

**Agenda Of The Regular Meeting – Oversight Board for the Successor Agency to the
Redevelopment Agency of the City of National City
Council Chambers
Civic Center
1243 National City Boulevard
National City, California
Wednesday – June 19, 2013 – 3:00 P.M.**

Open To The Public

Please complete a request to speak form prior to the commencement of the meeting and submit it to the Oversight Board Secretary.

It is the intention of your National City Oversight Board to be receptive to your concerns in this community. Your participation in local government will assure a responsible and efficient City of National City. We invite you to bring to the attention of the Board Chairman any matter that you desire the National City Oversight Board to consider. We thank you for your presence and wish you to know that we appreciate your involvement.

ROLL CALL

Pledge of Allegiance to the Flag by Chairman Ron Morrison

Public Oral Communications (Three-Minute Time Limit)

NOTE: Pursuant to state law, items requiring National City Oversight Board action must be brought back on a subsequent National City Oversight Board Agenda unless they are of a demonstrated emergency or urgent nature.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**It Is Requested That All Cell Phones
And Pagers Be Turned Off During The Meetings**

OVERSIGHT BOARD ACTION

1. Approval of the Minutes of the Adjourned Meeting of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of National City meeting held on April 17, 2013.
2. Resolution of the Oversight Board to the Successor Agency to the CDC as the National City Redevelopment Agency ratifying the Addendum to the Settlement and Mutual Release of Claims dated December 22, 2005 between the CDC and the Beauchamp Family Trust.

REPORTS

3. Update on AB 981

Adjourn to the next regular adjourned meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency scheduled on July 17, 2013 at 3:00 p.m. in Council Chambers, Civic Center.

**MINUTES OF THE ADJOURNED MEETING OF THE OVERSIGHT BOARD TO
THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF
THE CITY OF NATIONAL CITY**

April 17, 2013

This Adjourned Meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency was called to order at 3:02 pm by Chairman Ron Morrison.

ROLL CALL

Board Members Present: Aguirre, Desrochers, Morrison, Hentschke

Board Members Absent: Carson, Donaldson

PLEDGE OF ALLEGIANCE by Chairman Ron Morrison

PRESENTATIONS: None

OVERSIGHT BOARD ACTIONS

1. **SUBJECT:** Approval of the Minutes of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of National City Meeting on February 20, 2013.

RECOMMENDATION: Approve the minutes as presented.

ACTION: Motion by Aguirre, seconded by Desrochers to approve the minutes of the Oversight Board meeting held February 20, 2013. Motion carried by the following vote: Ayes Aguirre, Desrochers, Morrison, Hentschke

Abstain: Perri

Absent: Carson, Donaldson

2. **SUBJECT:** Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency approving the Successor Agency's April 2, 2013 authorization of the removal of an obsolete backflow flapper valve located at 922 W 23rd Street to address the Issuance of a Violation Notice from Sweetwater Authority on an emergency basis as declared by the City Engineer, subject to the provisions of the California Public Contract Code for Emergency Repairs, to remove the backflow valve, and authorize the allocation of \$40,000 of Redevelopment Property "Tax Trust Funds identified in ROPS 2 and 3, item No. 101, for "General Property Management: and/or other funds on had in relation to another ROPS 2 or 3 item, concurrent with a commitment to reimburse the Successor Agency as to that item upon approval of ROPS 13-14A, which lists said backflow as an Enforceable Obligation (Engineering)

RECOMMENDATION: Approve the Resolution. (**Resolution 2013-03**)

ACTION: Motioned by Desrochers, seconded by Perri to approve the resolution. Motion carried by the following vote:
Ayes Aguirre, Desrochers, Morrison, Hentschke, Perri
Absent: Carson, Donaldson

3. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ratifying the Executive Director's Agreement to, and Execution of the First Amendment to the Successor Agency's Agreement with E2 ManageTech, Inc., extending that agreement until March 30, 2014, and increasing the not to exceed amount by \$20,000 for a total amount of \$118,000. (Engineering)

RECOMMENDATION: Approve the Resolution. (**Resolution 2013-04**)

ACTION: Motion by Perri, seconded by Desrochers to approve the resolution. Motion carried by the following vote: Ayes Aguirre, Desrochers, Morrison, Hentschke, Perri
Absent: Carson, Donaldson

4. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency approving the Successor Agency's April 16, 2013 determination that a dispute exists between the Oversight Board and the San Diego County Auditor-Controller as to Auditor-Controller comments and finding on (i) The Successor Agency's Recognized Obligation Payment Schedule for the period July 1, 2013 through December 31, 2013 (ROPS 13-14A), and (ii) The reconciliation of the Successor Agency's Recognized Obligation Payment Schedule for the period July 1, 2012 through December 31, 2012 (ROPS2), and ratifying a letter dated March 28, 2013 and transmitted by the Successor Agency referring these matters to the California Department of Finance.

