

ANNOTATED AGENDA

for
December 27, 2012

SPECIAL MEETING
Antioch City Council

Order of Council vote: AYES: Council Members Wilson, Rocha, Tiscareno, Agopian and Mayor Harper

Regular Meetings:
2nd and 4th Tuesday
of each month

Agenda prepared by:
Office of the City Clerk
(925) 779-7009



**SPECIAL MEETING
Antioch City Council**

**Council Chambers
200 "H" Street
Antioch, CA 94509**

**December 27, 2012
6:00 P.M.**

6:00 P.M. ROLL CALL for Council Members – All Present

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

1. COUNCIL CONSENT CALENDAR

**A. REQUEST FOR TRAINING AND TRAVEL – LEAGUE OF CALIFORNIA CITIES
CONFERENCE – NEW COUNCIL MEMBERS ACADEMY**

Approved, 5/0

Recommended Action: Motion to approve travel for Council Member Tony Tiscareno

STAFF REPORT

B. REJECTION OF CLAIMS

1. Donald Dahl 12/13-2068 (property damage)
2. Deepal Karunaratne 12/13-2073 (vehicle tow)
3. Patrick Chen 12/13-2089 (property damage)
4. Beverly McClinton 12/13-2087 (personal injury)

Rejected, 5/0

Recommended Action: Motion to reject the listed claims

STAFF REPORT

C. AGREEMENT WITH PACIFIC GAS AND ELECTRIC

***Approved Supplement Report Revised Agreement,
5/0***

Recommended Action: Motion to authorize the City Manager to execute an Agreement with Pacific Gas & Electric substantially in the form attached regarding PG&E's payment towards the environmental review for the Northeast Antioch Area Annexation in lieu of an annexation fee for the Gateway Power Plant

STAFF REPORT

**END OF COUNCIL CONSENT CALENDAR
COUNCIL REGULAR AGENDA**

2. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) CONTRACT AMENDMENT FOR LOCAL SAFETY AND MISCELLANEOUS MEMBERS

AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE SIDE LETTERS OF AGREEMENTS WITH IMPACTED BARGAINING UNITS

DIRECTION TO STAFF REGARDING IMPLEMENTATION OF A LATERAL POLICE OFFICER HIRING POLICY FOR THE PERIOD OF JANUARY 1, 2013 – JUNE 30, 2014

Ord. No. 2059-C-S, 4/1-A

Action:

- 1) Motion to read by title only and motion to adopt the ordinance authorizing an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch to provide Section 21363.2 (3% @ 50 Full Formula) to local Safety members, and Section 21354.5 (2.7% @ 55 Full Formula) to local Miscellaneous members employed on or after the effective date of the amendment to contract, with such ordinance being an urgency ordinance effective immediately for the immediate preservation of the public peace, health or safety.
- 2) Motion to adopt a resolution authorizing the City Manager to execute Side Letters of Agreement with impacted Recognized Bargaining Units to implement the PERS Contract Amendment. ***Reso 2012/76, 4/1-A***
- 3) Motion to adopt a resolution providing direction to staff regarding implementation of a lateral Police Officer hiring policy. ***Blanks filled in with five (5)***
Police Officer lateral hires,
Reso 2012/77, 5/0

STAFF REPORT

3. USE AGREEMENT WITH OFFICE OF CONGRESSMAN MCNERNEY FOR OFFICE SPACE AT THE ANTIOCH COMMUNITY CENTER

Approved, 5/0

Recommended Action: Motion to authorize City Manager to enter into a Use Agreement

STAFF REPORT

PUBLIC COMMENTS

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS

ADJOURNMENT to Closed Session – 6:54 p.m.

