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City of Calistoga Staff Report

TO:

Honorable Mayor and City Council

FROM:

David W. Spilman, Administrative Services Director/City Treasurer

DATE:

October 21, 2008

SUBJECT:

Identity Theft Prevention Program

APPROVAL FOR FORWARDING:

James C. McCann, City Manager

ISSUE: To consider a Resolution establishing an Identity Theft Prevention Program in compliance with the Federal Fair and Accurate Credit Transaction (FACT) Act of 2003 and the Federal Trade Commission (FTC) final rules and guidelines.

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RECOMMENDATION:

To adopt the Resolution

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BACKGROUND / DISCUSSION:

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The Federal Trade Commission (FTC) has issued regulations requiring financial institutions and creditors to develop and implement written identity theft prevention programs, as part of the Fair and Accurate Credit Transactions (FACT) Act of 2003. The programs must be in place by November 1, 2008, and must provide for the identification, detection, and response to patterns, practices, or specific activities that could indicate identity theft. These activities have been referred to as "Red Flags" and guidelines are commonly referred to as "Red Flag Rules".

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The FTC regulations apply to cities in cases where cities are "creditors" with "covered accounts." The FTC considers a government entity to be a creditor where it defers payment for goods or services by its customers, the most common example being public utilities, such as water and wastewater. A "covered account" is defined as:

23 24 Date: October 21, 2008

Subject: Identity Theft Prevention Program

- an account that is used primarily for family, personal, or household purposes and involves or is designed for multiple payments or transactions, such as credit card accounts, utility accounts, and checking or savings accounts; or
- any other account that involves a foreseeable risk of identity theft.

Non compliance with the Federal regulations may subject the City to an administrative fine of up to \$2,500, as well as possible exposure to liability in civil actions from identity theft victims.

The policies and procedures of the Identity Theft Prevention Program must include the following four basic elements:

- 1. Identify relevant warning signs, including patterns, practices, or specific activities, that are indicative of identity theft, i.e. "red flags;"
- 2. Detect the red flags that have been incorporated into the program;
- 3. Provide for appropriate responses to such red flags in order to prevent or mitigate identity theft with respect to the covered account; and
- 4. Detail a plan to periodically update the program.

The FTC regulations also require the City to manage the program, and provide for appropriate staff training for and oversight of the program. The regulations allow for flexibility that the City may tailor the program in accordance with the size, complexity, and nature of their operations.

There are many levels of identity theft and the time duration could extent for a long period. Evidence of a utility bill is a low level way to establish or confirm an identity. As such, it is appropriate for the City to establish a program.

Attached is an Identity Theft Prevention Program that was developed from other cities programs to comply with the Federal regulations and has been modified to fit the City of Calistoga operations.

FISCAL IMPACT: No direct costs are anticipated, other than follow-up with credit agencies if identity theft is suspected. There will be staff time to train and implement the program. Implementation may add time to the opening of a utility account or changing customer information on the account. Customers may be inconvenienced or have an issue with providing information required under the program.

ATTACHMENTS:

- 1. Resolution
- 2. Exhibit A to Resolution Identity Theft Prevention Program

RESOLUTION NO. 2008-____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM IN COMPLIANCE WITH THE FAIR AND ACCURATE CREDIT TRANSACTION ACT OF 2003 AND FEDERAL TRADE COMMISSION REGULATIONS

1 2	whereas, the Federal Trade Commission ("FTC") has adopted regulations requiring "creditors" with "covered accounts" to develop and implement by November 1,
3	2008 an identity theft prevention program that complies with those regulations; and
4 5	WHEREAS, the FTC considers a government entity to be a "creditor" where it
6	defers payment for goods or services by its customers; and
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8	WHEREAS, as the City provides water and wastewater utility services to
9	customers and the customers do not pay for these services until after they have been
l0 l1	provided, the adoption of an Identity Theft Prevention Program is required; and,
2	WHEREAS, the City Council desires to take action to comply with the applicable
3	FTC regulations by adopting an Identity Theft Prevention Program,
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5	NOW, THEREFORE, IT IS RESOLVED that the City Council hereby adopts, and
6	directs City staff to implement the City of Calistoga Identity Theft Prevention Program
17	attached as Exhibit "A".
18	PASSED, APPROVED, AND ADOPTED by the City Council of the City of
19 20	Calistoga at a regular meeting held this 21 st day of October 2008 following vote:
20	Callstoga at a regular meeting field this 21 day of October 2000 following vote.
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25	NOES:
26	ABSTAIN/ABSENT:
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29	JACK T. GINGLES, Mayor
30	ATTEST:
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32 33	SUSAN L. SNEDDON, City Clerk
34	COOMITE! CHEDDON, ONE CHOIN
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