RECOMMENDATION: Approve the Resolution. (**Resolution 2013-05**)

ACTION: Motion by Hentschke, seconded by Desrochers to approve the resolution. Motion carried by the following vote:
Ayes Aguirre, Desrochers, Morrison, Hentschke, Perri
Absent: Carson, Donaldson

5. Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency approving the Revised Settlement Agreement and Mutual Release of Claims between the Successor Agency and Beauchamp Family Trust. (City Attorney)

ACTION: This item was pulled.

Note for the record that the Chairman exited chambers at 3:15 pm.

REPORTS

6. Update on Redevelopment Issues presented by Brad Raulston.

ADJOURNMENT

The meeting was adjourned to the next Adjourned Meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency to be held on June 15, 2013 at 3:00 p.m., Council Chambers – National City Civic Center, California.

RECOMMENDATION: Adjourn the meeting.

ACTION: Motion by Perri, seconded by Aguirre to adjourn.

Motion carried by the following vote: Ayes Aguirre, Desrochers, Hentschke, Perri

Absent: Carson, Donaldson, Morrison

The meeting adjourned at 3:26 p.m.

Clerk

Secretary

The foregoing minutes were approved at the Adjourned Meeting of June 15, 2013.

Oversight Board Chairman

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO
THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AGENDA STATEMENT**

MEETING DATE: June 19, 2013

AGENDA ITEM NO. 2

ITEM TITLE:

Resolution of the Oversight Board to the Successor Agency to the CDC as the National City Redevelopment Agency ratifying the Addendum to the Settlement and Mutual Release of Claims dated December 22, 2005 between the CDC and the Beauchamp Family Trust

PREPARED BY: Claudia Gacitua Silva

DEPARTMENT: City Attorney

PHONE: Ext. 4222

APPROVED BY: 

EXPLANATION:

This Resolution ratifies the Successor Agency entering into an Addendum to the Settlement and Mutual Release of all Claims for the purpose of settling past claims for payment of environmental cleanup costs that the CDC/Successor Agency had incurred at the Education Village site (the "Site"), and to restructure the process for the discharge of the Beauchamp Family Trust's responsibilities to reimburse the Successor Agency for future investigation and remediation costs at the Site.

Pursuant to the Addendum, the Beauchamp Family Trust agrees to reimburse the Successor Agency \$27,500 to settle and compromise all claims for payment of past environmental costs for the period between August 15, 2005 and April 2, 2013, and the Beauchamp Family Trust shall pay \$5,000 as its 50% contribution to future environmental costs. The Addendum also defines the process to resolve any future disputes regarding environmental costs.

FINANCIAL STATEMENT:

APPROVED: _____ **Finance**

ACCOUNT NO.

APPROVED: _____ **MIS**

N/A

ENVIRONMENTAL REVIEW:

N/A

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt proposed resolution.

BOARD / COMMISSION RECOMMENDATION:

N/A

ATTACHMENTS:

- Addendum to Settlement and Mutual Release of Claims
- Proposed resolution

ADDENDUM TO SETTLEMENT AND MUTUAL RELEASE OF CLAIMS

This is an Addendum ("Addendum") to the Settlement Agreement and Mutual Release of Claims dated December 22, 2005 ("Agreement") between The Community Development Commission of the City of National City ("CDC"), and the Beauchamp Family Trust ("Beauchamp").

The Agreement is hereby supplemented and modified as follows. Whenever there is any conflict between the Addendum and the Agreement, the provisions of the Addendum shall govern. Terms used in this Addendum and not otherwise defined shall have the same meanings given to them in the Agreement.

On February 1, 2012, the CDC became the Successor Agency to the Community Development Commission as the National City Redevelopment Agency ("Agency").

The Parties have again come to a dispute about their relative rights and obligations under the Agreement, and having met and conferred and reached an agreement, now enter into this Addendum for the purpose of settling past claims for payment of environmental cleanup costs that the CDC/Agency had incurred at the Site and to restructure the process for the discharge of Beauchamp's responsibilities to reimburse the Agency for future investigation and remediation costs at the Site.

II. DEFINITIONS

5. "Past Environmental Costs" means Environmental Costs incurred by the CDC/Agency between August 15, 2005 and April 2, 2013 as a result of Contamination at the Site.