CLOSED SESSIONS: ***[33 Items on Closed Session Agenda, No Action Taken]***

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to California Government Code §54956.9 (a):

1. Santeeya Williams; Mary Scott; Alyce Payne; Karen Coleman, Priscilla Bunton v. City of Antioch, U.S. District Court (Northern District) Case No. C08-02301

CLOSED SESSIONS – Continued

2. California Healthy Communities Network v. City of Antioch (Walmart Stores as real party in interest) Contra Costa Superior Court Case No. MSN10-1804
3. Shanie Hansen v. John B. McDonald et al., Contra Costa Superior Court Case No. C11-00986; Anthony Soldano Jr. v. John Bryan McDonald et al., Contra Costa Superior Court Case No. C11-01176
4. Sean and Kelley O'Toole et al v. City of Antioch et al., U.S. District Court (Northern District) Case No. CV11-1502
5. Discovery Builders, Inc. v. City of Antioch et al., Contra Costa Superior Court Case No. CIV MSN 11-0539
6. Virgile Cunningham v. City of Antioch, Antioch Police Department Contra Costa Superior Court Case No. MSC1102190 and Contra Costa Superior Court Case No. MSC12-00174
7. Barry White, Jr. and Demitrius Anderson v. City of Antioch et al. U.S. District Court (Northern District) Case No. C 11-04221
8. Edrick Harvey et al. v. City of Antioch; City of Pittsburg U.S. District Court (Northern District) Case No. C11-04986
9. Chaderick Ingram v. City of Antioch et al., U.S. District Court (Northern District) Case No. C-12-00647
10. Jacob Wray v. City of Antioch; Lorraine and William Bowlen; Kenneth Gove, Contra Costa Superior Court Case No. CIVMSC 11-02532
11. Melvin DeVan Daniel, U.S. District Court (Northern District) Case No. C 12-3008
12. Ricky McNeal v. City of Antioch et al., U.S. District Court (Northern District) Case No. C11-04497
13. Novena Tucker v. Don Gill, Marsha Brown, Robin Schmitt, Officer Martin Hynes, Officer Nicholas Ward, U.S. District Court (Northern District) Case C12-02678
14. McKnelly, Dutro et al. v. City of Antioch, et al., U.S. District Court (Northern District) Case No. CV12-2972
15. Luis Avarez-Orellana v. City of Antioch, et al., U.S. District Court (Northern District) Case No. C 12-4693
16. Eddie Tillman v. Officers Bostick and Harger, U.S. District Court (Northern District) Case C12-2807
17. Forrest Blocker v. Contra Costa County et al., U.S. District Court (Northern

District) Case CV 12-05597

18. City of Antioch v. Mex-Cal, Inc. et al., Contra Costa Superior Court Case No. C10-01601

CLOSED SESSIONS – Continued

19. U.S. ex rel. Hendrix et al. v. J-M Manufacturing
U.S. District Court (Central District) Case NO. EDCV 06-0055
Los Angeles County Superior Court Case No. BC 459943
20. City of Brentwood et al. v. Robert Campbell, Auditor-Controller
Contra Costa Superior Court Case No. N11-1029
21. In re Municipal Derivatives Antitrust Litigation, United States District Court (Southern District of NY) Case MDL No. 1950 (East Bay Delta Housing Finance Agency/Bay Area HomeBuyer Agency)
22. In re Eva Romero and Gilbert Romero, U.S. Bankruptcy Court (Northern District) Case No. 12-44668 (Humphrey's Restaurant)

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION pursuant to California Government Code section 54956.9(a) and 54956.96 and **ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to California Government Code §54956.9 (b):

1. Transplan Committee and East Contra Costa Regional Fee and Financing Authority v. City of Pittsburg et al., Contra Costa County Superior Court Case No. MSN11-0395

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to California Government Code §54956.9 (b):

1. Claim filed on October 29, 2012 by David Lanferman representing Discovery Builders and Albert D. Seeno Construction regarding water storage fees
2. Multiple letters in 2012 from Kristina Lawson representing Albert Seeno/West Coast Home Builders related to the Northeast Antioch Annexation
3. Letter dated November 13, 2012 from the Law Office of Jack Silver and entitled "Notice of Violations and Intent to file suit under the Clean Water Act."
4. Letters dated July 21, 2012 and October 24, 2012 from Paul B. Justi representing Kelly's Cardroom
5. Construction claims related to the Marina Boat Launch Facility
6. Lake Alhambra Property Owners' Association regarding dredging of the Lake

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION – Initiation of Litigation pursuant to California Government Code §54956.9 (c):

1. Water Treatment Plant Upgrade Deficiencies
2. Claim against Contra Costa County for overcharge of Property Tax Administration Fee

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL LIABILITY CLAIMS – pursuant to California Government Code §54961): 5 claims

CLOSED SESSION: PUBLIC EMPLOYEE PERFORMANCE EVALUATION – pursuant to California Government Code §54957: City Attorney

ADJOURNMENT – 9:50 p.m.

