & 8.

<sup>27</sup> *Ibid.* at 38.

### **Payday Loan Services:**

Payday loans are cash loans based on the borrower's personal check held for future deposit by the lender. Typical loans are for over \$300, due on the borrower's next payday, at a cost of \$15 to \$30 per \$100 loaned or 390 to 780 percent annual percentage rate. To qualify for a payday loan, a consumer needs a bank account and a source of income. Check cashers have expanded into payday lending to diversify their products and to bolster revenue. Publicly traded check cashers ACE Cash Express and Dollar Financial Group are among the largest payday lenders.

More than half (53.5 percent) of all surveyed check cashing outlets offer payday loans as well. Payday lending is prohibited by state usury laws or rate caps in five of the surveyed states (Georgia, Massachusetts, Maryland, North Carolina and New York). The survey found that 66 percent (92 of 139) of check cashers located in states where payday lending is legal offer these loans.

Surveyors often found that companies that advertised as check cashers do not actually cash checks for a fee. While some check cashers are also payday lenders, many payday lenders do not "cash checks." In some locales, payday loan companies that do not cash checks for a fee advertise as "check cashers" in Yellow Pages directories. To test the extent of the problem in one state, CFA compared the Verizon Yellow Pages listing for "check cashers" in Roanoke, Richmond, and Newport News, Virginia with lists of Registered Check Cashers and Licensed Payday Lenders posted by the Bureau of Financial Institutions. We found that over half a dozen licensed payday lenders advertised as check cashers (without being registered to cash checks for a fee) in each directory. In Roanoke, only two of the ten "check cashers" listed in the Yellow Pages were registered as check cashers. The other listings were for payday loan stores that do not cash checks and are not registered as check cashers.

- **Payday Loan Size and Cost:** The average maximum loan size at surveyed check cashers was about \$696 and the median maximum loan size was \$500. The maximum loan size ranged from \$250 to \$5,000. The clerks were asked the cost to borrow \$300 for two weeks and they reported an average cost of \$46.85 which translates to 406 percent annual percentage rate (APR).
- **Most Clerks Fail to Quote APRs:** Although payday lenders are required by the federal Truth in Lending Act to quote the cost as an interest rate if any cost is quoted, about three quarters of the clerks reported the loan cost in dollars for the entire loan amount (39.3 percent of the clerks) or the loan cost per \$100 borrowed (35.7 percent of the clerks). Less than a fifth (17.0 percent) of the clerks surveyed disclosed the cost as an interest rate and 8.0 percent of the clerks refused to disclose the cost entirely.
- **Almost Three-Fourths of Stores Fail to Post APRs:** In thirty states, payday lenders are required to post the fees for a payday loan. The posted cost to borrow

\$300 was slightly lower than the cost the clerks reported. The posted cost to borrow \$300 averaged \$49.50 or an APR of 429.00 percent. Under Truth in Lending, advertising the finance charge for a loan triggers the requirement to also advertise the annual percentage rate for the loan. Although a quarter (25.8 percent) of the postings correctly disclosed the cost as an annual interest rate, more than half the postings described the loan cost in dollars for the entire loan amount (27.5 percent of the postings) or in the loan cost per \$100 borrowed (26.7 percent of the postings). Fully one fifth (20.0 percent) did not post the cost of the loan at all.

- One check casher in a state that prohibits these loans offered to hold checks for future deposit for a fee. The surveyor was not quoted a price for the loan.
- Payday lenders generally complied with state limits on the maximum size of loans offered and fees charged. Arkansas check cashers, surveyed prior to the FDIC's halt to "rent-a-bank" lending by state-chartered banks, all offered loans that exceed state limits on size of loan. The highest fees for loans were charged in states with no rate caps. A \$300 payday loan at one outlet in Utah cost \$60 (520 percent APR for a two-week loan) while the same loan at one Wisconsin lender cost \$66 (572 percent APR). Check cashers in Nevada and Oregon charged as much as \$51 for a \$300 loan or 442 percent APR. The lowest payday loan rates were charged in Florida, ranging from \$32 to \$35 for a \$300 loan or 277% to 303% APR for a two-week loan.

### ***Pre-Paid Debit Cards:***

Pre-paid debit or stored value cards are growing product lines that are sold and serviced by check cashing outlets. Cash is "deposited" or loaded onto the cards which have the same functionality as a debit card connected to bank accounts – the ability to withdraw cash from ATMs and make point of sale purchases. The proceeds of cashing a check can be loaded onto the consumer's prepaid debit card rather than being delivered as cash. Cards carrying the MasterCard or Visa logo are viewed as prestigious by consumers and can be used as payment instruments where these cards are accepted. This provides unbanked consumers with convenience and some added security compared to carrying or storing all of their income in cash. Stored value cards, however, are not subject to the federal consumer protection laws that govern credit and debit cards, including limits on liability or recourse when cards malfunction, are lost or stolen.

Stored value cards come with a multitude of fees for opening the account, loading money on the card, and for transactions. A consumer using a stored value card will be charged foreign ATM fees when using bank terminals to withdraw cash from the card.

Consumers "save" by leaving unspent funds on cards. The industry has launched a stored value card with a savings component. The All-Access National Savings Program, a partnership between the Financial Service Centers of America and NetSpend Corporation, provides a free savings function for FiSCA member customers who pay to

use the All-Access stored value card. The card pays three percent annual percentage yield and savings are held by Inter National Bank in McAllen, TX and insured by the FDIC.<sup>28</sup>

Check cashing outlets are offering pre-paid debit cards to diversify their offerings and receive a commission on sales. Prepaid wireless phone card sales at ACE Cash Express grew ten percent a month in 2003 while the company said prepaid debit cards would be the next big opportunity for check cashers.<sup>29</sup> In 2006, ACE Cash Express sold 268,000 and loaded \$917 million onto pre-paid debit cards.<sup>30</sup>

Public benefits once delivered by paper check are increasingly delivered electronically, instead of by paper checks that must be cashed. More than 30 states now use prepaid debit cards to distribute child-support and welfare benefits instead of mailing paper checks.<sup>31</sup>

- **Pre-paid Debit Card Fees:** Just over three fifths (40.1 percent) of the check cashing outlets offered pre-paid debit cards. The average card costs \$10.86 and ranges in price from free to \$1.00 to \$30.00. Many of the cards have additional monthly or weekly fees ranging to about \$5.00 a month. Additionally, four out of five (84.0 percent) of the outlets that offer pre-paid debit cards charge a fee to load money on the card that averages \$3.09 and ranges from free to \$10.00. About half (50.7 percent) of the outlets that offer cards also charge a fee every time the card is used averaging \$1.22.

### *B. Cost to Consumers to Use Check Cashers*

Customers that use check cashing outlets in lieu of banks face high costs to cash checks and pay bills. For example, a Hurricane Katrina evacuee reportedly paid a Wisconsin check casher \$70 to cash a \$2,200 federal check and \$13 to cash a \$451 payroll check.<sup>32</sup> For average Social Security benefit recipients, the cost of cashing benefits checks can be fairly high over the course of a year. Social Security benefits checks for single retired workers averaged \$1,002 in 2006 so the 2.44 percent fee amounts to \$24.45 each month or \$293 annually – which amounts to nearly a third of a monthly benefit check.<sup>33</sup> At the most expensive check cashing outlet, the annual cost would be \$601 – more than half a month's benefit; at the least expensive outlet, the annual cost would be \$120.

The cost of cashing payroll checks at check cashing outlets lowers the earnings of ordinary workers. The average earnings of production and non-supervisory workers,

---

<sup>28</sup> Press Release, "NetSpend® and FiSCA Break New Ground with 3 Percent Annual Percentage Yield on National Savings Program," PRNewswire, October 9, 2006.

<sup>29</sup> Lee, Phillip, "Prepaid Cards Can Pump Profits," *Cheklis*, Fall, 2003, page 48, 50.

<sup>30</sup> ACE Cash Express, SEC 10K filing, June 30, 2006 at 11.

<sup>31</sup> Jalili, H. Michael, "Unbanked: Why Some Say the Time is Now," *American Banker*, June 7, 2006.

<sup>32</sup> Schneider, Pat, "Charged Up Over Check Fees/Cashing Costs Excessive, Some Claim," *The Capitol Times*, Madison, WI, March 3, 2006.

<sup>33</sup> Social Security Administration, press release, "Social Security Announces 4.1 Percent Benefit Increase for 2006," October 14, 2005.

more than 80 percent of the workforce, was \$543.65 in 2005 and the weekly take home earnings after federal taxes amounted to \$478.41.<sup>34</sup> It would cost an average worker \$19.66 to cash an average weekly handwritten paper paycheck at an average check cashing outlet – an annual cost of \$983.16 for fifty paychecks. The cost of cashing paychecks for typical workers would amount to the loss of more than two weeks of pay each year. At the most expensive outlets, the annual cost to cash hand-written checks would be \$1,392.05 and at the least expensive it would cost \$239.21.

The cost to cash computer generated payroll checks is slightly more affordable than cashing handwritten checks, but it still represents a significant cost to workers. Cashing a typical production wage computer generated paycheck of \$478.41 at an average check cashing outlet would cost \$12.05 or \$603.79 annually for fifty paychecks – or more than one week’s pay to cash a year’s worth of paychecks. At the most expensive outlets, the annual cost to cash computer generated checks would be \$1,196.03 and at the least expensive it would cost \$239.21.

These annual costs are significantly higher than consumers would face at banks. The most recent *Bankrate.com* checking account survey found that the average monthly checking account service fee for non-interest accounts was \$2.52 in the fall of 2006 – or \$30.24 annually.<sup>35</sup> The cost to maintain an average basic checking account is about one-tenth the cost of cashing a year’s worth of Social Security Checks and one-twentieth the cost of cashing a year’s worth of computer-generated payroll checks. Consumers would quickly save enough in foregone fees to generate sufficient balances to allow them to cash their checks without undue check holding periods by opening basic checking accounts.

### ***C. Depository Institutions form Partnerships to Reach Unbanked***

An increasing number of new entrants are entering the check cashing business, partnering with check cashers or offering new model check cashing alternatives. Some depository institutions have formed partnerships with retailers and check cashing networks.

Some depository institutions in New York, New Jersey and Connecticut have partnered with check cashing outlets to provide payroll processing services for the employees of businesses with commercial relationships with the banks.<sup>36</sup> In April of 2006, Citibank launched a partnership with 7-Eleven to install Citibank-branded cash machines in over 5,500 stores that will provide wire-transfers, check cashing, and bill payment as well as

---

<sup>34</sup> Mishel, Lawrence, Jared Bernstein and Sylvia Allegretto, *State of Working America 2006-2007*, Cornell University Press, Ithica, NY, January 2007 at Table 3.3; Congressional Budget Office, “Effective Federal Tax Rates Under Current Law, 2001-2014,” August 2004, Table 2 at 10.

<sup>35</sup> McBride, Greg, “Bankrate’s Fall ’06 Checking Study: Fees Rise Again,” *Bankrate.com*, October 30, 2006. More than half of these accounts had no minimum balance to open but the average balance to open accounts was about \$90, even including accounts without opening balance requirements.

<sup>36</sup> Goldman, Gerald and James R. Wells, Financial Service Centers of America, Inc., “Check Cashers are Good Bank Customers,” 2002 at 3.

ATM cash distribution.<sup>37</sup> Customers establish electronic accounts to access federal benefits and then access these funds through a debit card.<sup>38</sup>

Some New York metropolitan area credit unions formed a program called PayNet deposit that allows credit union members to access their accounts at check cashing outlets. It capitalizes on the commonalities of credit union members and the services offered at check cashing outlets to provide extended service hours and convenience.<sup>39</sup> For example, a partnership between Bethex Federal Credit Union and Rite Check Cashing allows credit union members to deposit cash or checks for free (if the check is deposited in full) which essentially expands the number of credit union branches. Credit union members can also cash checks at Rite Check for a fee of 0.5 percent for checks up to \$1,000 – about 80 percent lower than the national average of about 2.5 percent in CFA’s survey and lower than the New York fee cap for check cashing.

#### ***D. Check Cashers Partner with Banks to Deliver Direct Deposits***

Because government benefits are increasingly being transmitted to beneficiaries electronically as the result of EFT99, the federal program that encourages federal check recipients to receive Social Security and other federal payments by direct deposit, check cashers found other ways to retain those customers.<sup>40</sup> Check cashers are not eligible to receive their customers’ electronically delivered Social Security or SSI payments, since the Treasury requires that electronic transfer of federal benefits be deposited into an account in the recipient’s name at a federally insured financial institution.<sup>41</sup> Check cashing outlets have developed programs with banks to offer direct deposit/check hybrids to maintain their business line of cashing benefits checks.<sup>42</sup> About a fifth of the unbanked (19 percent) received electronic benefits transfers of their government benefit payments that were electronically wired to check cashers or other nonbanks where the beneficiaries could receive the benefits in cash or on stored value cards.<sup>43</sup> Some direct-deposit accounts offered by check cashers simply convert the electronic payment of benefits back into a paper check which must then be cashed, for a fee. These direct deposit programs are marketed by check cashers as a way to receive government benefits checks a few days earlier than paper checks arrive in the mail and to avoid theft or loss of mailed checks. These hybrid accounts do not bring consumers into mainstream banking relationships and do not provide account privileges, such as the right to use the bank’s ATMs or branches.<sup>44</sup>

---

<sup>37</sup> “Finance and Economics: Into the fold; Americans without Bank Accounts” *Economist*, May 6, 2006.

<sup>38</sup> Goldman, Gerald and James R. Wells, Financial Service Centers of America, Inc., “Check Cashers are Good Bank Customers,” 2002 at 3.

<sup>39</sup> Jacob, Katy, Center for Financial Services Innovation, “The PayNet Deposit Program: Check Cashers-Credit Union Partnerships and the Point of Banking Machine,” October 2004.

<sup>40</sup> Komar Storey, Charlene, “EBT Programs May Boost Business,” *Cheklis*, Fall 1998, page 6.

<sup>41</sup> National Consumer Law Center, *Consumer Banking and Payments Law* (3d ed. 2005), page 244.

<sup>42</sup> Komar Storey, Charlene, “EBT Programs May Boost Business,” *Cheklis*, Fall 1998, p. 6.

<sup>43</sup> Dunham, Constance R., Senior Financial Economist, Economic and Policy Analysis Department, Office of the Comptroller of the Currency, “The Role of Banks and Nonbanks in Servicing Low- and Moderate-Income Communities,” Federal Reserve of Chicago, *Proceedings*, April 2001 at 35.

<sup>44</sup> NCLC, *ibid.*, page 244.

For example, River City Bank in Kentucky offers its Dollars\$\$\$ Direct program to check cashers with marketing claims “Now YOU can offer direct deposit to your customers! [...] You can establish a check printing fee from \$0 - \$9.99 for each check that you print. Also, providing direct deposit will keep your customers coming back to you each and every month!”<sup>45</sup> Republic Bank and Trust Company offers a similar product which is marketed by some check-cashers as the Currency Connection program, and by ACE Cash Express under the name Ace Check Direct.<sup>46</sup>

Through these bank and check casher partnerships, the federal benefits payments of enrollees are deposited and temporarily parked at an account at a bank. The bank then allows the check cashing store to print out a cashier’s check for the full amount of the payment, less service charges, and to release it to the recipient, who then must cash the check. The recipient can only access the federal payment through the check cashing outlet, not at the bank’s branches or ATMs. Often, these accounts are much more expensive than a regular bank account.

Under the Dollars\$\$\$ Direct program, a consumer pays River City Bank a \$2.95 Cashier’s Check Fee for the first payment electronically deposited into the account and an additional \$1.95 for each subsequent payment electronically deposited into the account. The check-casher can then charge an additional Check Printing Fee as high as \$9.99 for converting each payment into a check.<sup>47</sup> These combined fees do not include any fees charged by the check cashing store for cashing the River City Bank check.

Bank fees for the Currency Connection and ACE Check Direct programs offered by Republic Bank and Trust Company are the same, although Republic Bank and Trust limits the check cashers’ Check Printing Fee to a maximum of \$5.<sup>48</sup> The check casher, however, can then charge any fee allowed by state law to cash the check. The Republic Bank and Trust product includes a loan product, “Honor’s Checks,” for up to \$200 at a cost of \$10. A \$200 loan costs 135.18% APR, assuming a full 30-day loan term..<sup>49</sup> The check casher can charge an additional fee for processing the Honors check, making this “payday” type loan even more expensive for benefit recipients. Other vendors marketing electronic benefits and payroll delivery include QuickAcce\$\$ by Petz Enterprises, Inc. which allows check cashers to print and cash payroll and benefits check delivered by direct deposit, including tax refunds, state benefit payments, Social Security, and payroll from any employer providing direct deposit to employees. Check cashers receive a percentage of every transaction.<sup>50</sup>

---

<sup>45</sup> Dollars\$\$\$ Direct website, [www.dollars-direct.com/](http://www.dollars-direct.com/), visited May 2, 2006.

<sup>46</sup> Currency Connection: Check Cashers: Check Products, [www.ccrbt.com/check\\_products.aspx](http://www.ccrbt.com/check_products.aspx), visited December 19, 2005.