6. "Future Environmental Costs" means Environmental Costs incurred by the Agency after April 2, 2013 due to the Contamination of the ground water with the dry-cleaner solvent PCE at the Site.

7. "Parties" means the Agency and Beauchamp.

IV. TERMS OF SETTLEMENT AND RELEASE

1. CONSIDERATION

a. Settlement for Past Environmental Costs. Beauchamp agrees to reimburse the Agency \$27,500 to settle and compromise all Claims for payment of Past Environmental Costs for the period between August 15, 2005 and April 2, 2013. In furtherance of this compromise and settlement, Beauchamp hereby agrees to pay the \$27,500 to the Agency no later than March 1, 2014, which shall be paid on a monthly basis in the amount of \$2,750.00 commencing June 1, 2013. In the event that Beauchamp does not submit timely payment to the Agency as provided herein, interest on the unpaid amount shall accrue at 12% per annum.

b. Cooperation and Reimbursement for Future Environmental Costs. Beauchamp agrees upon execution of this Agreement to submit a payment of Five Thousand Dollars (\$5,000) as its 50% contribution to Future Environmental Costs, currently estimated not to exceed the amount of Ten Thousand Dollars.

It is hoped no further Future Environmental Costs will be incurred. In the event that the Agency is required to incur additional Future Environmental Costs above and beyond the \$10,000 currently estimated, it agrees to consult with Beauchamp on all remaining environmental activities that DEH may require at the Site. Those activities required by DEH shall be contracted for by the Agency. Beauchamp shall reimburse the Agency for 50% of all Future Environmental Costs incurred by the Agency for the activities required to investigate and remediate the Contamination at the Site. The Agency will submit tenders to Beauchamp for reimbursement as the Future Environmental Costs are incurred. The tenders will include supporting invoices documenting the costs incurred. The Agency will submit the tenders to: Beauchamp Family Trust, 327 West 11th Street, National City, California 91950.

c. Disputes Regarding Environmental Costs. Upon receipt of the tender described in Paragraph IV.1.b., Beauchamp will notify the Agency of any disputes regarding any of the claimed Future Environmental Costs in writing to Richard Oppen, Esq., Oppen & Varco LLP, 225 Broadway, Suite 1900, San Diego CA 92101, facsimile # 619-231-5853, within fifteen (15) days of receipt of the tender. The Parties agree to first work together to try to informally resolve any disputes. If such informal negotiations fail, the Parties shall then engage in mediation of the dispute. If mediation does not resolve the dispute, the Parties shall enter into binding arbitration of the dispute. The mediator and arbitrator will be mutually selected by the Parties.

Beauchamp will reimburse the Agency within thirty (30) days of successful mediation or receipt of the arbitration award. Checks shall be made payable to The City of National City. Checks will be sent c/o Mr. Bradley Raulston, Successor Agency to the Community Development Commission of the City of National City, 140 East 12th Street, Suite B, National City, CA 91950. Late payments will accrue interest at a rate of 6% per annum.

The Parties further agree that the time within which Agency must make claims to seek the cost recovery contemplated by this Agreement (including enforcement) of this Agreement is tolled from the execution of this Agreement, and that time-barred defenses by Beauchamp are waived until all Environmental Costs have been paid by Beauchamp to the Agency. If the Parties proceed to binding arbitration, the Parties preserve all rights and defenses, with the exception of Beauchamp's agreement that its status will be tolled such that in future arbitration Beauchamp will retain its status as a "responsible party" as a "current owner".

5. GENERAL PROVISIONS

m. Notices. With the exception of those notices identified in Paragraphs IV.1.b. and IV.1.c. above, all notices required or permitted under this Agreement shall be in

writing (either by mail or facsimile), and addressed to the Parties for whom it is intended at the address set forth herein or such other address designated from time to time in writing to all other Parties:

To the Agency:

c/o The City of National City
Leslie Deese, City Manager
1243 National City Boulevard
National City, CA 91950

With a copy to:

c/o Oppen & Varco LLP
Richard Oppen, Esq.
225 Broadway, 19th Floor
San Diego, CA 92101
Telephone: (619) 231-5858
Facsimile: (619) 231-5853

To Beauchamp:



The Beauchamp Family Trust
327 West 11th St.
National City, CA 91950
Telephone: (619) 477-7700
Facsimile: (619) 477-8773

With a copy to:

Sandra J. Brower, Esq.
Sullivan Hill Lewin Rez & Engel, APLC
550 West C Street, 15th Floor
San Diego, CA 92101
Telephone: (619) 233-4100
Facsimile: (619) 231-4372

Any notice so delivered or served shall be deemed made upon receipt by the Parties served or to whom notice is so given. Notice may also be made by electronic mail transmission or by facsimile transmission and deemed made as of the date and time of that transmission, if said notice is followed up by duplicate written notice sent by certified United States mail, return receipt requested, postage prepaid, prior to the close of the next business day.