The City Council meetings are accessible to those with disabilities. Auxiliary aides will be made available for persons with hearing or vision disabilities upon request in advance at (925) 779-7009 or TDD (925) 779-7081.



2013

New Mayors and Council Members Academy

Wednesday, January 16 - Friday, January 18

HYATT REGENCY SACRAMENTO

*Registration and Housing Deadline:
Monday, January 7*

www.cacities.org/events

 www.facebook.com/leagueofcacities

 Follow @CaCitiesLearn

Wednesday, January 16

REGISTRATION OPEN

› 8:00 a.m. - 4:00 p.m.

Effective Advocacy & Key City Issues

› 9:30 - 10:15 a.m.

Acquire practical skills, from League staff, to develop persuasive arguments and testimony that serve your city's interests.

Basics Boot Camp

› 10:30 - 11:45 a.m.

After a few council meetings you discover that sitting on the "target" side of the dais means, among other things, you must be prepared. Prepare by reviewing some basic rules for new mayors and council members.

GENERAL LUNCHEON

Your League and How To Use It

› Noon - 1:30 p.m.

As a city official, you are the League. It's success, along with yours, depends on your involvement and leadership. Gain an introduction to the services of the League of California Cities, how you can access them, and how you can become involved.

Your Legal Powers and Obligations

› 2:00 - 3:45 p.m.

You were elected to make things happen in your city. Learn the sources of your powers as a city official and the limitations on those powers. Gain a basic understanding of the legal authorities and restrictions under which cities and city officials operate with a focus on the Brown Act.

Policy Role in Land Use Planning

› 4:00 - 5:00 p.m.

Land use planning is one of the most important aspects of a city official's responsibilities. It involves the setting and implementation of the policies articulated in the city's general plan and its zoning code. Learn about tools and processes in land use planning such as the California Environmental Quality Act (CEQA). This knowledge will help you foster a solid working relationship with your city's planning commission and planning staff.

Legislative Reception

› 6:00 - 7:00 p.m.

This is a great opportunity for newly elected city officials to gather and meet with Assembly Members and Senators from throughout the state.

Thursday, January 17

REGISTRATION OPEN

› 7:30 a.m. - Noon

Networking Breakfast

› 7:30 - 8:30 a.m.

Relationship Between City Council and City Manager Staff

› 8:30 - 10:00 a.m.

As an elected official, there are various competing and legitimate values that drive you and your colleagues. Your success on the council requires an effective relationship with your city manager, city attorney, and staff. Learn how to work together while respecting those diverse roles. Discover how to enhance these relationships and leave with valuable and practical tips.

Communications and the New Media

› 10:15 - 11:45 a.m.

With public perceptions of today's Government at all-time lows, the question must be asked - how do people learn so much, so fast about government? With such a variety of almost immediate informational sources (internet, podcasting, socials media, the blogosphere, etc.), elected officials need to be quick on their feet and develop the necessary skills to address issues. Discover what cities should be doing to communicate with their constituents in the 21st Century and the new forms of media that must be embraced.

GENERAL LUNCHEON

El-Circo – How to Conduct an Effective and Respectful Council Meeting

› Noon - 2:00 p.m.

Enjoy an always fun skit depicting the wrong, then right way, to conduct your city council meetings.

Financial Responsibilities, City Revenues Workshop

› 2:15 - 4:45 p.m.

Cover your responsibilities as elected officials in exercising fiduciary accountability and transparency in open government. Discuss the local government financial cycle, elected official financial oversight duties, state and local funding relationships, and identify the four stages of fiscal meltdown. Stress the importance of structurally balanced budget tips on setting city council goals and the need for financial policies. Learn to avoid micromanagement and complacency management.

Evening on Your Own

› 5:00 p.m.

Friday, January 18

New Mayor and Council Member Roundtable Networking Breakfast

› 8:00 - 9:15 a.m.

Here is a great opportunity to enjoy breakfast with your peers and to question seasoned veterans of what it is really like being an elected official. There will be three groups; one for Mayors, one for Council Members and a third for the city managers in attendance. There may never be a better chance to be able to ask questions so freely and get true candid answers.

AB1234: How to Build and Maintain the Public's Trust: Practical Ethics and the Law

› 9:45 - 11:45 a.m.