<sup>47</sup> Dollars\$\$\$ Direct Account Fee Schedule, River City Bank, includes \$14.50 account setup fee, \$2.95 Cashier’s Check Fee, \$1.95 Cashier’s Check Fee for subsequent payments, \$10-\$20 Stop Payment Request, \$15 outgoing wire transfers, \$50 fee for garnishment, and \$10 Cash Advance.

<sup>48</sup> Currency Connection, *ibid.* \$2.95 for first direct deposit per month, \$1.95 for each additional deposit, \$1 to \$5 check printing fee.

<sup>49</sup> Currency Connection, *ibid.*

<sup>50</sup> Quick Acce\$\$ ad, *Cheklis*t, Spring 2005, page 47.

These special accounts provide less protection than a regular bank account. Once funds are transferred to the check casher, the consumer's rights are more limited than while funds are in the bank account in their name. Under Social Security Administration policy, once the funds are under the control of the check casher, it is the check casher's responsibility to make funds available to the recipient. If the funds were deposited into the correct account at the bank, the SSA will require the recipient to deal directly with the check casher if there is an allegation of non-delivery.<sup>51</sup>

A legal services organization in Philadelphia has noted that several clients reported check cashers that have refused to turn over benefit payments. In one instance, the check cashing store unilaterally decided that the recipient owed the store money and then refused to turn over the monthly benefits check. The Social Security administration referred her back to the check cashing store to resolve the problem which took three months. Another client sought assistance when she thought the government had reduced her benefits. It turned out that the check casher simply had stopped turning over the state supplemental payment to the client's federal SSI benefits. The bank and the check casher claimed that the money had been erroneously placed in another individual's account.<sup>52</sup>

#### *E. Wal-Mart Cashes Checks at the Register*

The nation's largest merchandise retailer, Wal-Mart, has increasingly offered financial services as well. Wal-Mart sells money orders and wire transfers as well as cashing payroll and benefit checks. More than 3,000 stores process about \$50 million in financial transactions a year.<sup>53</sup> Wal-Mart also offers stored value, pre-paid debit cards to purchase Wal-Mart products that can be loaded from credit or other debit cards.<sup>54</sup>

Wal-Mart is uniquely positioned to offer financial services to the unbanked. Wal-Mart's low prices draw a clientele with lower incomes than the national average. About a fifth of Wal-Mart customers do not have bank accounts – double the national rate of 9 percent.<sup>55</sup> Many Wal-Mart customers and its employees take advantage of the services offered by Wal-Mart's financial services operations. Wal-Mart processes 1.2 to 1.4 million transactions a week, including money orders, wire transfers and cashing checks.<sup>56</sup>

The company has check-cashing operations in forty-five states and received authorization in October to cash checks in all of its Massachusetts locations.<sup>57</sup> Wal-Mart charges one

---

<sup>51</sup> Social Security Administration Programs Operations Manual System (POMS) § GN 02406.025(b)(1).

<sup>52</sup> Memo, Kerry Smith, Community Legal Services of Philadelphia, September 2006, on file with author.

<sup>53</sup> Pulliam, Liz, MSN Money, "National Bank of WalMart?"

<http://moneycentral.msn.com/content/Banking/Betterbanking/P109171.asp?Printer>, visited May 25, 2006.

<sup>54</sup> "WalMart's Financial Vision: In Retail: Focus on Unbanked, Partnerships, Home Grown ATMs," *American Banker*, October 5, 2005.

<sup>55</sup> Pulliam, Liz, "National Bank of WalMart?" *Ibid*.

<sup>56</sup> "WalMart's Financial Vision: In Retail: Focus on Unbanked, Partnerships, Home Grown ATMs," *American Banker*, October 5, 2005.

<sup>57</sup> Wasserman, Aaron, "Wal-Mart gets OK to cash checks statewide," *Sentinel & Enterprise*, October 28, 2006.

percent of the face value to cash paychecks and benefit checks with the total fee capped at \$3 (employee paychecks are cashed free and no personal checks are accepted).<sup>58</sup> In 2005, Wal-Mart cashed \$9.2 billion worth of checks in its stores where check cashing is permitted and only 14 percent of the transactions involved the purchase of merchandise.<sup>59</sup> Wal-Mart requires a government or military identification or a Social Security card combined with other photo identification to cash a check.<sup>60</sup>

The financial services Wal-Mart offers are generally cheaper than they are at the check cashing outlets CFA surveyed. Wal-Mart's capped 1 percent check-cashing fee is less than half as expensive as the average fee of 2.44 percent to cash government benefit checks. Wal-Mart charges about 50¢ for \$100 money orders compared to an average of \$1.08 charged at the outlets CFA surveyed.<sup>61</sup> Wire transfers to Mexico cost \$10 at Wal-Mart compared to \$11.71 at average check cashing outlets.

#### ***F. Bank and Credit Union Check Cashing Fees More Affordable***

Depository financial institutions generally offer lower fees to cash checks drawn on their accounts than check cashing outlets. Although the fees to maintain bank accounts can be high, as CFA has noted in past publications, maintaining basic checking accounts can be cheaper than "banking" at the local check cashing outlet. Moreover, cashing checks at the issuing bank is frequently cheaper than utilizing a check cashing outlet, depending on the size of the check. Banks can require non-customers to provide identification before cashing a check drawn on that bank but cannot refuse to cash the check without a valid reason. Under the Uniform Commercial Code, a bank dishonors a check if the bank does not pay the check on the day it is presented over the counter.<sup>62</sup> Credit unions are permitted to cash checks for their members.

A study published by the Federal Reserve of Chicago noted that some unbanked consumers were saving money on check cashing fees by redeeming their checks at the bank where they were issued. Although nearly three quarters (71 percent) of the unbanked used check cashing outlets to process their checks, nearly a quarter (23 percent) of the unbanked cashed their checks at the issuing banks.<sup>64</sup>

---

<sup>58</sup> "WalMart's Financial Vision: In Retail: Focus on Unbanked, Partnerships, Home Grown ATMs," *American Banker*, October 5, 2005.

<sup>59</sup> Bloomberg, Marcia, "Few Attend Wal-Mart Hearing" *The Springfield (MA) Republican*, June 14, 2006.

<sup>60</sup> ATM Marketplace press release, "WalMart Begins Offering Check Cashing Services" June 14, 2004.

<sup>61</sup> Liz Pulliam, "National Bank of WalMart?" *Ibid*

<sup>62</sup> Mark Budnitz and Margot Saunders, National Consumer Law Center, *Consumer Banking and Payments Law*, (3d ed. 2005), page 237.

<sup>64</sup> Dunham, Constance R., Senior Financial Economist, Economic and Policy Analysis Department, Office of the Comptroller of the Currency, "The Role of Banks and Nonbanks in Servicing Low- and Moderate-Income Communities," Federal Reserve of Chicago, *Proceedings*, April 2001 at 53, Table 5.

CFA performed an informal, non-representative survey of Washington, DC area banks in the summer of 2006 and found that half of them cashed checks for free and the other half cashed checks for an average of \$4.60 which represents 1.5 percent of the face value of a \$300 check. This confirms earlier surveys of bank check cashing fees. A 2001 Consumers Union survey of banks in Texas found that 82 percent of the banks cashed checks drawn on their own accounts for free and the 18 percent of banks that charged a fee charged an average of \$4.33 or 1.4 percent of the face value of a \$300 check.<sup>65</sup> These fees represent far smaller shares of the face value of checks than consumers face at check cashing outlets, but more than Wal-Mart charges for cashing government or payroll checks.

Bank <sup>65</sup>	Fee
Amalgamated Bank	No fee
Bank of America	\$5 fee (no fee for a personal check)
BB&T	\$5 fee
Chevy Chase Bank	No fee
Citibank	No fee
M&T Bank	\$5 fee
PNC	\$3 fee
SunTrust Bank	No fee
United Bank	No fee
Wachovia	\$5 (unless issuing company waives fee)

### III. Check Cashing Customers

The number of unbanked Americans remains significant and these consumers are disproportionately likely to utilize check cashing outlets to perform the ordinary financial transactions of daily life. In the U.S., at least 12 million households are unbanked.<sup>67</sup> Many of these consumers cannot maintain sufficient balances to avoid high monthly fees, write too few checks to need a checking account or have too little income to justify a savings account. Additionally, the decline of bank branches in many lower-income and inner-city neighborhoods has made a banking relationship inconvenient for many consumers. The unbanked rely on a range of patchwork financial relationships to facilitate the necessary financial transactions of day to day life including friends and relatives who cash and write checks, cashing payroll or benefit checks at supermarkets, cashing checks at issuing bank branches and other fringe financial retail outlets like check cashers.

A 2006 study of unbanked consumers by Scarborough Research found that 10.2 million adults lived in households that do not have any relationship with depository financial institutions for making financial transactions.<sup>68</sup> Unbanked consumers are more likely to be female, younger, lower-income, single and to hold blue collar occupations.<sup>69</sup> The Federal Reserve found that about one in twelve (8.7 percent) American families does not

<sup>65</sup> CFA survey of check cashing fees at Washington, DC depository institutions, June 2006.

<sup>66</sup> Le, Trang, Consumers Union Southwest Regional Office, "Noncustomer Check Fees Reinforce Financial Divide," October 2001.

<sup>67</sup> "Finance and Economics: Into the fold; Americans without bank accounts," *Economist*, May 4, 2006.

<sup>68</sup> Scarborough Research, "Unbanked Consumers: Unique Opportunities for Financial Marketers," March 16, 2006.

<sup>69</sup> *Ibid* at 4-5.

have a bank account according to the latest FRB figures from 2004.<sup>70</sup> The figures are much higher for lower income households. Nearly a quarter (24.5 percent) of families earning in the lowest quintile (under \$18,900 annually) and about an eighth (12.7 percent) of families earning in the second lowest quintile (between \$18,900 and \$33,900 annually) do not have a transaction account.<sup>71</sup> The unbanked are also more likely to be minorities – nearly a quarter of minorities (24 percent) were unbanked compared to one in twenty (5 percent) white consumers.<sup>72</sup>

A 2005 survey of more than 2,000 representative consumers commissioned by Consumer Federation of America found that the unbanked are more likely to be lower-income and minority consumers and are more likely to use fringe financial services.<sup>73</sup> About one in seven (14.9 percent) of consumers earning under \$40,000 annually had no bank account compared to fewer than one in five (4.3 percent) of consumers earning more than \$40,000 who were unbanked. African American and Latino consumers were significantly more likely to be unbanked than white consumers. Nearly one in five (19.5 percent) of African American and one in seven (15.1 percent) of Latino consumers were unbanked compared to about one in twelve (7.5 percent) of white consumers that were unbanked. Consumers with lower levels of education and consumers with blue collar or service sector jobs are more likely to be unbanked than those with higher levels of education and those with white collar jobs. About one eighth (13.0 percent) of blue collar and service sector workers are unbanked compared to one fifth (4.8 percent) of white collar employees. Only one in thirty (3.3 percent) of consumers with college degrees or more education were unbanked compared to about one seventh (15.7 percent) of those with high school or less education.

In CFA's poll, the unbanked were more likely than those with bank accounts to have used short-term payday loans, tax refund and pawnshop loans than those with bank accounts – all financial services that are often available at check cashing outlets. More than a tenth (11.3 percent) of the unbanked had taken out payday loans in the last year compared to 2.7 percent of consumers currently with bank accounts. About one sixth (16.0 percent) of the unbanked took out tax refund anticipation loans compared to 7.0 percent of consumers with bank accounts. Consumers without bank accounts were six times more likely to take out pawnshop loans than consumers with bank accounts (6.0 percent and 1.1 percent respectively).

The majority of consumers without bank accounts rely on check cashing outlets to facilitate financial transactions. A comprehensive survey targeted at lower-income, inner-city consumers by the Office of the Comptroller of the Currency found that check

---

<sup>70</sup> Bucks, Brian K., Arthur B. Kennickell and Kevin B. Moore, "Recent Changes in U.S. Family Finances: Evidence from the 2001 and 2004 Survey of Consumer Finances," *Federal Reserve Bulletin*, 2006 at Table 5.

<sup>71</sup> *Ibid.*

<sup>72</sup> Rhine, Sherrie L.W., William H. Greene and Maude Toussaint-Comeau, "The Importance of Check-Cashing Businesses to the Unbanked: Racial/Ethnic Differences" *The Review of Economics and Statistics*, Vol. 88, No. 1, March 28, 2006 at 146-157.

<sup>73</sup> Consumer Federation of America, Consumer Financial Services Survey, Opinion Research Corporation, November 3-7, 2005.

cashing and money order purchases were significant transactions for the unbanked and that check cashers were market leaders in providing these services.<sup>74</sup> The survey found that about three fifths (59 percent) of all unbanked consumers used check cashers for some financial service transactions and nearly three quarters (71 percent) of the unbanked that received payroll or benefit checks used check cashers.<sup>75</sup> Minorities are overrepresented in the population that frequents check cashers; one national check cashing firm estimates that 25 percent of its customers are Latino and 20 percent are African American.<sup>76</sup>

Beyond those who have no bank accounts, an additional 28 million Americans are estimated to be under-banked.<sup>77</sup> Although check cashers are frequented by the unbanked population, many lower-income consumers with bank accounts also use check cashers. Although more than two-thirds of inner-city, lower-income consumers had some form of bank account, many of those relied on non-bank financial outlets to perform some of their transactions. According to the Center for Financial Services Innovation, 70.4 percent of low- and moderate-income households in Los Angeles, Chicago, and Washington had bank accounts, but many of these consumers with accounts were under-banked, meaning they still relied on non-banks for transactional services. More than a quarter (26.1 percent) of those with bank accounts used check cashing outlets, about half used non-bank outlets to purchase money orders and about a fifth (17.1 percent) used non-banks to make foreign wire transfers.<sup>78</sup> This conforms with the OCC survey which found that about a third (32 percent) of those with only a savings account used check cashing outlets and a fifth (21 percent) of those with only a checking account used check cashing outlets.<sup>79</sup>

Neighborhoods that are poorly served by the traditional financial sector have much higher concentrations of fringe financial outlets. As bank branches closed in inner-city, lower-income and minority-neighborhoods, check cashers, pawnshops, rent to own stores and payday lenders became the only financial services retail presence for consumers. Check cashing outlets are most frequently found in commercial areas, including the inner-city and suburban strip malls. CFA found that about a third (32.0 percent) of the surveyed outlets were in inner-city neighborhoods and more than half (56.4 percent) were in predominantly minority areas.

The unbanked are more likely to live in low- and moderate-income neighborhoods (neighborhoods where the median income is below 80 percent of the area median

---

<sup>74</sup> Dunham, Constance R., Senior Financial Economist, Economic and Policy Analysis Department, Office of the Comptroller of the Currency, "The Role of Banks and Nonbanks in Servicing Low- and Moderate-Income Communities," Federal Reserve of Chicago, *Proceedings*, April 2001 at 32.

<sup>75</sup> *Ibid* at 36.

<sup>76</sup> ACE Cash Express, SEC 10K filing, June 30, 2006 at 9.

<sup>77</sup> "Finance and Economics: Into the fold; Americans without bank accounts" *Economist*, May 4, 2006.

<sup>78</sup> Seidman, Ellen, Moez Hababou and Jennifer Kramer, The Center for Financial Services Innovation, "A Financial Services Survey of Low- and Moderate-Income Households," July 2005 at 10.

<sup>79</sup> Dunham, Constance R., Senior Financial Economist, Economic and Policy Analysis Department, Office of the Comptroller of the Currency, "The Role of Banks and Nonbanks in Servicing Low- and Moderate-Income Communities," Federal Reserve of Chicago, *Proceedings*, April 2001 at 37.

income).<sup>80</sup> A California Reinvestment Coalition study examined three pairs of nearby cities with large income gaps and found that the more affluent cities had 3 check cashing outlets and 55 bank branches and the lower-income cities had 7 bank branches and 24 check cashing outlets.<sup>81</sup> A study of check cashing outlets in Connecticut found that the greatest concentration of check cashers is found in neighborhoods where the poverty rate exceeds 20 percent and that almost no check cashers are found where the child poverty rate is below 5 percent.<sup>82</sup>

#### IV. State Regulation of Check Cashers

Check cashers are subject to federal financial privacy, money-laundering and security laws, but the primary regulations governing consumer transactions at check cashing outlets are state laws regulating check cashing and payday lending in the majority of states.<sup>83</sup> Check cashers are part of the money services business category, typically regulated at the state level by banking or financial services departments. Thirty-two states and the District of Columbia have laws that apply specifically to the business of check cashing. Two states (Arkansas and California) issue permits while Florida, Maine, Utah and Virginia only require check cashers to register with the state agency. Twenty-four states and the District of Columbia license check cashing outlets. Two states with check cashing statutes (Arizona and Hawaii) have no designated regulator for check cashers. The remaining eighteen states have no specific consumer protection or regulatory requirements for money services businesses that cash checks for a fee.

State check cashing laws typically exclude entities that cash checks for free; banks and credit unions; as well as retailers who cash checks for a modest fee, as long as this is incidental to their retail business such as supermarkets.<sup>84</sup> Most states that regulate check

---

<sup>80</sup> Rhine, Sherrie L.W, William H. Greene and Maude Toussaint-Comeau, "The Importance of Check-Cashing Businesses to the Unbanked: Racial/Ethnic Differences" *The Review of Economics and Statistics*, Vol. 88, No. 1, March 28, 2006 at 146-157.