IN WITNESS WHEREOF, the Parties enter into this Addendum which shall become effective and fully-enforceable in all respects as of the latest date that this Addendum is fully-executed by all the Parties.

Dated: <u>5-29-13</u>	SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY By:  Name: Ron Morrison Title: Chairman
Dated: <u>5-23-13</u>	THE BEAUCHAMP FAMILY TRUST By:  Name: Alton B. Beauchamp, Trustee on behalf of the Beauchamp Family Trust

APPROVED AS TO FORM:



RICHARD G. OPPER
OPPER & VARCO LLP
SPECIAL COUNSEL



SANDRA J. BROWER
SULLIVAN HILL LEWIN REZ & ENGEL, APLC
ATTORNEYS FOR THE BEAUCHAMP FAMILY
TRUST

RESOLUTION NO. 2013 – 6

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY RATIFYING
THE ADDENDUM TO THE SETTLEMENT AND MUTUAL RELEASE OF
ALL CLAIMS DATED DECEMBER 22, 2005 BETWEEN THE COMMUNITY
DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY
AND THE BEAUCHAMP FAMILY TRUST

WHEREAS, the Community Development Commission of the City of National City and the Beauchamp Family Trust had previously entered into a Settlement Agreement and Mutual Release of Claims dated December 22, 2005; and

WHEREAS, the Parties had come again to a dispute about their relative rights and obligations under the Agreement regarding the appropriate amounts due for environmental cleanup costs; and

WHEREAS, this Addendum is a result of a meet and confer between the parties for the purpose of settling past claims for payment of environmental cleanup costs that the former Community Development Commission acting as the Redevelopment Agency (now the Successor Agency to the Community Development Commission as the National City Redevelopment Agency) had incurred and to restructure the process for the discharge of the Beauchamp Family Trust's responsibilities to reimburse the Successor Agency for future investigation and remediation costs.

NOW, THEREFORE, BE IT RESOLVED that the Successor Agency to the Community Development Commission as the National City Redevelopment Agency hereby ratifies the Addendum to Settlement and Mutual Release of Claims, fully-executed on May 29, 2013.

PASSED and ADOPTED this 19th day of June, 2013

AYES:
NOES:
ABSENT:
ABSTAIN:

Ron Morrison, Chairman

ATTEST:

Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:

Edward Z. Kotkin
Cummins & White
Oversight Board Counsel

Item #3

Update on AB 981

CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT

MEETING DATE: April 2, 2013

AGENDA ITEM NO. 14

ITEM TITLE:

A Resolution of the City Council of the City of National City in support of Assembly Bill 981- Bloom (AB 981) related to the use of Redevelopment bond proceeds.

PREPARED BY: Brad Raulston, Executive Director



DEPARTMENT: City Manager

PHONE: Ext 4256

APPROVED BY: _____

EXPLANATION:

See background report attached.

FINANCIAL STATEMENT:

ACCOUNT NO.:

N/A

APPROVED: _____

Finance

APPROVED: _____

MIS

ENVIRONMENTAL REVIEW:

N/A

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt the Resolution

BOARD / COMMISSION RECOMMENDATION:

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ATTACHMENTS:

1. Background Report
2. Proposed Resolution

BACKGROUND

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provided for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law provides for the transfer of housing assets and functions previously performed by the dissolved redevelopment agency to one of several specified public entities. Existing law authorizes that entity to designate the use of, and commit, indebtedness obligation proceeds that were issued for affordable housing purposes prior to January 1, 2011, and were backed by the Low and Moderate Income Housing Fund.

Assembly Bill (AB 981) would instead authorize that entity to designate the use of, and commit, indebtedness obligation proceeds that were issued prior to June 28, 2011.

Existing law authorizes the Department of Finance to issue a finding of completion to a successor agency that completes a due diligence review and meets other requirements. Upon receiving a finding of completion, a successor agency is authorized to expend excess bond proceeds derived from bonds issued on or before December 31, 2010, in a manner consistent with the original bond covenants.

AB 981 would modify this authorization to include the expenditure of excess bond proceeds derived from bonds issued on or before June 28, 2011. The bill, if passed, would expressly authorize the Successor Agency to designate the use of and commit bond proceeds in the amount of \$39,335,000, which derived from the issuance of the 2011 Tax Allocation Bonds on March 3, 2011.