State law requires elected and appointed officials to receive training in specified ethics laws and principles every two years. Newly elected and appointed officials must receive this training within one year of becoming a public servant. This lively, example laden, two-hours will make this mandatory training more tolerable — if not outright enjoyable. Sign-in begins at 9:30 a.m. and you must be present for the full two hours to receive the certification of attendance at 11:45. (Planned with the Institute for Local Government)

ADJOURN

› Noon

*For speaker information, go to
www.cacities.org/MayorsCouncilEd*

General Information

All attendees must register for the conference online prior to reserving a hotel room. Registration is not complete until full payment is received. The League is unable to accept purchase orders. Once registration is complete, you will be directed to the housing reservations page.

- For online registration, go to www.cacities.org/events and select "New Mayors and Council Members Academy".

Registration must be received by Monday, January 7. After this date, please register onsite.

Costs/Fees

Your full conference registration includes two breakfasts, two luncheons and a legislative reception.

FULL CONFERENCE

| | |
|--|--------|
| Elected Officials and Staff | \$550 |
| Non-Member City Elected Officials and City Staff | \$1550 |
| Spouse Reception Only (Wednesday) | \$35 |

**Seating for this conference is reserved for elected officials and staff*

CANCELLATIONS

Advance registrants unable to attend will receive a refund of rate paid, minus a \$75 processing charge, only when a written request is submitted to the Conference Registrar at mdunn@cacities.org and received before 5:00 p.m. on Monday, January 7. Absolutely no refunds will be provided after this date. Sending an alternate/substitute onsite will avoid financial penalty.



If you require special accommodations related to facility access, transportation, communication and/or diet, please contact our Conference Registrar by Monday, January 7.

HOTEL INFORMATION & RESERVATIONS

Hotel reservation changes, date modifications, early check-outs or cancellations must be done directly through the hotel prior to Monday, January 7. After this date, all changes will incur a financial penalty, a minimum of a one-night room charge and attrition fees.

The Hyatt Regency Sacramento

1209 L Street, Sacramento, CA 95814

Hotel Rate (per night): \$165 - Single/Double Occupancy (plus tax and fees)

Valet parking: \$25 per day/Self-parking \$17 per day (subject to change without notice)

**Please DO NOT book outside of the League hotel block.*

This will cause an increase in event costs, liabilities and higher registration rates.



1400 K Street, Suite 400
Sacramento, CA 95814

Join us for the 2013 New Mayors and Council Members Academy

**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF DECEMBER 27, 2012**

FROM: Lynn Tracy Nerland, City Attorney



DATE: December 19, 2012

SUBJECT: Rejection of Claims

RECOMMENDATION:

Reject the listed claims:


1. Donald Dahl 12/13-2068 (property damage)
2. Deepal Karunaratne 12/13-2073 (vehicle tow)
3. Patrick Chen 12/13-2089 (property damage)
4. Beverly McClinton 12/13-2087 (personal injury)

LTN/spd

cc: Anthony Allenza

12/27/12

**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF DECEMBER 27, 2012**

FROM: Jim Jakel, City Manager 

DATE: December 19, 2012

SUBJECT: Agreement with PG&E

RECOMMENDATION:


Authorize the City Manager to execute an Agreement with Pacific Gas & Electric substantially in the form attached (Attachment A) regarding PG&E's payment towards the environmental review for the Northeast Antioch Area Annexation in lieu of an annexation fee for the Gateway Power Plant.

BACKGROUND:

On June 26, 2007, the City Council authorized the submission of an application to the Local Agency Formation Commission ("LAFCO") for annexation of Northeast Antioch Area 1 ("Northeast Antioch Area Annexation"), which included PG&E's Gateway Power Plant located at 3225 Wilbur Avenue, Antioch ("Gateway Power Plant"). Given the City's inability to negotiate a Tax Transfer Agreement with Contra Costa County before the start of operations of the Gateway Power Plant, the City and PG&E entered into the Out of Agency Service Agreement effective September 9, 2008 (Attachment B) for the City to provide potable water and sewer collection services to the Gateway Power Plant on a temporary basis for one year. The Out of Agency Services Agreement assumed that the annexation would have been completed soon after the operation of the Gateway Power Plant commenced and that PG&E would continue to support the annexation of the Gateway Power Plant to the City and pay required annexation fees. LAFCO approved this Out of Agency Services Agreement.