<sup>81</sup> Fisher, Alan, California Reinvestment Coalition, "The Financial Divide: An Uneven Playing Field: Bank Financing of Check Cashers and Payday Lenders in California Communities," March 2005.

<sup>82</sup> Hall, Douglas, "Check Cashing Services and Child Poverty in Connecticut," Connecticut Voices for Children (using data from CT Dept of Banking, 2006 and US Census Bureau, Census 2000, SF3 data) on file with author.

<sup>83</sup> Check cashers are "financial institutions significantly engaged in financial activities" that are subject to the privacy rules of the Gramm-Leach-Bliley Act and regulations adopted for non-bank entities by the Federal Trade Commission. Federal law requires financial institutions, including check cashers, to ensure the security and confidentiality of personal information collected from their customers, including names, addresses, and phone numbers; income and credit histories, and Social Security numbers. The FTC's Safeguards Rule applies to check cashers and payday lenders and to their affiliates and service providers with which they do business. As Money Services Businesses, check cashers are required under the Bank Secrecy Act to register with the Department of the Treasury and are subject to periodic IRS examination for compliance. Check cashers are subject to reporting requirements and mandated identity verification under the USA Patriot Act.

<sup>84</sup> New York does not exempt grocery stores and other retailers from state rate caps. An investigative report in *The Buffalo News* revealed that many corner stores illegally cashed checks without a license and at fees that exceeded the ninety-nine cent state cap for unlicensed check cashers. See Epstein, Jonathan D., "Spitzer Urges More Consumer Protections," *The Buffalo News*, July 1, 2006 and Rod Watson, "Check-Cashing Charges Exceed Legal Rate," *The Buffalo News*, June 18, 2006.

cashers require outlets to post their fees, and nearly as many require that licenses or permits be posted. Only Hawaii, Nevada, and Virginia required entities to post information on where to file complaints with regulators. A few state laws include requirements for itemized customer receipts. Laws also include varying licensing and reporting requirements and prohibited practices.

Half of all states cap fees that check cashers can charge for cashing some or all types of checks. Fee caps are usually based on the type of check being cashed. The lowest rate caps are set by Illinois (1.4 percent plus ninety cents for checks up to \$500 and 1.85 percent of checks over \$500), New York (1.64 percent set by regulation) and New Jersey (1 percent or ninety cents for Aid to Families With Dependent Children and 1.5 percent or ninety cents for Social Security or SSI checks, or 2 percent or ninety cents for all other checks.) Most state rate caps do not restrain rates below our survey findings. Nine states cap rates for at least one category of check at or below 2 percent of the face value of the check (less than the average fees found in this survey).<sup>85</sup> In other words, most state rate caps do not restrain check cashing fees, with Indiana's ten percent cap the least restrictive.

State check cashing laws also restrict whether these entities may extend credit by cashing post-dated checks or making loans. The Delaware, Georgia, Indiana, Maine, Maryland, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia and West Virginia check cashing laws prohibit these companies from making payday loans or extending credit. In some of these states (Delaware, Maine, South Carolina, Tennessee and Virginia) payday lending is legal for licensed lenders under separate credit codes or payday loan safe harbor laws.

Payday lending is authorized by state laws or regulations in 37 states and the District of Columbia. Payday lending is permitted for licensed lenders without substantive protections in two additional states (Wisconsin and New Mexico). Eleven states and two territories retain usury or small loan rate caps and have not enacted payday loan authorizing legislation. In Maine supervised lenders can opt for a fee structure that permits limited payday lending, although Maine has not enacted industry legislation.<sup>86</sup>

## **VI. Policy Issues/Recommendations**

### **1) States Should Adopt Effective Consumer Safeguards for Check Cashing Industry**

States should enact the AARP Model Check Cashing Law to provide for effective regulation and to cap fees for cashing checks. In 1999, AARP issued a model state check cashing statute which combined the best features of state laws to target high check-cashing fees and deceptive practices. The AARP model grants consumers an explicit private right of action against a check cashing operation and allows recovery of damages, fees, and costs. AARP's model caps fees at one percent of the face amount of the check

---

<sup>85</sup> Connecticut, Delaware, Illinois, Louisiana, Maryland, New Jersey, New York, South Carolina and West Virginia. See Appendix E.

<sup>86</sup> See, Legal Status, [www.paydayloaninfo.org](http://www.paydayloaninfo.org)

or \$5 whichever is less for payroll or government checks and two percent or \$5, whichever is less, for all other types of checks.<sup>87</sup> Check cashing regulation is starting to get more attention. The Governor of Oregon has announced support for 2007 legislation to license and supervise check cashers and to cap fees for check-cashing to three percent or \$5, whichever is greater.<sup>88</sup>

Check cashers should be prohibited from lending money unless separately licensed and supervised as small loan companies. States should repeal payday loan laws that carve payday lending out of state usury and small loan rate caps and legalize loans based on unfunded personal checks or debits at triple-digit interest rates. The AARP model check cashing law prohibits check cashers from making loans unless separately licensed under state small loan laws.

## **2) Government Beneficiaries Should Receive Greater Protections at Check Cashing Outlets**

The United States Treasury Department should adopt third-party EFT rules to regulate the pseudo bank accounts developed to deliver direct deposit of federal benefits to unbanked recipients through check cashers and other non-bank entities. The Direct Deposit accounts currently marketed by check cashers are not mainstream bank accounts that consumers can access at any ATM. Federal benefit recipients may not be protected by federal deposit insurance once their funds are in the check casher's pooled account. In 1999, CFA and the National Consumer Law Center joined with national and state advocates to call for regulation of access to federal benefits through payment service providers. Despite extensive justification submitted in response to publication of an Advance Notice of Proposed Rulemaking, Treasury has failed to complete its job to protect unbanked federal benefit recipients.<sup>89</sup>

## **3) Check Holding Periods Should be Shortened**

Lower-income consumers often cannot cash checks at their own banks even when they have an account because of low balances. The alternative is to deposit the check and wait for it to clear before the consumer can write checks against the account. Bank check hold periods are set by federal law and Federal Reserve Board regulation. For example, banks can hold cash deposited over the counter for twenty-four hours before making it available to accountholders. Congress should enact legislation sponsored by Representative Carolyn Maloney to shorten the check hold period for deposits to consumers' bank accounts. The Federal Reserve Board should also update check hold periods next year, following its report to Congress required by the Check 21 law.<sup>90</sup> With faster processing

---

<sup>87</sup> Eskin, Sandra B., "Check Cashing: A Model State Statute," AARP Public Policy Institute, March 1999. Available at <http://www.aarp.org/research/frauds-scams/fraud/aresearch-import-146-D16910.html>

<sup>88</sup> Graves, Bill, "Governor Wants Check-Cashing Cap," *The Oregonian*, April 12, 2006.

<sup>89</sup> National Consumer Law Center, CFA, et al., Comments to the Treasury on ANPRM, 31 C.F.R. Chapter II, RIN 15055-AA74, "Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers," April 1999.

<sup>90</sup> See CFA letter to Chairman, Federal Reserve, Re: Check Hold Study, October 31, 2006, posted at [www.consumersunion.org/pdf/checkholdFRB.pdf](http://www.consumersunion.org/pdf/checkholdFRB.pdf).

of deposits, banked check cashing customers could avoid paying to cash checks instead of depositing them into their accounts.

#### **4) Stored Value Card Consumer Protections Should Parallel Credit and Debit Cards**

Congress should enact a federal stored value card law to provide parallel protections that consumers have for credit and debit cards. The Federal Reserve has extended the protections of the Electronic Funds Transfer Act to payroll cards, but not to prepaid debit cards that function as a bank account on a card. Pre-paid debit cards are increasingly marketed by check cashers and other entities to unbanked consumers as a substitute for a bank account but come with no federal protections.

#### **5) Banks Should Provide Bank Accounts that are Safe and Convenient**

Congress should enact legislation to rein in bank overdraft loans and insufficient funds penalty fees to make bank account ownership lower risk for low-balance consumers. Banks and credit unions should design accounts that are affordable to low-balance customers, safe to use, and that cannot be overdrawn. One example is the Essential Bank Account designed by the California Reinvestment Coalition and adopted by Washington Mutual. The account costs \$5 per month, cannot be overdrawn, and includes five free money orders per month, a debit or ATM card, free online banking with a bill pay service.<sup>91</sup> State and local officials are promoting low-fee bank accounts for unbanked citizens to discourage consumers from using check cashers. New York City's "Bank on New York" campaign encourages the unbanked to avoid check cashers.<sup>92</sup> With the stated goal to rid the city of check cashers and payday lenders, San Francisco's Mayor and Treasurer launched "Bank on San Francisco" with mainstream banks and credit unions to promote no-fee and minimum balance "second chance" accounts with a goal to "bank" 10,000 unbanked city residents.<sup>93</sup>

### **VII. Advice to Consumers**

Consumers need to shepherd their resources and seek out the most affordable avenues to cash their checks. Some possible techniques include:

- **Take Advantage of Direct Deposit:** If your paycheck or benefit check can be direct deposited, arrange for direct deposit into your account at your bank or credit union. Your funds will be available on the next business day without payment of a check cashing fee to get fast access to your pay or benefit. Some banks offer free or low cost accounts if direct deposit is included.

---

<sup>91</sup> Brevetti, Francine, "WaMu eyes 'unbanked' customers," Inside Bay Area, July 18, 2006. Washington Mutual flyer, "Easy Access to Your Money," on file with author.

<sup>92</sup> Lindenmayer, Isabelle, "N.Y. Banking Dept. Targets the Unbanked," *American Banker*, January 7, 2005.

<sup>93</sup> Syzmanski, Zak, "Bank Account Program Launched," *Bay Area Reporter*, October 5, 2006.

- **Cash Checks at Issuing Banks:** Cash checks drawn on local banks at the bank that issued them. Check the bank's fee for cashing checks for non-customers and take your identification to the bank.
- **Shop Around and Consider Cashing Checks at Retailers Instead of Check Cashers:** Compare the check cashing fees at retailers as well as check cashing outlets to get the lowest cost deal. Compare check casher fees with Wal-Mart or your grocery store's fees.
- **Establish a Basic Banking Account:** Open a low-cost checking or savings account that includes a debit card and that cannot be overdrawn instead of buying a pre-paid debit card. You can avoid high fees and get federal consumer protections for a debit card, including liability limits and protection against lost or stolen cards. Ask the bank about check hold times for your deposits. Accumulating savings or a balance in your checking account over the long-term allows consumers to more easily cash checks. Ask banks or credit unions in your neighborhood about starter bank accounts designed for unbanked consumers or "second chance" accounts for consumers who have had past problems.
- **Avoid Payday Lenders:** Do not borrow money by writing unfunded checks as security for the loan at check cashers that provide payday loans. These loans cost ten times as much as credit card cash advances and trap many borrowers in repeat borrowing to keep the check used to get the loan from bouncing. Payday lenders charge bounced check fees if you are unable to cover the check written to get the loan. For more information on payday loans, visit CFA's mini-website for consumers [www.paydayloaninfo.org](http://www.paydayloaninfo.org).

## **Appendix A: Check Cashing Survey**

The following groups conducted the CFA survey of check cashing outlets during June and July, 2006:

Consumer Federation of America  
Arizona Consumers Council  
Southwest Center for Economic Integrity, Arizona  
Better Business Bureau of Arkansas  
California Reinvestment Coalition  
Florida PIRG  
Georgia Watch  
MACED, Kentucky  
Kentucky Legal Aid  
Northern Kentucky Legal Aid Society, Inc.  
Woodstock Institute, Illinois  
Iowa State University  
Massachusetts Consumers' Council  
Michigan Poverty Law Program  
Clark County Legal Services, Nevada  
Neighborhood Economic Development Advocacy Project, New York  
Children's Alliance, New Hampshire  
Center for Responsible Lending, North Carolina  
Housing Research & Advocacy Center, Ohio  
Towards Employment, Inc. Legal Services, Ohio  
Our Oregon  
Coalition of Religious Communities, Utah  
Virginia Legal Aid Society, Inc.  
Virginia Interfaith Center for Public Policy  
Statewide Poverty Action Network, Washington  
Consumer Law Litigation Clinic, Wisconsin

**Survey Protocol:** Participants were provided a survey instrument and instructions for collecting information from check cashing outlets. Information was collected from Yellow Pages ads, phone calls to outlets, information posted or available to customers at check cashing outlets, and from store personnel. Some store clerks cheerfully answered all their questions while other stores turned participants away. Surveyors did not cash checks.

**How to Read the Charts:** Appendix B describes the fees to cash various types of checks. The columns show which outlets were willing to cash government benefit checks and the fees, which cashed other government checks such as tax refunds and the fees, which cashed computer generated paychecks and the fees, which cashed hand-written

paychecks and the fees and which cashed personal checks and the fees. Appendix C describes other services and fees, the cost to purchase a \$100 money order, the cost to wire \$200 to Mexico, the cost for electronic bill payment, the availability of pre-paid debit cards and the cost to load money onto the card and per-transaction fee. Appendix D describes the availability and cost of payday loans, the maximum loan size, the cost when clerks were asked the cost in either a dollar value for the loan size, the dollar value per \$100 of the loan, an interest rate or whether they refused to offer a cost. The same was determined for the posted cost of the payday loan: whether it was posted in a total dollar cost, a dollar cost per \$100 loan, an interest rate or whether there was no posting at all. Appendix E describes the state laws and regulations governing check cashing outlets including the regulation and law citation, the exemptions to the law, the regulating institution, the required postings, whether there are caps to the fees check cashing outlets can charge, whether payday lending is prohibited at check cashing outlets and the penalties for violating the laws.

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

State	Company	Check Cashing Services, Fees and Ancillary Fees													
		Gvt. Benefit	Benefit Fee	Gvt. Other	Gvt. Other Fee	Paycheck Computer	Paycheck Computer Fee	Hand Paycheck	Hand Paycheck Fee	Personal Check	Personal Check Fee				
	Median	98.3%	2.50%	94.2%	3.00%	93.0%	2.50%	62.8%	3.00%	50.0%	10.00%				
	Count or Average	169	2.44%	162	2.78%	160	2.52%	108	4.11%	86	8.77%				
AR	American Check Cashers	Y	5.00%	Y	5.00%	Y	1.00%	but 5% for the first time	Y	1.00%	but 5% the first time	Y	10.00%		
AR	ACE Cash Express	Y	2.00%	Y	2.00%	Y	2.00%		Y	3.00%		Y	10.00%		
AR	Cash Advance of Little Rock	Y	3.00%	6% for first time	Y	3.00%	but 6% for the first time	Y	3.00%	but 6% for the first time	Y	10.00%			
AR	Cash Advance of North Little Rock	Y	3.00%	but 6% for the first	Y	3.00%		Y	3.00%	but 6% for the first time	Y	10.00%			
AR	Cash Advance of Little Rock 2	Y	3.00%	but 6% for the first	Y	3.00%	but 6% for the first time	Y	3.00%	but 6% for the first time. The clerk hesitated and stressed she would first have to look at the check and verify it	Y	3.00%			
AR	ACE Cash Express #2102	Y	2.00%		Y	2.00%		Y	2.00%	start at 3%, posted as 2%	Y	3.00%	Y	10.00%	
AR	American Check Cashers	Y	3.00%	but 5% for the first visit	Y	3.00%	but 5% for the first visit	Y	3.00%	but 5% for the first visit					
AZ	Money Mart	Y	2.25%	if ID, if no ID - 3%	Y	2.25%	if ID, if no ID - 3%	Y	3.00%	6%	Y	6.00%	Y	10.00%	
AZ	Cash Smart	Y	2.00%		Y	2.00%		Y	3.00%	start	Y	3.00%			
AZ	Southwest Check Cashers	Y	3.00%		Y	3.00%		Y	2.90%		Y	10.00%	Y	10.00%	
AZ	PLS Check Cashers	Y	3.00%										Y	10.00%	
AZ	One Stop Check Cashing PayDay	Y	2.90%		Y	4.90%		Y	2.90%		Y	5.90%	Y	9.90%	
AZ	Mo Better Check Cashing	Y	3.00%	first visit 6%	Y	3.00%	first visit 6%	Y	3.00%	first visit 6%	N		N		
AZ	In-N-Out Check Cashing	Y	2.25%		Y	2.25%		Y	3.00%		Y	6.00%	Y	10.00%	
AZ	1 Stop Check Cashing	Y	2.25%		Y	2.25%		Y	3.00%		Y	10.00%	Y	6.00%	
AZ	Money Now Check Cashing	Y	2.25%		Y	2.25%		Y	3.00%		Y	10.00%	Y	6.00%	
AZ	La Casita Check Cashing	Y		Surveyor did not note fee	Y		Surveyor did not note fee	Y		Surveyor did not note fee	Y		Surveyor did not note fee		
AZ	Money Mart	Y	2.25%	with ID; without ID - 3%	Y	2.25%	with ID; without ID - 3%	Y	3.00%	with ID; without ID - 6%	Y	6.00%	with or without ID	Y	10.00%
AZ	Quick Cash	Y	3.00%		Y	3.00%		Y	3.00%		Y	4.00%	Y	15.00%	
AZ	ACE Cash Express	Y	2.00%	no more than 3%	Y	2.00%	no more than 3%	Y	2.00%		Y	3.00%	Y	10.00%	
AZ	Check Center	Y	3.00%	up to \$2000 then 3.5%	Y	3.00%	up to \$2000 then 3.5%	Y	2.00%		Y	2.00%	Y	3.00%	
CA	United Cash A Check	Y	3.00%	but not less than \$3	Y	5.00%	but not less than \$5	Y	3.00%	but not less than \$3	N		N		