AB 981 (Bloom)
Redevelopment Agencies:
Statewide Economic Development, Infrastructure Construction,
Affordable Housing and Job Creation
Fact Sheet

PURPOSE

It is estimated that approximately \$650 million in 2011 redevelopment bond proceeds are currently sitting idle and cannot be used. If these proceeds were spent on their intended projects, it is estimated that approximately 9,300 high wage construction and related jobs would be generated.

The elimination of redevelopment agencies has put the State in a difficult predicament and at risk for costly litigation while jobs are desperately needed.

During the first half of 2011, prior to the dissolution of all redevelopment agencies, approximately 50 agencies legally issued bonds, of those cities, 37 have outstanding bond proceeds they are now not allowed to use.

If these funds were put to work, it is estimated they could generate approximately 9,300 jobs and, conservatively, over \$1.2 billion in statewide economic activity and \$60 million dollars in new State and local tax revenues.

The State has asserted that the vast majority of the 2011 redevelopment bonds must be defeased and their proceeds not spent on projects, however, over 90% of these bonds cannot be defeased for 10 years.

During this ten year period nearly \$1 billion will be spent on the debt service payments for these bonds, and the bond proceeds will continue to go unused. If the proceeds were used for their intended purposes, the construction of these projects would generate over \$1.2 billion in statewide economic activity, more than the debt service payments during the ten year period.

The vast majority of these bonds were issued for public works projects such as infrastructure construction and repair, new public facilities, and affordable housing.

Bondholders who purchased tax-exempt bonds (approximately 70% of the bonds in question) for specific public works projects were promised tax-free returns.

Per Federal Tax Law, tax-exempt bond proceeds must be used for their intended purpose, or the bonds could be subject to losing their tax-exempt status.

There are 37 successor agencies (former redevelopment agencies) holding these bond proceeds and they are located throughout the State.

SUMMARY

AB 981 would adjust the cutoff date for the use of redevelopment bond proceeds, from December 31, 2010, as currently established in AB 1484, to June 28, 2011, the date the dissolution legislation was signed, thus allowing 2011 bond funds to be used for economic development and job creation.

EXISTING LAW

AB 1484, a clean-up bill to AB X1 26 (the dissolution legislation), granted successor agencies the ability to use bond proceeds issued prior to January 1, 2011, but was ambiguous on the use of bonds issued between January 1, 2011 and June 28, 2011 (legally issued prior to the dissolution of redevelopment agencies).

The Department of Finance has interpreted AB 1484 to mean that successor agencies cannot use 2011 bond proceeds unless the former redevelopment agency had entered into third party contract to expend the proceeds, prior to agency dissolution. The Department of Finance contends that the bonds must be defeased using the remaining proceeds. However, the majority of the 2011 bonds cannot be defeased for 10 years.

Office of Assemblymember Richard Bloom

AB 981 - Fact Sheet

Contact: Guy Strahl

(916) 319-2050

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BACKGROUND

Prior to the dissolution of redevelopment agencies in the State, several cities through their local Redevelopment Agencies (RDA) legally issued bonds between January 1, 2011 and June 28, 2011, for qualified local projects, including infrastructure, public works, and affordable housing projects.

Chapter 5, Statutes of 2011 (AB X1 26, Blumenfield), imposed an immediate freeze on RDA authority to engage in most of their previous functions, including incurring new debt, making loans or grants, entering into new contracts or amending existing contracts, acquiring or disposing of assets, or altering redevelopment plans. The bill also dissolved RDAs, effective February 1, 2012 (Supreme Court adjusted date) and created a process for winding down redevelopment financial affairs and distributing any net funds from assets or property taxes to other local taxing agencies.

Chapter 6, Statutes of 2011 (ABX1 27, Blumenfield) allowed RDAs to opt into a voluntary alternative program to avoid the dissolution included in AB X1 26. The program included annual payments to K-12 districts (\$1.7 billion in 2011-12 and about \$400 million in future years) to offset the fiscal effect of redevelopment. AB X1 27 was struck down by the State Supreme court on a 6-1 vote in 2011, on the grounds that it violated Prop 22 (Passed by voters in 2010).

Because of the decision, redevelopment agencies were dissolved and replaced by successor agencies and oversight boards. After the court decisions, AB 1484 was enacted and specifies how the successor agencies will manage and administer the functions of the former redevelopment agencies, the role of the oversight boards and state Department of Finance in the Redevelopment Dissolution process.

SPONSOR

Author Sponsored

SUPPORT

City of West Hollywood
City of Lynwood
City of Signal Hill
Palm Communities

OPPOSITION

None on File

Version: 3/20/2013