The Out of Agency Services Agreement expired September 9, 2009 with the exception of Section 10 of the Out of Agency Service Agreement, so the City Council adopted a resolution on September 8, 2009 to extend the Out of Agency Service Agreement for one year expiring on September 9, 2010 (Attachments C and D).

Since the expiration of the Out of Agency Services Agreement in 2010 with the exception of Section 10, the City has continued to pursue annexation of the area in which the Gateway Power Plant is located and has requested PG&E's assistance in that effort and financial recognition of the benefits that the City of Antioch is providing to PG&E. However, no amendment or new Out of Agency Services Agreement has been negotiated.


12/27/12

As part of the annexation approval process which now includes a larger area as required by LAFCO, the City must complete an updated environmental assessment pursuant to the California Environmental Quality Act. PG&E is now willing to pay the estimated cost of \$100,000 to complete the environmental assessment as advance payment of the City's annexation fee should the Northeast Antioch Area Annexation be finalized and as credit towards a portion of an appropriate community benefit required of PG&E for renewal of the expired Out of Agency Services Agreement for the Gateway Power Plant.

FISCAL IMPACT:

PG&E's payment now of \$100,000 for the environmental review of the Northeast Antioch Annexation process is more than the City's current gross acre annexation fee for industrial property for the parcel on which the Gateway Power Plant is located.

OPTIONS:

Given the expiration of the Out of Agency Service Agreement in 2010, the City could terminate the provision of water and sewer collection services to the Gateway Power Plant.

ATTACHMENTS:

- A. Proposed Agreement with PG&E
- B. Out of Agency Service Agreement effective September 9, 2008
- C. Staff Report dated August 31, 2009 regarding extension of Out of Agency Service Agreement with PG&E
- D. Resolution No. 2009/83 dated September 8, 2009

AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2012 (Effective Date”), by and between the City of Antioch a California municipal corporation (“City”), and Pacific Gas & Electric Company, a California corporation (“PG&E”).

RECITALS

WHEREAS, on June 26, 2007, the City Council authorized the submission of an application to the Local Agency Formation Commission (“LAFCO”) for annexation of Northeast Antioch Area 1 (“Northeast Antioch Area Annexation”), which included PG&E’s Gateway Power Plant; and

WHEREAS, PG&E desired that the Gateway Power Plant and associated infrastructure located at 3225 Wilbur Avenue, Antioch (“Gateway Power Plant”) be annexed to the jurisdiction of the City of Antioch and Delta Diablo Sanitation District (“DDSD”) through the Northeast Antioch Area Annexation; and

WHEREAS, given the inability to negotiate a Tax Transfer Agreement with Contra Costa County before the start of operations of the Gateway Power Plant, the parties entered into the Out of Agency Service Agreement effective September 9, 2008 for the City to provide potable water and sewer collection services to the Gateway Power Plant for one year on the assumption that the annexation would have been completed soon after the operation of the Gateway Power Plant commenced and with the understanding that PG&E would fund, design and construct the sewer and water lines to serve the Gateway Power Plant, including environmental mitigation and inspection costs, deed these improvements within the public right-of-way of the City to the City free of all liens and encumbrances, and continue to support the annexation of the Gateway Power Plant to the City and pay required annexation fees (“Out of Agency Service Agreement”); and

WHEREAS, the Out of Agency Service Agreement was set to expire by its own terms on September 9, 2009 with the exception of Section 10 of the Out of Agency Service Agreement, so the City Council adopted Resolution No. 2009/83 on September 8, 2009 to extend the Out of Agency Service Agreement for one year expiring on September 9, 2010; and

WHEREAS, since the expiration of the Out of Agency Service Agreement in 2010 with the exception of Section 10, the City has continued to pursue annexation of the area in which the Gateway Power Plant is located and has requested PG&E’s assistance in that effort and financial recognition of the benefits that the City of Antioch is providing to PG&E; and

WHEREAS, as part of the annexation approval process, the City must complete an updated environmental assessment pursuant to the California Environmental Quality Act which now must address as larger annexation area as required by LAFCO; and

WHEREAS, the City has retained a consultant to prepare this updated environmental assessment and related documents that are required for this annexation, and