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

Company		Check Cashing Services, Fees and Ancillary Fees													
State	Outlet Surveyed	Gvt. Benefit	Benefit Fee	Gvt. Other	Govt. Other Fee	Paycheck Computer	Paycheck Computer Fee	Hand Paycheck	Hand Paycheck Fee	Personal Check	Personal Check Fee				
CA	California Check Cashing	Y	2.25%		Y	2.25%	Y	2.25%	N				Y	6.00%	
CA	Money Mart	Y	2.35%	without ID, 3.5%	Y	3.00%	without ID, 3.5%	Y	3.00%	without ID, 3.5%	Y	3.00%	3.5% w/o ID	Y	10.00%
CA	Mission Check Cashers	Y	2.00%	or \$2 minimum	Y	3.00%	or \$5 minimum	Y	2.00%	or \$2 minimum				N	
CA	Money Mart	Y	2.35%	without ID, 3.5%	Y	3.00%	without ID, 3.5%	Y	3.00%	without ID, 3.5%	Y	3.00%	3.5% w/o ID	Y	10.00%
CA	Mission Jewelry & Loan	Y	1.00%	(1% + \$1)	Y	1.00%	(1% + \$1)	Y	1.00%	(1% + \$1)				N	
DC	Kash King	Y		refused to quote fee unless saw the actual check	Y		refused to quote fee unless saw the actual check	Y	2.50%		Y		No fee quote without seeing actual check	N	
DC	Check Cash One	Y	2.00%	sliding scale of fees: 0-\$100: \$2 + change, \$100 - \$200: \$3 + change, \$200 - \$300: \$4 + change, up by \$2 for each \$100 increment until..	Y	4.00%	checks over \$2,000	Y	2.00%	sliding scale	Y				
DC	ACE Cash Express	Y	2.50%		Y	3.00%		Y	2.50%		Y	3.50%		Y	10.00%
DC	Check Cash Best	Y	4.00%		Y	4.00%		Y		fees: minimum amount: \$2 + change, \$100 - \$200: \$3 + change, up by \$1 for each \$100 increment until.. \$500 - \$1500: 1.5% +	Y			N	
DC	Power Check Cashing	Y		sliding scale of fees: under \$100: \$2, \$100 - \$1000: 1.5%, \$1000 - \$1500: 2%, \$1500 - \$2500: 2.5%, \$2500 - \$4000: 3%, \$4000 - \$5000: 4%	Y			Y							N
DC	A One Cash Inc.	Y	2.00%		Y	2.00%		Y	1.00%		Y	1.00%		N	
DC	Checks Cashed	Y	1.50%		Y	1.50%		Y	1.50%		Y	1.50%		N	
DC	Check Cash Depot	Y	1.50%	Sliding scale of fees: up to \$100: \$1.50, \$100 - \$1000: 1.5%, \$1000 - \$2000: 2%, \$2000 - \$3000: 2.5% for all checks cashed	Y			Y			Y			N	
DC	Barny Wine and Liquor	Y	5.00%	5% maximum - clerk said between 3-5%	Y	5.00%	maximum	Y	5.00%	maximum	Y	5.00%		Y	10.00%
DC	Aca America's Cash Express	Y	2.50%		Y	4.00%		Y	2.50%		Y	3.50%		Y	10.00%

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

State	Company	Check Cashing Services, Fees and Ancillary Fees											
		Gvt - Benefit	Benefit Fee	Gvt - Other	Govt - Other Fee	Paycheck Computer	Paycheck Computer Fee	Hand Paycheck	Hand Paycheck Fee	Personal Check	Personal Check Fee		
FL	Mike's Qwik Cash	Y	3.00%	Y	3.00%	Y	3.00%	Y	3.00%	Y	3.00%	Y	3.00%
FL	Cash Stop	Y	1.50%	Y	2.50%	Y	1.50%	Y	1.50%	N			
FL	ACE American Cash Express	Y	3.00%	Y	4.00%	Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%
FL	SRC of North Florida, Inc.	Y	2.00%	Y	.01-.015	Y	3.00%	3% to 10%, depending	Y	3.00%	Y	10.00%	
FL	D+F Check Cashing	Y	3.00%	Y	3.00%	Y	3.00%		Y	3.00%	Y	10.00%	
GA	Citgo Food Mart	Y			\$2 flat fee	Y		\$1 flat fee					
GA	All Checks Cashed Store 01	Y	1.00%	Y	1.00%	Y	1.00%						
GA	PJ Cash	Y	3.00%			Y	3.00%						
GA	Mr. Cash Pawn Shop	Y				Y	2.00%						
GA	Atlanta Check Cashers, Inc.	Y	3.00%	Y	5.00%	Y	3.00%		Y	10.00%	Y	10.00%	
GA	Lee Discount Loan Co.	Y	2.00%	Y	2.00%	Y	2.00%		Y	2.00%			
GA	Ace Cash Express	Y	3.00%	Y	3.00%	Y	3.00%		Y	10.00%	Y	10.00%	
GA	Mr. Payroll	Y	2.75%	Y	4.50%	Y	2.75%		Y	3.00%			
GA	Sportsman Package Store	Y			\$1/\$100	Y							
IA	EZ Money	Y	3.00%	Y	up to 0.06, depending on check amount	Y	3.00%	up to 0.06, depending on check amount	Y	3.00%	up to 0.06, depending on check amount		
IA	Hometown Cash Advance	Y	2.00%	Y	3.00%	up to 0.05	Y	1.75%	up to 0.05				
IA	Mister Money USA	Y	1.00%	Y	3.00%		Y	3.00%					
IA	Phone Card Connection	Y			Depends on the amount (a \$300 check would have a fee of \$4)	Y	1.33%	Depends on the amount (a \$300 check would have a fee of \$4)	Y		amount (a \$300 check would have a fee of \$4)		
IA	Hyvée Food Store	Y	2.00%	Y	Sliding scale of fees: up to \$99: \$2, \$100-\$109: \$4, \$200-\$299: \$6, \$300-\$309: \$8, \$400-\$500: \$10			See chart	Y		See chart		
IL	Har-Mil Currency Exchange Inc.	Y		Y				Refused to quote cost		Y		N	
IL	New Grand Ashland	Y	1.40%	Y	1.4% plus \$.90	Y	\$5.10/\$300 check		Y	1.40%	1.4% plus \$.90	Y	0.014 plus \$.90 fee
IL	Lawn Manor Currency Exchange	Y	1.70%	Y	\$5.10/\$300 check	Y	\$5.10/\$300 check		Y	1.70%	\$5.10/\$300 check	N	
IL	PLS Check Cashers	Y	1.40%	Y	1.4% plus \$.90				N			N	
IL	Harlem/Roosevelt Currency Exchange	Y	1.40%	Y	1.4% plus \$.90	Y	\$5.10/\$300 check		Y	1.40%	1.4% plus \$.90	Y	0.014 plus \$.90 fee
KY	Check Exchange	Y	3.00%	Y		Y	3.00%		Y	2.90%		Y	9.00%
KY	Cash Express	Y	3.00%	Y	or \$2	Y	3.00%	or \$5	Y	5.00%	or \$5	Y	10.00%

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

State	Company	Check Cashing Services, Fees and Ancillary Fees													
		Govt Benefit	Govt Benefit Fee	Govt Other	Govt Other Fee	Paycheck Computer	Paycheck Computer Fee	Hand Paycheck	Hand Paycheck Fee	Personal Check	Personal Check Fee				
KY	Ky Cash Advance	Y	3.00%		Y	3.00%		Y	3.00%						
KY	Cash Express	Y		Outlet claimed they could not quote fees	Y		Outlet claimed they could not quote fees	Y		Outlet claimed they could not quote fees					
KY	Ky Cash Advance	Y	3.00%		Y	3.00%		Y	3.00%						
KY	Cashland	Y		There is a rate schedule (but it was not copied by the surveyor)	Y			Y			N		N		
KY	Check Smart	Y	3.00%		Y	5.90%		Y	2.90%		Y	5.90%	Y	10.00%	
KY	AAA Checks Cashed	Y	3.00%	6% w/o ID	Y	3.00%	6% w/o ID	Y	5.00%	6% w/o ID	Y	10.00%	15% w/o ID	Y	10.00%
KY	Notes	Y	3.00%		Y	3.00%		Y	2.90%		Y			Y	5.90%
KY	Check-n-Go	Y		There is a rate schedule (but it was not copied by the surveyor)	Y			Y			N			N	
MA	Boston Check Cashers #10	Y		Didn't quote	Y		Didn't quote								
MA	Ferro's Foodtown							Y		how much the check is; They only cash payroll checks for businesses they have an account with	N			N	
MA	Shaws Supermarket #567	Y		flat \$3 fee											
MD	Cash & Go	Y	2.00%		Y	2.00%	clerk when surveyor called back to double-	Y	4.00%		Y	4.00%		Y	10.00%
MD	America's Cash Express	Y	2.00%		Y	4.00%		Y	2.00%	maximum - between 2-4%	Y	3.00%		N	
MD	Rockville Checks Cashed	Y	3.00%		Y	3.00%		Y	2.00%					Y	10.00%
MD	E Z Check Cashing	Y	2.00%		Y	2.00%		Y	3.00%					N	
MD	Germantown Check Cashing	Y	2.00%	minimum of \$2 charged	Y	2.00%	minimum of \$2 charged	Y	2.00%	minimum of \$2 charged				N	
MI	Cashland	Y		If use \$5.80 quoted for \$200 SS ck, charges 2.9%											
MI	Cash Now	Y	3.00%	\$3 per \$100	Y	3.00%	per \$100				N			N	
MI	M Payroll	Y	2.00%		Y						N				
MI	Cash Rite Now	Y	3.00%					Y	3.00%		Y	3.00%		Y	3.00%
MI	Cash Connection	Y	2.00%	to 0.06, have to see check	Y			Y			Y			Y	
NC	Raleigh Service, Inc.	Y	3.00%		Y	3.00%		Y	5.00%		Y	10.00%		Y	10.00%

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

State	Company	Check Cashing Services, Fees and Ancillary Fees												
		Gvt Benefit	Benefit Fee	Gvt Other	Govt Other Fee	Paycheck Computer	Paycheck Computer Fee	Hand Paycheck	Hand Paycheck Fee	Personal Check	Personal Check Fee			
NC	Raleigh Durham Check Cashers	Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%	Y	10.00%			
NC	Raleigh Durham Check Cashers	Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%	Y	10.00%			
NC	Checks Cashed	Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%	Y	10.00%			
NC	National Jewelry & Pawn	Y	1.00%	Y	1.00%	See chart		Y	2.00%		\$1 to \$100, \$2 fee			
NH	Checks Cashed of Manchester	Y	1.50%	Y	1.50%			Y	1.50%	Y	1.50%			
NH	Amherst Check Cashing Inc.	Y	3.00%	Y	3.00%			Y	3.00%	Y	3.00%	Y		
NV	Check City	Y	1.99%	Y	2.99%			Y	1.99%			Y	2.58%	
NV	Money Tree	Y	2.90%	Y	2.90%	plus a \$0.99 fee		Y	2.90%	Y	5.90%	plus a \$0.99 fee	Y	5.90%
NV	Main Street Station Casino			Y		no fee up to \$500		Y						
NV	Smith's Food and Drug Center	Y		Y		\$2 if less than \$200 check		Y		Y		\$2 if less than \$500, and depending on how much money is in the register		
NV	ACE Cash Express	Y	3.00%	Y	3.00%			Y	3.00%	Y	4.00%	in state; Out of state: 7%	Y	10.00%
NY	East Broadway Check Cashing	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Uneeda Check Cashing Corporation	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Joco Check Cashing Corp.	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Whitestone Check Cashing	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Ikan Enterprises	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Pay-O-Matic	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Check Cashing Store	Y	1.58%	Y	1.58%			Y	1.58%	Y	1.58%			
NY	Pay O Matic	Y	1.64%	Y	1.64%			Y	1.64%	Y	1.64%			
NY	Regina Check Cashing Corporation	Y	1.64%	Y	1.64%			Y	1.64%	Y	1.64%			
NY	Lazer Check Cashing	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Continental Check Cashers	Y	1.64%	Y	1.64%			Y	1.64%	Y	1.64%			
NY	Galaxia Check Cashing	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Uneeda Check Cashing Incorporated	Y	1.64%	Y	1.64%			Y	1.64%					
NY	Rife Check Cashing Incorporated	Y	1.64%	Y	1.64%			Y	1.64%			It depends		
NY	Uneeda Check Cashing Incorporated	Y	1.64%	Y	1.64%			Y	1.64%					

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

State	Company	Check Cashing Services, Fees and Ancillary Fees											
		Gvt Benefit	Benefit Fee	Gvt Other	Govt Other Fee	Paycheck Computer	Paycheck Computer Fee	Hand Paycheck	Hand Paycheck Fee	Personal Check	Personal Check Fee		
NY	Rite Check	Y	1.64%	Y	1.64%	Y	1.64%	must verify with bank			must verify with bank		
NY	A and A Check Cashing Corporation	Y	1.64%	Y	1.64%	Y	1.64%						
NY	Ridge Check Cashing Corporation	Y	1.64%	Y	1.64%	Y	1.64%	Y	1.64%				
NY	Alivad Associates	Y	1.64%	Y	1.64%	Y	1.64%	Y					
NY	Vale Cheking NY Inc.	Y	1.64%	Y	1.64%	Y	1.64%						
NY	ABRS Check Cashing Corporation	Y	1.64%	Y	1.64%	Y	1.64%	Y					
OH	H&E Money Exchange	Y	3.00%	Y	3.00%	Y	1.67%	fees: up to \$62.81- \$1, \$62.81-\$699.99: 1.67%, \$700 - \$999.99: 1.99%, \$1000 and up: 2.4%, government	N		Y		
OH	Money Mart	Y	3.00%	Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%		
OH	Money Mart	Y	3.00%	Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%		
OH	Cash Stop	Y	2.25%	if over \$148; 3% if under	Y	2.25%	Y	2.25%	Y	2.25%	Y	8.00%	
OH	ACE Cash Express	Y	3.00%		Y	3.00%	Y	2.50%	Y	3.00%	Y	10.00%	
OH	ACE Cash Express	Y	3.00%		Y	3.00%	Y	2.50%	Y	3.00%	Y	10.00%	
OH	ACE Cash Express	Y	3.00%		Y	3.00%	Y	2.50%	Y	3.00%	Y	10.00%	
OH	Money Mart	Y	3.00%		Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%	
OH	ACE Cash Express	Y	3.00%		Y	3.00%	Y	2.50%	Y	3.00%	Y	10.00%	
OH	Money Mart	Y	3.00%		Y	3.00%	Y	3.00%	Y	3.00%	Y	10.00%	
OH	Check Smart	Y	3.00%		Y	3.00%	Y	2.40%	Y	2.40%	Y	10.00%	
OH	Check Cashing & Pay Day	Y	2.50%		Y	2.50%	Y	2.00%	fees: \$0-\$100: \$2, \$101-\$200: 2%, \$201-\$300: 1.89%, \$301 and up: 1.59%				
OH	Tops Markets	Y		Sliding scale of fees: \$0-\$20: no fee, \$20-\$40: \$4, \$40-\$1500: \$6	Y		See chart	Y	See chart				
OH	American Payroll Advance	Y	3.00%	Only social security checks	Y	5.00%	Only tax refund checks						
OH	Cashland	Y	1.50%	to 0.03, depending on amount	Y	2.75%	for tax refund	Y	3.00% (up to 3%)	Y	Depends on stock of check (e.g. company vs. 2 party)	Y	9.50%
OH	VRS Cash Advance	Y	2.99%		Y	2.99%		Y	2.99%				
OH	Money Mart	Y	3.00%		Y	3.00%		Y	3.00%	Y	3.00%	Y	10.00%
OH	ACE Cash Express	Y	3.00%		Y	3.00%		Y	2.50%	Y	3.00%	Y	10.00%

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

Company		Check Cashing Services, Fees and Ancillary Fees										
State	Outlet Surveyed	Gvt Benefit	Bene Fee	Gvt Other	Gvt Other Fee	Paychek Computer	Paychek Computer Fee	Hand Paychek	Hand Paychek Fee	Personal Check	Personal Check Fee	
OH	ACE Cash Express	Y	3.00%	Y	3.90%	Y	2.50%	Y	3.00%	Y	10.00%	
OH	ACE Cash Express	Y	3.00%	Y	3.90%	Y	2.50%	Y	3.00%	Y	10.00%	
OH	Money Mart	Y	it depends	Y	it depends	Y	it depends					
OR	Check Mart	Y	3.90%	Y	3.90%	Y	3.90%	Up to 10%	Y	10.00%	Y	10.00%
OR	ACE American Cash Express	Y	? On fee	Y	? On fee	Y	2.90%	up to 4%	Y	? On fee	Y	8.00%
UT	Cash Advance	Y	4.00%	Y	3.50%	Y	3.50%	with ID: without ID - 5.5%				
UT	U.S.A Cash Services											
UT	Check City	Y	1.99%	Y	1.99%	Y	1.99%	Y	2.50%	Y		
UT	Rent A Center	Y	1.00%	Y	3.00%	Y	1.00%	Y	2.00%	Y	5.00%	
UT	Money Mart	Y	4.50%	Y	4.50%	Y	4.50%			Y	9.00%	
UT	Access 2 Cash	Y	2.50%	Y	1.50%	Y	2.50%	Y	3.00%	Y	10.00%	
UT	Easy Money	Y	3.50%	every 10th ck free	Y	3.50%	Y	3.50%	Y	3.50%	Y	10.00%
UT	Easy Money	Y	2.50%	Y	2.50%	Y	2.50%	Y	2.50%	Y	5.00%	
VA	Cash and Carry	Y	3.00%	Y	3.00%	Y	3.00%	Y	3.00%	Y	3.00%	
VA	Ace Check Cashing	Y	2.50%	Y	4.00%	Y	2.50%	up to 4%	Y	4.50%	Y	5.00%
VA	Check City	Y	1.99%	Y	5.00%	Tax 3% if theirs	Y	1.99%	Y	10.00%	Y	2.00%
VA	Cashstore Pawn Shop	Y	2.50%	(5% for the first time)	Y	2.50%	(5% for the first time)	Y	3.00%	3.00%	must be verified business account	
VA	Checksmart	Y	3.00%	Y	3.00%	Y	2.90%	up to 5.9%			Y	10.00%
VA	ACE American Cash Express	Y	2.50%	Y	4.00%	Y	2.50%	Y	3.50%	Y	10.00%	
VA	Metro Check Casher Plus	Y	3.00%	2-3% range	Y	3.00%	Y	2.50%	Y	2.50%	Y	6.00%
VA	Cashstore PawnShop	Y	2.50%	Y	2.50%	Y	2.50%	Y				
WA	MoneyTree	Y	2.90%	plus \$0.99 fee cks over \$20	Y	2.90%	plus \$0.99 fee cks over \$20	Y	2.90%	plus \$0.99 fee cks over \$20	Y	5.90%
WA	Check Masters	Y	2.90%									
WA	MoneyMart	Y	2.50%	Y		Y		Y		Y		
WA	Cash 1	Y	2.00%	Y	1.00%	Y	3.00%	Y	3.00%	Y	10.00%	
WA	Checkmate	Y		Y		Y		Y				
WA	Money Tree Incorporated	Y	2.90%	plus a \$ .99 transaction fee for each check cashed	Y	2.90%	plus the \$ .99 transaction fee	Y	2.90%	plus the \$ .99 transaction fee	Y	5.90%
WA	Check Masters	Y	2.90%	plus a \$ .99 transaction fee for each check cashed	Y	2.90%	plus the \$ .99 transaction fee	Y	2.90%	plus the \$ .99 transaction fee	Y	10.00%

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

Company		Check Cashing Services, Fees and Ancillary Fees																
State	Outlet Surveyed	Govt. Benefit	Govt. Other	Govt. Other	Govt. Other	Paycheck Computer	Paycheck Computer	Paycheck Fee	Hand Paycheck	Hand Paycheck	Personal Check	Personal Check						
		Fee	Fee	Fee	Fee	Fee	Fee	Fee	Fee	Fee	Fee	Fee						
WI	Beloit Check Cashing Store	Y		Sliding scale of fees: \$0-\$4.99: \$0.50, \$5-\$9.99: \$0.75, \$10-\$19.99: \$1.05, \$50-\$59.99: \$1.60, \$100-\$109.99: \$2.20...	Y			...\$200-\$209.99: \$3.50, \$300-\$309.99: \$4.85, \$400-\$409.99: \$6.05, over \$500: 1.7%, over \$750: 1.85% note: not all the \$10 increments were recorded by the surveyor, but it's astounding how complicated the fee schedule gets with a new price for each	Y			The fees for cashing checks over \$100 are under 2% except for some income tax return checks which require an additional \$0.90 fee; The percentages for checks under \$100 are considerably higher, but are still well below	Y		See chart after verification			
WI	Cash Mart	Y	2.00%		Y	3.00%			Y	2.00%		after verification						
WI	Check & Cash, LLC	Y	1.75%		Y	1.75%			Y	3.00%								
WI	State Street Cash Mart	Y	1.75%		Y	3.00%			Y	3.00%		if check from Wisconsin, 5% for other states	Y	5.00%		if check from Wisconsin, 8% for other states	Y	10.00%
WI	PLS Check Cashers	Y	1.75%		Y	5.00%			Y	3.00%			Y	5.00%			Y	10.00%
WI	Check Cashing Corp	Y		Sliding scale of fees for govt. benefit and payroll checks \$0-\$1: \$.35, \$1-\$5: \$.85, \$5.01-\$20: \$1.20, \$80.01-\$100: \$1.95, \$100.01-\$120: \$2.25, \$180.01-\$200: \$3.85, \$280.01-\$300: \$4.95...	Y				Y			fees for tax/insurance checks: under \$1500: 2.5%, over \$1500: 2.8%, over \$1800: 2.9%, over \$1700: 3.1%, over \$1800: 3.2%, over \$2000: 3.6%, over \$3000: 4.8%.	Y			...Over \$300: 1.7%, over \$400: 1.85%, over \$500: 1.9%, over \$1000: 2.4%, over \$1500: 2.5%	Y	10.00%
WI	Big Deal Check Cashers	Y		3% for all checks written 6-30 days ago, 10% for those written more than 30 days ago, Sliding scale of fees for govt. benefit and typed payroll checks \$0-\$9.99: \$1, \$10-\$14.99: \$1.55, \$50-\$59.99: \$2.16, \$100-\$109.99: \$2.80...	Y	3.00%			Y			...\$200-\$209.99: \$4.20, \$300-\$309.99: \$5.30, \$400-\$409.99: \$6.40, \$500-\$509.99: \$7.80, \$600-\$609.99: \$9.80, \$700-\$709.99: \$11.80, \$800-\$809.99: \$13.90, \$900-\$909.99: \$16, \$1000: \$18	Y	10.00%	\$5 minimum fee	Y	10.00%	

## Appendix B: Fees to Cash Checks at Check Cashing Outlets

Company		Check Cashing Services, Fees and Ancillary Fees											
State	Outlet Surveyed	Gvt. Benefit Fee	Benefit Fee	Gvt. Other Fee	Govt. Other Fee	Paycheck Computer Fee	Paycheck Computer Fee	Paycheck Computer Fee	Hand Paycheck Fee	Hand Paycheck Fee	Personal Check Fee	Personal Check Fee	
WI	Community Financial	Y	Sliding scale of fees for govt. benefit and typed payroll checks: \$0-\$4.99: \$1.10, \$100-\$109.99: \$3.30, \$200-\$209.99: \$4.65, \$300-\$309.99: \$6.00	Y	3.00%	Y	Y	\$409.99: \$7.35, \$500-\$509.99: \$8.70, \$600-\$609.99: \$10.25, \$700-\$709.99: \$12.07, \$800-\$809.99: \$14.09, \$900-\$1250: 2%, \$1250-\$2000: 3%, over \$2000: 3%	Y	3.00%	after verification	Y	10.00%
WI	Milwaukee Checkcashers, Inc	Y	Sliding scale of fees for govt. checks: \$0-\$4.99: \$1.10, \$5-\$9.99: \$1.10, \$10-\$109.99: \$3.30, \$200-\$209.99: \$4.65, \$300-\$309.99: \$6.00, \$400-\$409.99: \$7.35	Y		Y	Y	\$500-\$509.99: \$8.70, \$600-\$609.99: \$10.25, \$700-\$709.99: \$12.07, \$800-\$809.99: \$14.09, \$900-\$909.99: \$16.20, \$1000-\$1500: 2% over \$1500: 3%	Y	3.00%			

### Appendix C: Other Services and Fees

State	Outlet Surveyed	Other Fees				Pre-Paid Debit Cards						
		Fee for \$100 Money Order		Fee for \$200 wire transfer to Mexico		Fee for e-payment of electric bill	Cards Available (V=Visa, MC=MasterCard, other)	Card Cost		Cost to Load money on card	Fee per use	
	Median	\$ 0.69		\$ 10.00		\$ 1.00						
	Sum or Average	\$ 0.94		\$ 11.69		\$ 1.30						
AR	American Check Cashers	\$ 0.50			Refused to answer over the phone		MC			Refused to say over the phone and requested the surveyor come into the store		
AR	ACE Cash Express			\$ 9.99	but depends on where it is going in Mexico		ACE Cash Express Visa					1-2
AR	Cash Advance of Little Rock	\$ 0.50			Not quoted		MC	14.95	Minimum load of \$100	4.95	\$4.95 at the end of the month or to re-load	
AR	Cash Advance of North Little Rock	\$ 0.50			Depends on how sent and where sent to							
AR	Cash Advance of Little Rock 2	\$ 0.50			Clerk didn't know said would have to input into the computer							
AR	ACE Cash Express #2102	\$ 0.79		\$ 9.99								
AR	American Check Cashers	\$ 0.50		\$ 7.99	for next day, \$14.99 for minutes		MC	9.95		4.95	\$2600 limit on card	
AZ	Money Mart	\$ 1.29		\$ 14.99			V	6.99		2		
AZ	Cash Smart	\$ -			it varies							
AZ	Southwest Check Cashers	\$ -	free up to \$100	\$ 19.98	9.99 per \$100		V, MC	9.95		9.95		
AZ	PLS Check Cashers	\$ -		\$ 9.00		.01-.02	Surveyor did not give the name of the card	10		10		
AZ	One Stop Check Cashing PayDay	\$ 0.59		\$ 9.99	Next day rate, for quick, \$14.99	\$ 1.00	V	9.95				1
AZ	Mo Better Check Cashing	9.99-										
AZ	In-N-Out Check Cashing	14.99		9.99-14.99								
AZ	1 Stop Check Cashing			17.99-23.99								
AZ	Money Now Check Cashing			9.99-14.99								
AZ	La Casita Check Cashing	\$ 9.99		9.99-14.99								
AZ	Money Mart	\$ 0.79	but free if you have a VIP card	10-15								
AZ	Quick Cash	\$ 0.49			Clerk said to call Western Union	\$ 1.50						
AZ	ACE Cash Express	\$ 0.79		\$ 9.99	For any transfer up to \$1,000	0-2	V, MC	9.95		3		1-2
AZ	Check Center		depends on Western Union rates for distance	\$ 9.99	for next day	\$ 1.00	V, MC	9.95		10		1.50
CA	United Cash A Check	\$ 1.00		\$ 10.00								
CA	California Check Cashing	\$ 0.85		\$ 9.99		\$ 1.00	Surveyor did not acquire the name	9.95		2		
CA	Money Mart	\$ 1.29		\$ 6.99	for up to \$200							
CA	Mission Check Cashers	\$ 1.00		\$ 10.00		\$ 1.00						
CA	Money Mart	\$ 1.29		\$ 6.99	for up to \$200							
CA	Mission Jewelry & Loan											
DC	Kash King	\$ 0.25				\$ 1.00						
DC	Check Cash One	\$ 0.50			*clerk didn't know said call Western Union if need more information	\$ 1.25						
DC	ACE Cash Express	\$ 0.79				\$ 1.25	MC	9.95		3		



## Appendix C: Other Services and Fees

State	Outlet Surveyed	Other Fees					Pre-Paid Debit Cards						
		Fee for \$100 Money Order		Fee for \$200 wire transfer to Mexico		Fee for e-payment of electric bill	Cards Available (V=Visa, MC=MasterCard, other)	Card Cost		Cost to Load money on card		Fee per use	
KY	Check Smart	\$ 0.69				Computer tells							
KY	AAA Checks Cashed	\$ 1.00		\$ 18.00		N/A							
KY	Check Exchange	\$ 0.69		\$ 15.00									
KY	Check-n-Go												
MA	Boston Check Cashers #10	\$ 0.79		\$ 8.15		\$ 1.00							
MA	Ferro's Foodtown												
MA	Shaws Supermarket #567	\$ 0.99				Depends							
MD	Cash & Go												
MD	America's Cash Express	\$ 0.79		\$ 9.99			V	9.95		3			1
MD	Rockville Checks Cashed	\$ -	Free	\$ 9.99									
MD	E Z Check Cashing	\$ -	free with check cashing	\$ 9.99	for next day; \$14.95 for minutes	\$ 1.25	Western Union	14.95	plus a \$4.95 monthly fee	3.95			
MD	Germentown Check Cashing	\$ 0.25	up to \$500	\$ 10.00		\$ 1.00							
MI	Cashland	\$ 0.49											
MI	Cash Now												
MI	M. Payroll	\$ 0.75	but one free with check cashing										
MI	Cash Rite Now												
MI	Cash Connection												
NC	Raleigh Service, Inc.		depends on the state you're sending money to	\$ 11.00			V	\$14.95	Clerk refused to quote fees, brochure two cards for \$14.95	\$5			
NC	Raleigh Durham Check Cashers		for immediate transfer or \$9.99 overnight	\$ 9.99	for overnight, \$15.99 for immediate	\$ 2.00	V	9.95	All Access card NetSpend	2			
NC	Raleigh Durham Check Cashers			\$ 9.99	for overnight, \$15.99 for immediate		V	9.95	All Access card NetSpend	2			
NC	Checks Cashed			\$ 9.00	next day, \$15.99 for immediate transfer	\$ 2.00	V	9.95		2			
NC	National Jewelry & Pawn	\$ 0.05	5% of the amount	\$ 0.05	5% of the amount								
NH	Checks Cashed of Manchester												
NH	Amherst Check Cashing Inc.												
NV	Check City	\$ -	no fee	\$ 14.00	approximately								
NV	Money Tree	\$ 0.50	up to \$1000 but free with a check cashing or loan transaction	\$ 9.95	for next day, otherwise \$14.99		MC	9.95	with a \$1.25 weekly service fee	0			1.75
NV	Main Street Station Casino												
NV	Smith's Food and Drug Center	\$ -	free	\$ 24.00		\$ -							
NV	ACE Cash Express	\$ 0.79		\$ 24.00		2-5	V	9.95	with a \$9.95 per month maintenance fee	2			
NY	East Broadway Check Cashing	\$ 0.59		\$ 10.00		\$ 1.00	V, MC	9.95	All Access card NetSpend	2			1
NY	Uneda Check Cashing Corporation	\$ 0.49		\$ 10.00		\$ 1.25							
NY	Joco Check Cashing Corp	\$ 1.25		\$ 10.00	to Jalisco	\$ 1.00	V	9.95	NetSpend	2			
NY	Whitestone Check Cashing	\$ 0.29		\$ 10.00	to Jalisco	\$ 0.50	Western Union Debit Card	14.95		3.95			
NY	Ikan Enterprises	\$ 1.25		\$ 10.00	to Jalisco	\$ 1.00	MC	25	Priva MC, \$25 to get \$500 card	4.95	for \$25 on card	4.95 - 8.95	
NY	Pay-O-Matic	\$ 1.00		\$ 10.00	to Jalisco	\$ 1.25	V, MC	30		1.5			2



### Appendix C: Other Services and Fees

State	Outlet Surveyed	Other Fees				Pre-Paid Debit Cards							
		Fee for \$100 Money Order		Fee for \$200 wire transfer to Mexico		Fee for e-payment of electric bill	Cards Available (V=Visa, MC=MasterCard, other)	Card Cost		Cost to Load money on card		Fee per use	
UT	Cash Advance	\$ 0.69		\$ 9.99		\$ 1.00							
UT	U.S.A Cash Services												
UT	Check City												
UT	Rent A Center	\$ 0.29		\$ 9.99		\$ 1.00	V	9.95	All-Access NetSpend		2		
UT	Money Mart												
UT	Access 2 Cash	\$ 0.25		\$ 14.99									
UT	Easy Money												
UT	Easy Money			\$ 9.99									
VA	Cash and Carry												
VA	Ace Check Cashing	\$ 0.49		\$ 5.00	Clerk not sure, but quoted \$5		V	9.95	All Access Visa prepaid card		5		1-2
VA	Check City	\$ 0.29		\$ 10.00									
VA	Cashstore Pawn Shop												
VA	Checksmart	\$ 0.29		\$ 9.99	or 2%, whichever is greater	\$ 1.00							
VA	ACE American Cash Express			\$9.99			V		ACE Visa prepaid cd				
VA	Metro Check Casher Plus	\$16 to CA		\$15		\$1.00			Mobile phone USA card \$2				
VA	Cashstore PawnShop												
WA	MoneyTree	\$ 0.50	or free with a check cashing transaction				MC	9.95	\$1.25 wkly		0		0
WA	Check Masters	\$ 0.45	or free with check cashing or payday loan										
WA	MoneyMart												
WA	Cash 1	\$ 0.50											
WA	Checkmate						Checkmate Express						
WA	Money Tree Incorporated	\$ 0.50	but free with check cashing or a loan transaction	\$ 9.99	next day; \$14.99 in minutes	\$ 12.95	MC	9.95	\$1.25 weekly service fee				
WA	Check Masters	\$ 0.45		\$ 9.99	\$9.45 with Savers Card	6 95-8.95	"Mio" pre-paid debit card	9.95			4 95		
WI	Beloit Check Cashing Store	\$ 0.75		9.99	for next day or \$14.95 in minutes	\$ 0.70	V	9.95			2		1
WI	Cash Mart	\$ 0.75	for up to \$5000	\$ 15.00			MC	14.95	with a \$5 montly fee		5		2
WI	Check & Cash, LLC	\$ 0.69		\$ 9.99	for next day								
WI	State Street Cash Mart	\$ -	free	\$ 9.99			V	9.95			2		1
WI	PLS Check Cashers	\$ -	free	\$ 14.99			V	9.95			2		1
WI	Check Cashing Corp.	\$ 0.39	for \$501-\$1000			\$ 1.00	MC	14.95	with a \$5 montly fee		5		2
WI	Big Deal Check Cashers	\$ 0.79	posted	\$ 9.99	for next day								
WI	Community Financial	\$ 0.99		\$ 14.99		\$ 1.00	V	9.95	NetSpend		2		1
WI	Milwaukee Checkcashers, Inc.	\$ 1.00		\$ 15.00		\$ 1.00	V	9.95			2		1