WHEREAS, the estimated cost to complete the updated environmental assessment and related work is \$100,000, and

WHEREAS, PG&E has agreed to contribute the estimated cost to complete the environmental assessment as advance payment of the City's annexation fee should the Northeast Antioch Area Annexation be finalized and as credit towards a portion of an appropriate community benefit required of PG&E for renewal of the expired Out of Agency Service Agreement for the Gateway Power Plant;

NOW, THEREFORE, BE IT RESOLVED by the parties that:

1. With execution of this Agreement, PG&E will provide a check to the City of Antioch in the amount of \$100,000 for the environmental and consultant costs to complete the Northeast Antioch Area Annexation.
2. Should the annexation be finalized by the issuance of a certificate of completion by LAFCO before December 31, 2017, the City of Antioch hereby accepts PG&E's payment of \$100,000 in complete satisfaction of the annexation fee for the parcels of land on which the Gateway Power Plant is located, generally known as 3225 Wilbur Avenue. If the annexation is not finalized by December 31, 2017, then PG&E's payment of \$100,000 shall be a credit against whatever annexation fee is in effect at that time.
3. PG&E agrees to continue to support the annexation of the Gateway Power Plant to the City of Antioch and DDS D as part of the Northeast Antioch Area Annexation process initiated by the City of Antioch. PG&E agrees not to file an application to annex the Gateway Power Plant to DDS D or support the annexation of the Gateway Power Plant to DDS D that does not include a concurrent annexation to the City.
4. Any notices, documents, correspondence or other communications concerning this Agreement may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; or b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO PG&E:

Plant Manager
Gateway Power Plant
3225 Wilbur Avenue
Antioch, CA 94509

IF TO CITY:

City Manager
City of Antioch
P.O. Box 5007
Antioch, CA 94531

With a copy to:

City Attorney
City of Antioch
P.O. Box 5007
Antioch, CA 94531

5. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Contra Costa, California.
6. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. PG&E may not assign any aspect of this Agreement to any third party without the prior written consent of the City.
7. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so; the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

City of Antioch

PG&E:

Jim Jakel, City Manager

Signature

Ronald A Gawer
Sr. Plant Manager

ATTEST:

Arne Simonsen, City Clerk

APPROVED AS TO FORM:

Lynn Tracy Nerland, City Attorney

OUT OF AGENCY SERVICE AGREEMENT

THIS OUT OF AGENCY SERVICE AGREEMENT (this "*Agreement*") dated as of the 9th day of September, 2008 (the "*Effective Date*"), is between the City of Antioch, California (the "City"), and Pacific Gas & Electric Company, a California corporation ("*PG&E*").

WITNESSETH:

WHEREAS, Pacific Gas & Electric Company ("*PG&E*") desires to annex to the City of Antioch to receive City services, and annex to Delta Diablo Sanitation District (DDSD), Zone 3, to receive sewer treatment service. The Project shall be referred to herein as the Gateway Generating Station Project (hereinafter "the Project"). The Project includes, without limitation, PG&E's design and construction of a sewer line to provide effluent to the DDSD's Bridgehead Pump Station, the design and construction of a backwater mitigation structure, and the design and construction of a potable water line; and

WHEREAS, the City of Antioch has initiated the reorganization process and intends to proceed with the annexation process through the statutory processes set forth in the Cortese-Knox Reorganization Act of 1985, as amended from time to time ("the Act"), and complete said annexation as expeditiously as possible; and

WHEREAS, the City Council on June 26, 2007 authorized City staff to submit an application to LAFCO for the annexation of the area referred to as Area 1, which includes the subject property owned by PG&E on which the Gateway Power Plant is located; and

WHEREAS, the City staff subsequently filed an application with LAFCO for the annexation of Area 1, hereby referred to as the "Northeast Annexation"; and

WHEREAS, while the Northeast Annexation has proceeded through the LAFCO review process, the Tax Transfer Agreement between the City and Contra Costa County remains to be completed; and

WHEREAS, it is the policy of the Contra Costa County LAFCO not to deem an annexation application complete until the Tax Transfer Agreement is negotiated and executed; and