## Appendix D: Payday Loan Products and Fees

State	Outlet Surveyed	Maximum Loan Size	Asked Clerk Interest Rate for \$300 Loan for 2 Weeks	Payday Loans				Posted Cost to Borrow \$300	Cost Posted in: D=Cost for entire loan in dollars, L=Cost per a \$100 loan increment; I=Cost as an interest rate or APR, N=Not posted			
				Cost Given in: D=Cost for entire loan in dollars, L=Cost per a \$100 loan, I=Cost as an interest rate or APR, R=Refused to quote					D	L	I	N
				D	L	I	R		D	L	I	N
	MEDIAN	\$ 500		39.3%	35.7%	17.0%	8.0%		27.5%	26.7%	25.8%	20.0%
	SUM OR AVERAGE	\$ 696	\$51.98	44	40	19	9	\$46.85	33	32	31	24
MI	Cash Rite Now				Y							
MI	Cash Connection											
NC	Raleigh Service Inc.											
NC	Raleigh Durham Check Cashers											
NC	Raleigh Durham Check Cashers											
NC	Checks Cashed											
NC	National Jewelry & Pawn											
NH	Checks Cashed of Manchester											
NH	Amherst Check Cashing Inc.											
NV	Check City	\$ 5,000	8.00%		Y	Y					Y	
NV	Money Tree	\$ 1,500	\$ 49.50	Y				\$ 49.50		Y		
NV	Main Street Station Casino											
NV	Smith's Food and Drug Center											
NV	ACE Cash Express	\$ 1,000	\$ 51.00	Y				\$ 51.00	Y			
NY	East Broadway Check Cashing											
NY	Uneeda Check Cashing Corporation											
NY	Joco Check Cashing Corp.											
NY	Whitestone Check Cashing											
NY	Ikan Enterprises											
NY	Pay-O-Matic											
NY	Check Cashing Store											
NY	Pay O Matic											
NY	Regina Check Cashing Corporation											
NY	Lazer Check Cashing											
NY	Continental Check Cashers											
NY	Galaxia Check Cashing											
NY	Uneeda Check Cashing Incorporated											
NY	Rite Check Cashing Incorporated											
NY	Uneeda Check Cashing Incorporated											
NY	Rite Check											
NY	A and A Check Cashing Corporation											
NY	Ridge Check Cashing Corporation											
NY	Alivad Associates											
NY	Vale Chekcing NY Inc											
NY	ABRS Check Cashing Corporation											
OH	H&E Money Exchange											
OH	Money Mart	\$ 1,500	\$ 45.00	Y		Y		\$ 45.00		Y	Y	
OH	Money Mart	\$ 800	56.30%			Y		\$ 45.00			Y	
OH	Cash Stop	\$ 800	\$ 45.00		Y							Y

## Appendix D: Payday Loan Products and Fees

State	Outlet Surveyed	Maximum Loan Size	Asked Clerk Interest Rate for \$300 Loan for 2 Weeks	Payday Loans				Posted Cost to Borrow \$300	Cost Posted in: D=Cost for entire loan in dollars, L=Cost per a \$100 loan increment; I=Cost as an interest rate or APR, N=Not posted			
				Cost Given in: D=Cost for entire loan in dollars, L=Cost per a \$100 loan, I=Cost as an interest rate or APR, R=Refused to quote					D	L	I	N
				D	L	I	R					
	MEDIAN	\$ 500		39.3%	35.7%	17.0%	8.0%		27.5%	26.7%	25.8%	20.0%
	SUM OR AVERAGE	\$ 696	\$51.98	44	40	19	9	\$46.85	33	32	31	24
OH	ACE Cash Express	\$ 800	91.07%			Y		\$ 45.00		Y	Y	
OH	ACE Cash Express	\$ 800	91.07%			Y		\$ 45.00		Y	Y	
OH	ACE Cash Express	\$ 800	\$ 45.00	Y	Y	Y		\$ 45.00	Y	Y	Y	
OH	Money Mart	\$ 800	\$ 45.00	Y		Y		\$ 45.00		Y	Y	
OH	ACE Cash Express	\$ 800	\$ 45.00		Y			\$ 45.00			Y	
OH	Money Mart	\$ 800	91.10%	Y		Y		\$ 45.00		Y	Y	
OH	Check Smart	\$ 800	\$ 45.00	Y				\$ 45.00	Y			
OH	Check Cashing & Pay Day	\$ 800	\$ 45.00	Y				\$ 45.00	Y			
OH	Tops Markets											
OH	American Payroll Advance	\$ 800	\$ 45.00	Y				\$ 45.00	Y			
OH	Cashland	\$ 800	\$ 45.00	Y								Y
OH	VRS Cash Advance	\$ 800	\$ 45.00	Y								Y
OH	Money Mart	\$ 800	\$ 91.10			Y		\$ 45.00			Y	
OH	ACE Cash Express	\$ 800			Y			\$ 45.00	Y	Y	Y	
OH	ACE Cash Express	\$ 800	\$ 45.00		Y			\$ 45.00	Y	Y	Y	
OH	ACE Cash Express	\$ 800	\$ 45.00		Y			\$ 45.00	Y	Y	Y	
OH	Money Mart											
OR	Check Mart											
OR	ACE American Cash Express	\$ 500	\$ 51.00	Y					Y			
UT	Cash Advance	\$ 750	\$ 22.35		Y	Y				Y	Y	
UT	U.S.A Cash Services											
UT	Check City	\$ 500	\$ 48.00	Y	Y	Y		\$ 48.00	Y	Y	Y	
UT	Rent A Center	25% of net monthly income	\$ 45.00	Y	Y	Y		\$ 45.00	Y	Y	Y	
UT	Money Mart		\$ 60.00	Y							Y	
UT	Access 2 Cash	\$ 500	\$ 60.00	Y	Y						Y	
UT	Easy Money		\$ 60.00	Y		Y					Y	
UT	Easy Money	\$ 500	\$ 60.00	Y	Y				Y	Y	Y	
VA	Cash and Carry											
VA	Ace Check Cashing	\$ 500	\$ 45.00		Y							Y
VA	Check City	\$ 500	\$ 45.00		Y							Y
VA	Cashstore Pawn Shop	\$ 500	\$ 45.00	Y								Y
VA	Checksmart	\$ 500	\$ 45.00		Y							Y
VA	ACE American Cash Express	\$ 500	\$ 15.00		Y			\$ 45.00	Y		Y	
VA	Metro Check Casher Plus											
VA	Cashstore PawnShop	\$ 500	15%	Y	Y							
WA	MoneyTree	\$ 700	\$ 45.00					\$ 45.00		Y		
WA	Check Masters	\$ 700	\$ 45.00		Y			\$ 45.00	Y			
WA	MoneyMart	\$ 700										
WA	Cash 1	\$ 700	391.07%		Y	Y						
WA	Checkmate	\$ 700	391.07%	Y	Y	Y						
WA	Money Tree Incorporated	\$ 700		Y	Y					Y	Y	
WA	Check Masters	\$ 700		Y						Y		



## Appendix E: State Check Cashing Laws Regulations

State	Citation	Regulation	Exemptions	Regulator	Post Information	Cap Fees	Prohibit Lending	Penalties
Arizona	Anz. Rev. Stat. § 44-1361-2		Banks, credit unions, government agency, US Postal Service, reg. securities broker, wholesale SVC.		Fees; Valid identification	Greater of 3% of face amount or \$5 government checks	No	Violation is unlawful act or practice under 44-1522. Attorney General enforces.
Arkansas	ARK. CODE ANN § 23-52 (2005)	Permit required	Government agencies; wire transfers or money orders; banks and credit unions; Any retail seller with less than 3% of total revenue from check cashing fees.	State Board of Collection Agencies	Fees; Valid identification; Permit	5% of the face amount of the check if state public assistance or federal social security, 10% of any personal check or money order; 6% for all other checks. \$5 max fee for ID card or account set-up.	No	Civil (not exceeding \$1,000) and Criminal, consent orders, refund of fees collected in violation of law.
California	CAL CIV. CODE § 1789 (2005)	Permit required	Banks, credit unions, and industrial loan companies; Retailers whose fees for cashing checks do not exceed \$2	Department of Justice	Fees; Valid identification	Greater of 3% or \$3 for government and payroll checks with ID, 3.5% without ID; 12% of the face amount for all personal checks. Max \$10 set-up or ID fee; \$5 replacement card fee.	No	Civil (not exceeding \$2000 for each violation) and misdemeanor for violating sec. 1789.35 and Civil (\$1000 for the first offense and \$5000 for the second offense) and misdemeanor (imprisonment not exceeding six months and/or a fine not exceeding \$5000) for violating sec. 1789.37
Connecticut	CONN. GEN. STAT. § 38A-580 (2005)	License required	Checks cashed for free; Retailers that charge no more than \$50; Institutions under the supervision of any U.S. agency or the Commissioner	CT Banking Commissioner	License; Fees	1% of the face amount of a CT public assistance check, 2% cap all other checks.	No	Suspend, revoke non-renew a license Violations unfair or deceptive trade practices
Delaware	DEL. CODE ANN tit 5, § 2701 - § 2745 (2006)	License required	Checks cashed for free; Retailers that charge no more than 10 cents, banks or credit unions.	State Bank Commissioner	License, Fees	Greater of 2% of the check or \$4 for cashing checks, drafts, or money orders	Yes	Up to \$500 fine and/or 1 year imprisonment. Civil penalty if willful violation \$250 up to \$500 for the first violation and \$500 up to \$1000 for each subsequent violation)
Florida	FLA. STAT ANN. § 560.301 - § 560.310 (2005)	Registration required	Retailers if fees for cashing checks or exchanging foreign currency does not exceed 5% of the annual total gross income; Authorized vendors or persons registered pursuant to the provisions of the Money Transmitters' Code	Financial Services Commission	Registration; Fees	Greater of 5% of the check or \$5 with ID or 6% without ID; 3% of the check or \$5 with ID, or 4% without ID for state public assistance or federal social security benefits; 10% of the face amount of the check, or \$5, whichever is greater, for personal checks and money orders	No	Third degree felony
Georgia	GA. CODE ANN § 7-1-700 - § 7-1-709 (2005)	License required	Banks or credit unions; Retailers that charge no more than the greater of 2% of the check or \$2 and where the aggregate gross income for cashing of checks does not exceed \$25,000 per annum for each location; Persons where the aggregate gross income from cashing checks, drafts, or money orders does not exceed \$12,000	Department of Banking and Finance	License; Fees	Greater of 5% of the check or \$5; greater of 3% of the check or draft or \$5 for state public assistance or federal social security benefit payments; greater of 10% of the face amount or \$5 for personal checks and money orders	Yes	Civil penalty (not to exceed \$1000 per day the violation continues)
Hawaii	HAW REV STAT § 480F (2005)		Retailers that charge no more than \$2 or 2% of the amount of the check, whichever is greater. Financial institutions authorized under federal or state law	Complaints filed with Department of Commerce and Consumer Affairs	Fees. How to complain	Greater of 5% of the face amount of the check or \$5, 3% of the face amount of the check or \$5 for state public assistance or federal social security benefits; 10% of the face amount of personal checks or money orders, or \$5. \$10 max fee for set-up and \$5 for replacement ID.	No	Fine of up to \$500 and up to 30 days imprisonment
Illinois	815 ILL. COMP. STAT. ANN § 315/2, 38 ILL. Adm. Code 130.30	License required	Retailers where cashing checks is incident to business, banks	Director of Financial Institutions	License, Fees	1.4% of the face amount of checks up to \$500 plus ninety cent service charge, 1.85% of all checks \$500.01 and over.	No	Each violation is a petty offense.

## Appendix E: State Check Cashing Laws Regulations

State	Citation	Regulation	Exemptions	Regulator	Post Information	Cap Fees	Prohibit Lending	Penalties
Indiana	IND. CODE § 28-8-5 (2005)	License required	Financial institutions organized under IC 28 or federal law; Where the transaction is incidental to the retail sale of goods and services; Where consideration for cashing checks does not exceed 1% of the face amount or \$1, whichever is greater	Department of Financial Institutions	Fees	10% of the face amount of the check or \$5, whichever is greater	Yes	Civil penalty (not exceeding \$5000 per violation) and Class A misdemeanor
Kentucky	Ky. Rev. Stat. Ann. § 286.9-010-102	License required	Financial institutions, entities that cash checks for free, or retailer.	Office of Financial Institutions	License; Fees	No cap	No	Misdemeanor, Fine \$100 to \$500, one-year imprisonment or both.
Louisiana	LA. REV. STAT. ANN. § 6:1001 - § 6:1013 (2005)	License required	Entities that cash checks for free or that charge no more than \$2 and is incidental to primary business. Banks and credit unions.	Commissioner of Financial Institutions	Fees	Greater of 2% of the face amount of the check or \$5, for welfare or public assistance; 10% of the face amount of the check or \$5, for all other checks and money orders	No	Civil penalties (up to \$500 for each violation)
Maine	ME REV. STAT. ANN. tit 32, § 6131 - § 6146	Registration required	Financial institutions; Supervised lenders; Licensees under the Money Transmitters Act; Retailers getting no more than 5% of income from check cashing	Director of the Office of Consumer Credit Regulation	Certificate of registration;	Greater of 5% of the face amount of the check with ID, or 6% without ID, or \$5; greater of 3% of the face amount of the check with ID, or 4% without ID, or \$5 for state public assistance or federal social security benefit; greater of 10% of the face amount of personal checks or money orders, or \$5	Yes	Criminal (Class E Crime) and Civil penalty (no more than \$5000 or the amount of the actual damages, whichever is greater)
Maryland	MD CODE ANN., [FIN. INST.] § 12-101 - § 12-127 (2006)	License required	Retailers charging up to 1 5% of the check, incidental to business; banks.	Commissioner	License; Fees	Greater of 2% of the face amount of the check or \$3 for federal and state government checks; greater of 10% of the check or \$5 for a personal check; 4% of the check or \$5 for any other check. \$5 cap on one-time membership fee	Yes (unless have complied with the Maryland Consumer Loan Act)	Civil penalty (up to \$1000 for the first offense and \$5000 for each additional offense) and Misdemeanor (punishable by a fine of no more than \$5000 and/or imprisonment for up to 3 years)
Massachusetts	MASS GEN LAWS ANN ch 169A, § 1 - § 13 (2005)	License required	Banks and credit unions Entities charging less than \$1 per check.	Commissioner of Banks	License, Fees	No limit (but fees must be filed annually with the commissioner)	No	Civil penalty up to \$500 and/or imprisonment for no more than 6 months)
Minnesota	MINN STAT. ANN. § 53A.01 - § 53A.13 (2005)	License required	Financial Institutions; Retailers that charge up to 1% of the face amount of the check, or \$1, whichever is greater.	Commissioner of Commerce	Fees	No limit (but fees charged must be filed and approved as fair and reasonable by the Commissioner)	No	Civil and misdemeanor
Mississippi	MISS. CODE ANN. § 75-67-501 § 75-67-539 (2005)	License required	Financial Institutions; Retailers who cash checks for free or for a fee not exceeding greater of 3% of the face amount of the check, or \$10	Commissioner of Banking and Consumer Finance	License, Fees	Greater of 3% of the face amount of check or \$5 for government checks; greater of 10% of the face amount of the check, or \$5 for personal checks, greater of 5% of the face amount of the check, or \$5 for all other checks and money orders	No	Civil penalty (not exceeding \$1000 per violation) and Criminal (misdemeanor)
Nevada	NEV. ADMIN. CODE § 604A.010 - § 604A.250 (2006)	License required	Banks and credit unions. Retailer charging up to \$2 to cash checks, incidental to business. Gaming licensees, out-of-state check cashers, entities licensed prior to 1973, other entities.	Commissioner of Financial Institutions	Fees, toll-free number for regulator	No limit, but customer must receive and sign written fee notice prior to transaction.	No	Admin. Fine up to \$50,000 if unlicensed, contract voidable, private right of action.
New Jersey	N.J. STAT ANN. § 17:15A-31 - § 17:15A-45 (2006)	License required		Commissioner of Banking and Insurance	License, All signs and notifications required by the commissioner	Greater of 2% of the face amount of the check, or \$.90 for checks drawn on depository or financial institutions; greater of 1% of the check or \$.90, for AFDC checks; 1.5% of the check, or \$.90 for social security or SSI check.	No	
New York	N Y Comp. Codes R & Regs. Tit. 3, § 400.12	License required	Retailer that charges less than \$1 to cash checks, incidental to business; banks and entities licensed by Superintendent.	Superintendent of Banks	License, Fees	Greater of 1 64% of the check or \$1	Yes	Misdemeanor, up to one year imprisonment or up to \$500 fine or both.