WHEREAS, PG&E is nearing completion of a power plant located at 3225 Wilbur Ave. (the "Gateway Power Plant") within the Northeast Annexation Area, and the Gateway Power Plant requires the provision of City potable water and sewer collection services, and sewer treatment services from the Delta Diablo Sanitation District (DDSD) in order to become operational; and

WHEREAS, California Government Code Section 56133 allows a jurisdiction to enter into an "Out of Agency Services Agreement" to permit the provision of services on a temporary basis to property located outside of the boundaries of the jurisdiction in anticipation of annexation. Such a Out of Agency Services Agreement was approved by LAFCO on April 9, 2008, and

WHEREAS, a Negative Declaration has been prepared and was adopted by the Antioch City Council on March 25, 2008, which adequately addresses the environmental impacts of the

Northeast Antioch Annexation, with the scope of this Negative Declaration being sufficient to address the Out of Agency Agreement between the City of Antioch and PG&E; and

WHEREAS, the Antioch City Council on March 25, 2008 authorized the City Manager to execute an Out of Agency Agreement with PG&E for the Gateway Power Plant for sewer and water service in advance of annexation pursuant to the terms of this Agreement, and

WHEREAS, on April 9, 2008 the Contra Costa County LAFCO gave approval to the City of Antioch to extend service outside of the City's jurisdictional boundary to PG&E for the Gateway Power Plant.

NOW THEREFORE, in consideration of the agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- 1) The City will provide potable water and sewer collection service to PG&E at the Gateway Power Plant of the same nature and on the same terms and conditions that it provides potable water and sewer collection service to comparable facilities located within the City. The City retains the right to suspend such service to the Gateway Power Plant in the event the City determines PG&E has not complied with any of the terms of this agreement, or in the event this agreement expires.
- 2) PG&E shall be responsible at its sole cost for designing, permitting (including any necessary City Encroachment Permits), funding, and constructing the sewer and water lines, including any inspection costs, to serve the Gateway Power Plant, and PG&E shall pay all required connection and usage fees and charges.
- 3) The plans for the sewer and water extensions for the Gateway Power Plant shall be prepared by PG&E, and must be reviewed and approved by the City Engineer prior to the initiation of construction. All required permits shall be secured by PG&E, including any required encroachment permits, prior to the initiation of construction, or as determined by the Director of Community Development.
- 4) PG&E shall be responsible for the cost of any environmental mitigation required for Project, including the construction of the sewer and water lines, and including any costs incurred to appropriately remediate any contaminants and/or environmental hazard's revealed during the construction of the sewer and water lines.
- 5) PG&E agrees that in order for the sewer and water lines to be accepted by the City, PG&E must:
 - a) Construct the VCP/Ductile iron gravity sewer line per the approved drawings.
 - b) Install a gate valve with electric actuator/operator at the Bridgehead Pumping Station to prevent backup of the line while DDSD is conducting maintenance.
 - c) Provide the City of Antioch with a copy of the operations procedure and emergency contact information that DDSD and Gateway operations personnel develop in support of the maintenance outages at Bridgehead.