## Appendix E: State Check Cashing Laws Regulations

State	Citation	Regulation	Exemptions	Regulator	Post Information	Cap Fees	Prohibit Lending	Penalties
North Carolina	N.C. GEN. STAT § 53-275 - § 53 - 290 (2005)	License required	Financial institutions; Retailers charging no more than \$2.00 for cashing checks; Money Transmitters Act licensees.	State Banking Commission	Fees	Greater of 3% percent of the check or \$5 for government checks; greater of 10% of the check or \$5 for personal checks; greater of 5% of the check or \$5 for all other checks and money orders	Yes	Civil penalties (not exceeding \$1000 per violation), restitution, and Criminal (Class I felony)
Ohio	OHIO REV. CODE ANN. § 1315.21 - § 1315.34	License required	Financial institutions; retailers with no more than 5% of their gross income from check cashing, other licensees.	Superintendent of Financial Institutions	License; Fees	3% of the face amount of an Ohio or federal government check	No, if properly licensed	Admin. Fine up to \$1,000 per violation or license revocation.
Pennsylvania	Pa Stat. Ann. Tit. 63, § 2301-2334	License required		The Department of Banking	Fees	2.5% government assistance check w/D. 3% of payroll check, 10% of personal check. \$10 cap on new customer fee.	Yes	Civil penalty up to \$2,000 per violation; 3rd degree misdemeanor if unlicensed.
Rhode Island	R.I. GEN. LAWS § 19-14.4-1 - § 19-14.4-10	License required	Regulated institutions, banks, and credit unions; Retailers where no more than \$0.50 is charged per check cashed	Division of Banking	Public notice of application. Fees; License	Greater of 3% of the face amount of the check, or \$5 for state public assistance and federal social security checks; greater of 10% of the face amount, or \$5 for personal checks; greater of 5% of the face amount of the check, or \$5 for all other checks.	No	Criminal (misdemeanor. may be charged a fine of \$1000 and/or imprisoned for up to a year)
South Carolina	S.C. CODE ANN. § 34-41-10 - § 34-41-130	License required	Bank, savings institution, credit union, or farm credit system, Retailers who cash checks free.	State Board of Financial Institutions	Fees posted and filed with Board	Greater of 2% of the face amount of the check, or \$3 for federal and state government checks and printed payroll checks; greater of 7% of the face amount of the check, or \$5 for all other checks	Yes	Civil penalties (not exceeding \$1000 per violation) , restitution, and Criminal (Class B misdemeanor)
Tennessee	TN Code ANN §45-18-101-121	License required	Financial institutions, licensed money transmitters, industrial loan licensees, retailers cashing checks not to exceed 5% of gross receipts or cashing for free.	Department of Financial Institutions	License and fees	Greater of 5% of the check or \$5 all other checks; greater of 3% or \$2 for public assistance or Social Security checks, or greater of 10% of the check or \$5 to cash personal checks or money orders \$10 cap on one-time membership fee.	Yes	Civil penalty up to \$1,000 per violation, Class C misdemeanor
Utah	UTAH CODE ANN. § 7-23-101 - § 7-23-110	Registration required	Depository institutions. Retailers where not more than 1% of the amount of the check, or \$1, is charged	the department	Fees using dollar amounts	No limit	No	Civil and Class B misdemeanor
Vermont	VT STAT. ANN. Tit. 8, § 2500 - § 2519	License required	Financial institutions, United States Postal Service; A service charging no more than \$1 for cashing any payment instrument	Banking Commissioner	Fees	Greater of 3% of state public assistance or federal Social Security benefit, or \$2; 10% of the face amount of personal checks or money orders, or \$5, whichever is less, greater of 5% of all other checks, or \$5. \$10 cap on one-time membership fee	Yes	Administrative (not to exceed \$1000 per day) and Criminal (not exceeding \$10,000 and/or three years imprisonment)
Virginia	VA. CODE ANN. § 6.1-432 - § 6.1-443 (2006)	Registration required	Financial Institutions; Retailers where not more than \$2 or 2% the amount of the item, whichever is greater, is charged.	State Corporation Commission	Fees, Commission's toll-free number; Information to file a complaint	No limit; Registrant must file a statement of fees with the Commission	Yes	Civil penalties (not exceeding \$1,000) and Criminal (Class I misdemeanor)
Washington	WASH. REV. CODE ANN § 31.45.010 - § 31.45.900 (2006)	License required	Financial institutions and trust companies. Persons not primarily engaged in cashing checks or as determined by the director	Director of Financial Institutions	Fees	No limit	No with small loan endorsement	Criminal (misdemeanor) and is an unfair and deceptive act or practice per RCW 19.86.020.
Washington, D.C.	DC Code Ann § 26-301	License required	Financial institutions, United States Postal Service. Any person who cashes checks without consideration or charge	Superintendent of the Office of Banking and Financial Institutions	Fees; License	5% of the face value of a government or payroll check. 7% of an insurance check. 10% of a personal check or money order, or \$4, whichever is greater	No	Civil penalties up to \$1,000 per violation

## Appendix E: State Check Cashing Laws Regulations

State	Citation	Regulation	Exemptions	Regulator	Post Information	Cap Fees	Prohibit Lending	Penalties
West Virginia	W. VA CODE ANN. § 32A-3-1 - § 32A-3-4 (2005)	License required	Federally insured depository institutions, foreign bank agencies, and governmental entities exempt from licensure as money transmitters under Chapter 32A. Retailers with less than 5% of gross revenues from check cashing.	Comissioner of Banking	Fees	\$1 or 1% of the face valude of the check cashed, whichever is greater	Yes	Civil (twice the damages or all the damages of the injured party recovered depending on the type of violation)
Wisconsin	WIS. STAT ANN. § 218.05 (2006)	License required	Financial Institutions	Division of Banking	License	No limit	No	Civil penalty (not exceeding \$2000) and Criminal (not exceeding 9 months imprisonment)

State of California - Department of Justice

OFFICE of the ATTORNEY GENERAL  
KAMALA D. HARRIS

## CHECK CASHIER PERMIT PROGRAM

In California, every owner of a check cashing business is required by law to obtain a permit from the Attorney General's Department of Justice. This licensing process is administered by the Check Cashier Permit Program.

A check cashier basically engages in the business of cashing checks, warrants, money orders or similar commercial paper for a fee. The check cashier law does not apply to state and federally chartered banks, savings associations, credit unions and industrial loan companies. Also excluded are retail stores that may incidentally charge a fee not exceeding \$2 to cash checks or money orders as a service to customers.



While not assuring that a company is reputable, a valid permit signals that the check cashier business has at least followed the law to be licensed.

Check cashing businesses in the state are required to post for clear public viewing a complete, detailed and unambiguous schedule of all fees for cashing checks, drafts, money orders or other commercial paper and for the initial issuance of any identification card. Consumers also must be able to clearly view a posted list of valid identification that is acceptable in lieu of identification issued by the check cashier.

The Check Cashier Permit Program was established upon enactment of Civil Code section 1789.37 by the California Legislature in January 1995.

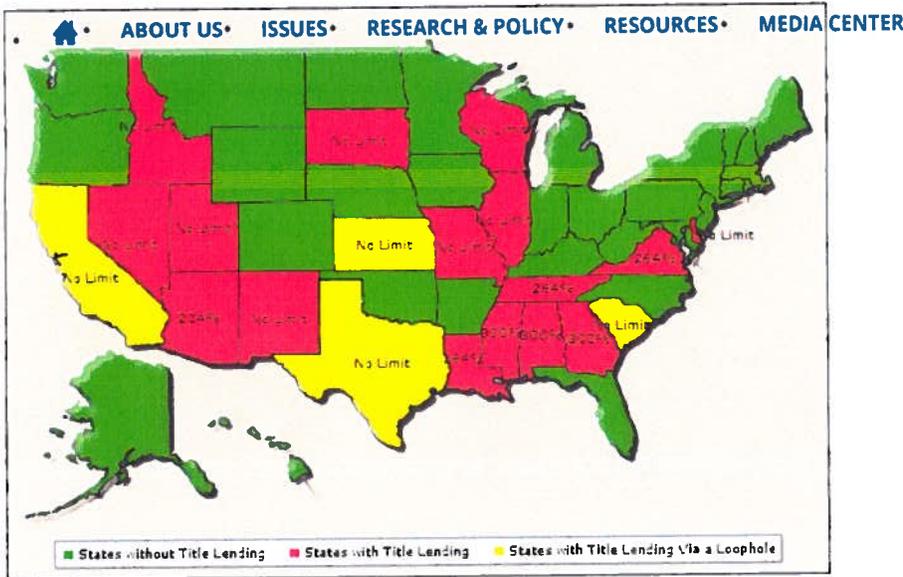
If you have questions about the Check Cashier Permit Program, please Contact Us.



[Home](#) > [Other Consumer Loans](#) > [Car Title Loans](#) > [Tools and Resources](#)

## CAR TITLE LENDING BY STATE

[Print Map \(PDF\) >>](#)



There are currently 16 states that explicitly allow title lending at triple-digit interest rates and four others\* that allow title lending through a legislative loophole.

States that allow car title lending include: **Alabama, Arizona, Delaware, Georgia, Idaho, Illinois, Louisiana, Mississippi, Missouri, Nevada, New Mexico, South Dakota, Tennessee, Utah, Virginia, and Wisconsin.**

States that allow car title lending via a loophole include: **California, Kansas, South Carolina, and Texas.**

Florida, Iowa, Kentucky, Minnesota, Montana, New Hampshire, Oregon, and Vermont do authorize title lending at lower rates; title loans at triple-digit interest rates are not offered in those states.

\*Notes on Car Title Loopholes: Kansas allows title lending as open-ended lines of credit. Texas allows title lenders to use a "Credit Services Organization" model. California and South Carolina only cap APRs up to a certain loan amount (\$2,500 and \$600 respectively).

Copyright © 2003-2012 Center for Responsible Lending. All rights reserved.





## BILL ANALYSIS

AB 336  
Page 1

Date of Hearing: January 9, 2012

ASSEMBLY COMMITTEE ON BANKING AND FINANCE  
Mike Eng, Chair  
AB 336 (Dickinson) - As Amended: January 4, 2012

SUBJECT : Title Loans

SUMMARY : Establishes standards, prohibitions and requirements on lenders that provide loans collateralized by a motor vehicle (Car title loans). Specifically, this bill :

- 1) Defines "title loan" as a nonpurchase money loan where the lender obtains a security interest in a motor vehicle, which security interest is perfected by a first lien.
- 2) Requires a licensee that makes a car title loan to do the following:
  - a) Provide the consumer with a disclosure that informs the consumer of the interest rate and any fees or other charges associated with the consumer loan, the consequences for defaulting on the consumer loan, and a complete amortization schedule indicating the total cost to the consumer over the life of the loan and samples of other term options.
  - b) Provide to the borrower a "High Interest Rate" disclosure in Bold Arial in at least 16 point font, all capital letters. The disclosure must be in a separate box and must be signed by the borrower and any additional cosigner, if any. The High Interest Rate Disclosure shall contain the following words: THIS IS A HIGH-COST LOAN. YOU MAY BE ABLE TO OBTAIN A LOAN FROM ANOTHER SOURCE AT A LOWER RATE OF FINANCE CHARGE. THINK CAREFULLY BEFORE YOU DECIDE TO ACCEPT THIS LOAN.
  - c) Underwrite each loan to determine a borrower's ability and willingness to repay the loan pursuant to the loan terms, and shall not make a loan if it determines, through its underwriting, that the borrower's total monthly debt service payments, at the time of origination, including the loan for which the borrower is being considered, and across all outstanding forms of credit that can be independently verified by the licensee, exceed 50 percent of the

AB 336  
Page 2

borrower's gross monthly income.

- d) Seek information and documentation pertaining to all of a borrower's outstanding debt obligations during the loan application and underwriting process, including loans that are self-reported by the borrower but not available through independent verification.
  - e) Verify the borrower's credit information using a credit report from at least one of the three major credit bureaus or through other available electronic debt verification services that provide reliable evidence of a borrower's outstanding debt obligations.
- 3) Prohibits the structuring of a car title loan as a sale-lease-back transaction and provides for civil penalties.
  - 4) Provides that if a borrower defaults on a car title loan and if the licensee disposes of the vehicle used as collateral for the loan then the borrower shall not owe a deficiency, nor shall the licensee request a deficiency judgment to recover any outstanding balance.
  - 5) Prohibits the use of any prepayment penalty on the car title loan.
  - 6) Provides that if the borrower fails to perform their obligations under the loan, the licensee shall not make any negative report to any of the national credit reporting agencies.
  - 7) Requires that any advertisements used for car title loans must include the annual percentage rate (APR) of the loan.
  - 8) Specifies that the lender must provide at least 30 days' notice, via personal service or certified mail, of intent to

dispose of a repossessed or surrendered vehicle.  
Additionally, notice shall inform borrower of their right to redeem the vehicle by paying in full the indebtedness.

- 9) Provides that licensee shall extend redemption period for additional 10 days if the loan is subject to a conditional right of reinstatement.

AB 336  
Page 3

10) States that unless automatically provided to the borrower, the licensee shall provide a written accounting regarding the disposition to any person liable on the loan within 45 days after his or her written request. The accounting shall provide the following:

- a) The gross proceeds of the disposition.
- b) The reasonable and necessary costs and fees authorized by this division incurred in repossessing the motor vehicle.
- c) Satisfaction of other liens that may be on the vehicle.

11) Provides that in all sales of a disposed or repossessed vehicle that results in a surplus the licensee shall furnish an accounting and return the surplus to the borrower.

12) Allows a person to bring an action for the recovery of damages, equitable relief, exemplary damages, and attorney's fees and costs for any violation of this section.

13) Allows for a civil penalty for a violation of up to \$10,000 for each violation which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney in a court of competent jurisdiction.

EXISTING LAW

1) Provides for the California Finance Lenders Law (CFL), administered by the Department of Corporations (DOC), which authorizes the licensure of finance lenders, who may make secured and unsecured consumer and commercial loans (Financial Code Sections 22000 et seq.). The following are the key rules applied to consumer loans made pursuant to the CFL:

- a) CFL licensees who make consumer loans under \$2,500 are capped at interest rates which range from 12% to 30% per year, depending on the unpaid balance of the loan (Sections 22303 and 22304). Administrative fees are capped at the lesser of 5% of the principal amount of the loan or \$50. An administrative fee of \$75 may be charged for loans of \$2,500 or more (Section 22305);

AB 336  
Page 4

- b) In addition to the requirements in "a" above, CFL licensees who make consumer loans under \$5,000 are prohibited from imposing compound interest or charges (Section 22309); are limited in the amount of delinquency fees they may impose (Section 22320.5; delinquency fees are capped at a maximum of \$10 on loans 10 days or more delinquent and \$15 on loans 15 days or more delinquent); are required to prominently display their schedule of charges to borrowers (Section 22325); are prohibited from splitting loans with other licensees (Section 22327); are prohibited from requiring real property collateral (Section 22330), and are limited to a maximum loan term of 60 months plus 15 days (Section 22334);

- c) In addition to the requirements in "a" and "b" above, CFL licensees who make consumer loans under \$10,000 are limited in their ability to conduct other business activities on the premises where they make loans (Section 22154); must require loan payments to be paid in equal, periodic installments (Section 22307); and must meet certain standards before they may sell various types of insurance to the borrower (Sections 22313 and 22314); and,

- d) Generally speaking, the terms of loans of \$10,000 or above are not restricted under the CFL.

2) Authorizes the licensure of finance brokers under the CFL, and defines a finance broker as any person who is engaged in the business of negotiating or performing any act as a broker in connection with loans made by a finance lender (Section 22004).

3) Imposes a 36% APR on consumer credit extended to members of the military and their dependents. (10 USC Sec. 967.)

FISCAL EFFECT : None

COMMENTS :

A car title loan occurs when a consumer borrows money against the title of their car for a specified period of time. During the loan period, the consumer continues to use their vehicle as necessary. If the consumer defaults on the loan then current law authorizes the lender to repossess the car for the costs of the loan. Car title lending in California is conducted under the CFL, under which various forms of consumer lending are

AB 336  
Page 5

authorized. The CFL does not explicitly authorize car title lending, but CFL licensees may offer these types of loans. Car title loans are subject to the provisions of the CFL, which for loans above \$2,500 no interest rate caps exist. A rate cap does not exist for any personal loan (Auto, Auto-title, personal) made under the CFL.

Car title lending has come under recent scrutiny due to media coverage, specifically, an LA Times article, "Title Loans' Interest Rates are Literally Out of Control," February 11, 2011, that highlighted the high interest rates on these loans and the consequences if a consumer does not pay off such a loan. The article provided the following details:

One customer put up his truck as collateral for a \$2,500 loan with payments of \$200 per month. The customer expected to pay off \$5000-6000 by the time the loan was finished. This particular customer was charged an APR of 106% as a return customer vs. 120% for new customers.

According to one car title lender interviewed, three quarters of the loans were paid off typically within 8 months.

The way in which a typical loan would work, is the customer brings in his or her vehicle to the lender for inspection and test drive. The lender then determines what the vehicle might fetch at auction, which could be half of the Kelley Blue Book Value. For example, with a \$6,000 Blue Book value the lender might loan \$2,600 with interest rates as much as 180% APR.

Industry representatives argue that the borrowers who use their service have very low credit scores and are not likely to have access to other means of credit, if at all. Additionally, they point out that while the loan may be securitized, the repossession and disposition of an automobile is a costly endeavor and such costs must be built into the costs of the loan.

In examining at CFL licensees who make secured car loans (This includes car title loans and car purchase loans) finds that in 2009 approximately 18,921 auto related loans were made in California with APRs over 40%, for a total volume of \$64,204,118. In 2009, for loans with APRs over 100%, 4,243 loans were made, totaling \$13,946,175. Again, it is important to note that these numbers are approximations because an

AB 336  
Page 6

auto-purchase lender could be in these categories. Additionally, anecdotal information suggests that most car title loans are made with APRs between 90-120%.

Sale-leaseback:

A sale-leaseback is when a lender buys property from a consumer and then leases it back to the consumer for a "rental" payment due at specified intervals. In effect, these transactions are loans designed to avoid enforcement of stricter lending laws. AB 336 would ban a sale-leaseback transaction by providing that in sales transaction involving a motor vehicle, if the seller is leased the vehicle then it shall be presumed it is a

sale-leaseback transaction that is attempting to avoid the requirements and restrictions on car title loans.

In 2005, Governor Schwarzenegger vetoed SB 360 (Florez) which would have banned sale-leaseback transactions. As part of the veto message, DOC was tasked with developing a proposal to address this issue. On March 1, 2006, DOC issued release No. 56-FS regarding these transactions and how the DOC would view these transactions and released the following information:

In an effort to address these concerns, the Department of Corporations has prepared the following list of factors, according to California law, that it will use to determine whether a sale-leaseback transaction may be a loan:

The borrower seeks money and not the use of goods or property.

The borrower receives money, followed by a "sale" of the borrower's property to the lender, with a provision for repayment in the form of rent or payments to the lender.

The borrower is in possession of the goods or property before obtaining money from the lender.

The borrower gives up title to goods or property as security in exchange for receiving money.

There is no risk to the lender of losing capital, other than the insolvency of the borrower.

AB 336

Page 7

The lender has the power to accelerate the principal payment of the "loan" upon default.

The transaction includes agreements with provisions of title reversions and "repurchase" within specified periods.

The presence of one or more of these factors may indicate, upon further review, the presence of a loan transaction. The mere fact that a sale-leaseback transaction is titled or referred to as a "lease" or a "sale-leaseback" in the forms and paperwork is not determinative. It is the intent of the parties and the economic substance of the transaction, rather than the form of the transaction, which determines whether the transaction is actually a loan. Thus, the Department will examine a so-called sale-leaseback transaction in accordance with the above-referenced factors, in addition to other circumstances including the purpose and terms of the agreement, to help determine whether such transaction may be a loan when enforcing the CFLL.

The existence of the aforementioned guidance issued by DOC does not necessarily negate the need to codify a ban on sale-lease back transactions that may attempt to circumvent the requirements on car title lenders. However, the author may want to consider incorporating provisions of the guidance in the ban on sale-leaseback transactions.

Arguments in support:

The Center for Responsible Lending writes in support:

Under the California Finance Lenders Law, car title lenders operate with no interest rate limits for loans greater than \$2,500. Car title lending is particularly usurious, with lenders in California charging annual interest rates that range from 72 percent to as high as 180 percent. Like payday lenders, car title lenders target vulnerable borrowers who need quick cash. Also, like payday lenders,

AB 336

Page 6

they have no incentive to rigorously evaluate a borrower's

ability to repay the loan because they are assured repayment either through borrower payments or the repossession and sale of the borrower's car. These loans are especially risky for borrowers because they put the borrower's car at risk. The car is likely to be the borrower's most valuable asset, and is often the borrower's only means of getting to work. A repossession can be devastating if the loss of this valuable asset also means the loss of transportation to work, and leads to unemployment.

Car title lenders often argue that such high rates are justified by the credit risk of the borrower. In reality, though, the car title lenders bear little risk because the loan is more than 100 percent secured by the value of the automobile. This is because loan amounts are almost always only a fraction of the full value of the car. There are, however, a wide array of more responsible options available for qualified, creditworthy borrowers - credit cards, banks and credit unions, other consumer finance lenders, all of whom offer credit to a wide swath of borrowers who can afford to repay a loan, but rarely charge APRs in excess of 36 percent. The excessive interest rates charged for fully secured car title loans are a core problem with car title loans that go unaddressed in the amended version of AB 336.

Consumers for Auto Reliability and Safety write in support:

For most Californians, a motor vehicle is a necessity of life. Citizens of our state rely on their motor vehicles to get to work, transport their children to school, gain access to vital medical care, and get groceries. Exorbitant interest rates increase the risk of defaults, leading to vehicle repossessions. When vehicles are repossessed, very often an immediate consequence is job loss. Thus, the practices are costing our state jobs and contributing to unemployment.

Further exacerbating the harm, once consumers have a repossession on their credit report, it stays on their report for 7 years. During that time, they are subject to being turned down for employment and housing. Existing law in California allows employers to discriminate based on credit histories, and someone who has a repossession on

AB 336  
Page 9

their record is likely to be summarily eliminated from the pool of eligible employees.

Consumer Attorneys of California writes in support:

Consumer Attorneys of California is pleased to support AB 336 (Dickinson), which is set to be heard before the Assembly Banking and Finance Committee on January 9, 2012. "Auto title lending" is the practice in which a lender makes a loan to a consumer with the loan secured by title to the borrower's automobile. Consumers often choose auto title loans because they provide quick and easy access to cash, and because credit ratings are not used to determine eligibility. Too often, however, needy consumers utilize these loans without understanding the intricacies of the repayment and the default process. The repercussions of default on these loans can be devastating (consumers can lose their car, cash, and their good credit histories) and legislation is needed to help protect innocent Californians.

Arguments in opposition.

California Financial Services Association writes in opposition:

22329.6 (D) (2) - Requires a creditor to "ensure" that the borrower read and understood the disclosure. A creditor has no way of knowing whether the borrower understands the contract, other than the borrower's affirmation that they do by virtue of signing the contract. Consequently, a borrower need only assert that they did not understand the contract in order to file suit under (h) (1) and (h) (2). We are unaware of any other statute that provides a consumer with a private right of action and \$10,000 bounty for their own failure to understand a contract which they signed.

22329.6 (D) (3) - Requires a creditor to "independently verify" a borrower's total debt service and precludes a creditor from making a loan that exceeds 50 percent of a borrower's monthly income after debt service. Existing law already requires a lender to consider the ability of a borrower to repay a loan. However, by adding a requirement to "independently verify" debt service this bill would presumably mandate credit reports, talking to landlords, employers, other creditors, etc. This independent verification is impractical at best, will significantly

slow the lending process and will preclude anyone (immigrants) that does not have a Social Security number from obtaining a loan because a lender cannot obtain a credit report. The delays in waiting for independent verification from the afore-mentioned entities would invariably result in heartache for consumers, many of whom need the proceeds as quickly as possible. Additionally, because the notion of independent verification is so vague (i.e. does this mean a lender would have to contract with an independent third party?), lenders would invariably be subjected to frivolous litigation pursuant to (h).

Precluding lenders from making loans that exceed 50 percent of a borrowers monthly income, minus existing debt service, would effectively ban title loans for borrowers in high cost urban areas such as Los Angeles, San Francisco, San Jose, etc. where housing costs make up a higher percentage of one's debt service. The provision also runs counter to other provisions in the bill concerning a borrower's ability to repay because it assumes that anyone with high housing costs is a bad credit risk.

22328.6 (A) and (C) - Requires the creditor to provide a complete amortization schedule including the "total cost" as well as all "fees" to the consumer. As evidenced by last year's AB 238 (Huber) concerning conditional sale contracts, which you voted for, certain fees, especially government assessed and third party fees, are often difficult to calculate. Prior to the passage of AB 238 there was a thriving business for attorneys to file suit over minor calculation errors. Given the penalty provisions in this measure and the fact that there is no

safe harbor, these same attorneys will find a new area to

thrive and lenders would invariably be subjected to frivolous litigation pursuant to (h)..

22328.6 (c) - Precludes creditors from obtaining deficiency judgments from borrowers. Including a no recourse provision would force lenders to raise rates for all borrowers, including those who actually pay on time, in order to make up for the deficiencies that will be inevitably left over by the non-paying customers against whom the lender would then have no recourse. The inclusion of this provision would incentivize customers to mislead lenders or abuse vehicles, would lead to an increase in

repossessions earlier in the delinquency cycle due to exposure and would incentivize lenders not to repossess low value vehicles from impound, repair shops, etc., in order to mitigate losses, because now lenders would be better served to sue for the entire balance.

22328.6 (d) - Precludes creditors from making negative credit reports to national crediting agencies. Aside from violating the Fair Credit Reporting Act and arguably being unconstitutional, this provision conflicts with other portions of the bill which require creditors to obtain complete credit data on borrowers. In effect, this provision devalues the very credit reports which this measure wants to mandate and makes it more likely that unqualified borrowers are able to obtain loans which they may be unable to repay.

Issues for consideration.

1)Debt to income restriction: This bill would prohibit the making of a loan if the borrower's debt to income ratio, including the new loan, would exceed 50% of the borrower's gross monthly income. It is possible that a borrower in the need of a car title loan most likely already exceeds the 50% DTI standard. Would this standard deny credit to those who may need it the most? Additionally, with the underwriting mandates and the ability to repay standard in the bill, is a hard DTI cap necessary? Do we really have evidence of the current DTI ratio of borrowers? Perhaps DOC could require licensees, via regulation to collect DTI ratio information, for future policy decisions.

2)Prohibition on negative reporting to national credit reporting

agencies if borrower defaults. While the bill requires that the lender document outstanding debts of the consumer in the underwriting process, the prohibition on reporting a default to the credit bureaus is counter to the need to evaluate all of borrower's debts. What if a borrower had more than one vehicle and they defaulted on one title loan to only to get a second title loan? Under this scenario the lender would have no way of knowing (unless it was the same lender) that the borrower was a credit risk as they had defaulted on the exact same type of loan. Finally, opposition has provided that this provision would violate the Federal Fair Credit Reporting Act (15 U.S.C. § 1631 et seq). Committee staff is not convinced

---

AB 336

Page 12

of this claim and that the previous reasons mentioned regarding the problems of this provision are sufficient to justify its exclusion from the bill.

3) The bill requires that the lender must ensure the borrower "has read and understood..." the loan disclosure information. It does not specify how one would ensure that the borrower has read and understood the disclosures. Considering the penalties for a violation in this bill it would be appropriate to specify what constitutes compliance.

4) Other technical issues. The bill has other technical and drafting issues that need to be addressed.

Based on the aforementioned issues, committee staff recommends that amendments should be adopted in committee to address these issues.

REGISTERED SUPPORT / OPPOSITION :

Support

Consumer Attorneys of California  
Consumers for Auto Reliability and Safety (CARS)  
The Center for Responsible Lending (CRL)

Opposition

California Financial Services Association (CFSA)  
Community Loans of America Inc.  
Equal Access Auto Lenders of California (EAALC)

Analysis Prepared by : Mark Farouk / B. & F. / (916) 319-3081



12/28/2014 11:00 AM



AUTO

## The consumer perils of a car title loan

By Autumn Caliero Giusti • Bankrate.com

Is it worth the risk of losing your car for a loan that charges 300 percent interest?

That's what's at stake when you take out a car title loan, a lending tool in which an individual uses his car as collateral to borrow money. But despite the potential long-term risks, it's a less-known form of subprime lending.

Subprime loans, such as adjustable rate mortgages and payday loans, have come under the scrutiny of lawmakers and financial watchdogs in recent years. Yet the auto title loan has flown under the radar, and consumers in 21 states have come to rely on them when they run out of conventional lending options, according to a report by consumer groups earlier this year.

Consumer groups criticize auto title loans for exposing the borrower to triple-digit annual interest rates and balloon payments that come due within a month. Worse, your car is on the line.

"We consider these loans to be a triple threat for borrowers," says Ginna Green, spokeswoman for the Center for Responsible Lending in Durham, N.C.

Auto title loans are typically advertised as short-term loans for individuals who need money quickly but have been turned down for conventional loans. Still, borrowing this money can come at a steep cost. For some borrowers who put up their car as collateral, they're gambling their only remaining asset.

In addition, a person receiving a \$1,000 loan might pay more than twice that in interest on a typical car title loan. And the loan amount is usually far less than what the car is worth. The median loan amount is \$845, while the median car value in the loan is \$3,150, says Tom Feltner, director of financial services for the Consumer Federation of America in Washington, D.C.

"We view extremely high-cost loans in and of themselves as harmful to consumers. You're paying a significant amount in interest that can't go toward other expenses like housing, food, medical care and other necessities," he says.

One of the fundamental problems with car title loans is they don't factor in the borrower's ability to repay the loan, Green says.

With most conventional loans, the lender considers the borrower's entire financial picture -- income, credit, debt -- to ensure the person can actually afford the payments. "Car title lenders don't do that," Green says. "They get a lot of folks trapped in debt, and to the point where they've got their family vehicle on the hook."

### Hidden fees and consequences

Borrowers who take out auto title loans don't always read the fine print, which can contain hidden fees and repossession stipulations, says Trenton Grand, attorney with Grand Law Firm, a Louisiana-based bankruptcy firm.

The lender might require that the customer provide a copy of the keys. Some even go so far as to put GPS tracking devices in the car that can locate and, in some cases, disable the vehicle if a payment is late, Grand says.

"Talk about putting someone in a bad predicament if (he or she) has a child or needs the vehicle for health reasons, and the vehicle is disabled," Grand says.

### SHARE THIS STORY

Like Sign Up to see what your friends like



### More On Car Loans:

[Find the best auto loan rates](#)

[Auto calculator](#)

[Avoid repossession by paying off car loan](#)

[Create a news alert for "auto"](#)

Green says a borrower who defaults on a car title loan might be subject to repossession fees of \$350 to \$400 in addition to paying back the outstanding balance on the loan.

The contract text can conceal other fees, such as credit insurance, life insurance or even insurance to cover when your car breaks down, Grand says.

The loan's terms increase the likelihood that the debtor won't be able to pay back the loan or, worse, will default and lose their vehicle.

### Lawmakers overlook loans

Compared to other subprime lending forms, car title loans have maintained a relatively low profile because so much attention has been gone to their cousin, the payday loan, Green says. As a result, there hasn't been much legislation to regulate auto title loans.

"That doesn't mean this is an issue we shouldn't pay attention to," she says.

In February, the Center for Responsible Lending and the Consumer Federation of America issued a report on car title loans and their impact on consumers. Among the report's findings:

- About 1.7 million car title loans originate every year.
- The average car title customer pays \$2,142 in interest on a \$951 loan and renews the loan eight times.
- About 7,730 car title lenders operate in 21 states, charging borrowers \$3.6 billion in interest on \$1.6 billion in loans each year.
- A typical borrower receives cash equal to 26 percent of a car's value and pays an annual percentage rate of 300 percent.

### Lender defends practice

Fred Winchar is well aware of his industry's reputation as a source of predatory lending. Winchar is president of Illinois-based QuadW International and Max Cash Title Loans. He blames mom and pop lenders with questionable business practices for giving the industry a black eye early on.

"In any industry, there are bad eggs. And because they're so bad, they become the thing to look at instead of all the guys who are doing the good things," Winchar says.

When the auto title loan industry started about three decades ago, it was full of small businesses that sought to make money by repossessing people's cars, Winchar says. Since then, his and other larger companies have shifted their business practices away from the repo model and toward lower interest rates and amortized loans. Although unethical car title lenders still exist, Winchar says their numbers are shrinking.

"When you talk about the industry being predatory, I agree. At one point, it was really predatory. Now, it's competitive," he says.

Winchar says his industry fills a need for consumers who have tried to obtain a traditional loan only to be rejected.

### Alternative borrowing options

Consumer advocates maintain that conventional loans are always going to be the ideal scenario. But if an individual is shut out of the conventional loan market, there are other options, Green says.

"I would recommend that folks do what we did 25, 30 years ago, before these products existed," Green says.

That means turning to personal lending sources. Consider asking your employer for a paycheck advance or talk to family or friends about a personal loan, Green says. Religious institutions and community groups might also be able to offer financial help. Although it's not something they publicize, these groups often maintain emergency funds for people in need.

Credit unions are another option. Many offer small-dollar loan products at interest rates that are more reasonable than what an auto title loan would offer.

If you are saddled with a car title loan, the best course of action is to pay it back as fast as you can to reduce interest payments, Green says. It also helps to learn whether loans are illegal or limited in your state. "If you got a triple-digit-rate loan but you live in a state with a rate cap, I would see an attorney because chances are that loan is not valid," she says.

Consumer advocates say it's best to avoid auto title loans.

"People feel that car title loans and payday loans are part of their financial-services options," Green says. "The problem is that they really shouldn't be. They're faulty products that are in the marketplace."

Page 2 of 3

**Location of article:**

<http://www.bankrate.com/system/util/print.aspx?p=/finance/auto/consumer-perils-car-title-loan.aspx>