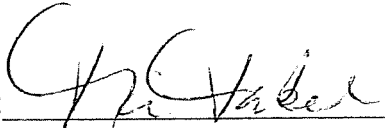
- d) Install a grinder pump at the Plant Services Bldg. lift station to further minimize solids in the line.
- e) Upon acceptance PG&E agrees to reimburse the City of Antioch within 30 days on a T&M basis for cleaning of the sewer line from PG&E's Gateway facility to DDSD's Bridgehead Pumping Station until such time as it is determined by the City there are sufficient flows in the line to ensure proper scouring of solids. The City of Antioch will not be responsible for stoppages or maintenance on PG&E's property. Responsibility for reimbursement for cleaning of the line will cease at such time additional customers are added to the west of the Gateway Plant, as determined by the City. Additionally, if service connections are added to the east of the Gateway Plant, PG&E shall only be responsible for the portion of the main line that is solely utilized by PG&E (i.e. from the Gateway Power Plant to the first connection to the east).
- 6) PG&E shall be responsible for negotiating and executing an agreement with DDSD authorizing PG&E to connect the sewer line to the Bridgehead Pump Station for sewer treatment services.
- 7) PG&E agrees to continue to support the annexation of the Gateway Power Plant to the City of Antioch and Delta Diablo Sanitation District as part of the Northeast Annexation process initiated by the City of Antioch, or subsequent annexation application filed in the future by the City of Antioch. PG&E agrees not to file an application to annex the Gateway Power Plant to DDSD or support any annexation of the Gateway Power Plant to DDSD that does not include a concurrent annexation to the City of Antioch.
- 8) PG&E agrees to pay to the City required annexation fees at the time the Gateway Power Plant is annexed to the City of Antioch.
- 9) The completed sewer and water improvements for the Project located within the City right of way to serve the Gateway Power Plant shall be owned by the City, free and clear of any liens or encumbrances.
- 10) PG&E shall indemnify, protect, defend, and hold the City harmless from and against:
 - a) Any and all loss, damage, claims, demands, causes of action or contentions, including costs of litigation and attorney's fees, consulting and expert fees resulting from or related to the design and construction of the sewer and water lines.
 - b) Any and all loss, damage, claim, causes of action or contentions including cost of litigation including attorneys fees, consulting, and expert fees brought by or on behalf of any third party arising out of the actions, injury, disease or death of any person(s), including employees of PG&E and employees of PG&E's contractors and subcontractors, or damage to property directly or indirectly resulting from actions of PG&E, its agents, contractors, subcontractors and employees, or on behalf of or at PG&E's direction from the construction of the sewer and water lines and/or any remediation activities associated with the construction of such lines. PG&E hereby waives rights of subrogation and workers' compensation immunity with respect to workers' compensation liability and shall require such waivers from all subcontractors.

- c) Any and all loss, damage, claims, demands, causes of action or contentions, including attorneys' fees and costs, and consulting and expert fees resulting from any misrepresentation, breach of warranty or covenant, or non-fulfillment of any representation, covenant or agreement on the part of PG&E pursuant to this Agreement.
 - d) Any and all loss, damage, claims, demands, causes of action or contentions, including attorney's fees and costs and consulting and expert fees arising from this Agreement or the Northeast Annexation.
 - e) Any and all loss, damage, claims, demands, causes of action or contentions, including attorneys' fees and costs, consulting and expert fees incident to, or incurred in connection with the foregoing subsections or the enforcement of any of the indemnity obligations contained in this Agreement.
 - f) In the event the indemnities set forth herein are found to be unenforceable, the Parties agree to negotiate, in good faith, a substitute indemnity provision that embodies the intent of the original indemnity without the objectionable provisions which made it unenforceable. It is the intent of the Parties that the indemnity provisions contained herein shall survive the termination of this Agreement, unless termination occurs prior to the consummation of the transactions contemplated herein.
 - g) The foregoing indemnity of PG&E shall not apply to the extent that any claims, causes of action or damages are caused solely by the gross negligence or intentional misconduct of the City, but shall apply if any claims or damages are occasioned by the joint negligence of PG&E and other persons, including the City.
 - h) PG&E shall provide adequate insurance pursuant to the City's encroachment permit.
- 11) This Agreement is temporary, and shall expire one year of the date it is executed by both parties, unless both parties mutually agree to extend the term of this Agreement. This Agreement will terminate upon annexation of the PG&E Gateway Power Plant to the City of Antioch. The provisions in Section 10 of this Agreement shall survive expiration or termination
- 12) This Agreement shall be governed by, and construed in accordance with, the laws of the State of California and the United States, as appropriate. The parties agree that the Superior Court of the State of California, in and for the County of Contra Costa, is the proper and exclusive forum for resolution of any disputes that might arise hereunder.

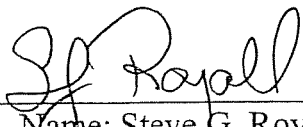
- 13) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. PG&E may not assign any aspect of this Agreement to any third party without the prior written consent of the City, which consent shall not be unreasonably withheld. The provisions of this Agreement shall be recorded against the subject property on which the Gateway Power Plant is located, with the language in the recording caption subject to the approval of the City Attorney. Such recording shall take place within 90 days of the execution of this Agreement.
- 14) If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.
- 15) This Agreement, constitutes the entire understanding among the parties hereto with respect to the transactions contemplated herein and all prior to contemporaneous agreements, understandings, representations, and statements, whether oral or written, are deemed merged into this Agreement. Neither this Agreement, nor any provisions hereof may be waived, modified, amended, discharged, or terminated except by instrument in writing signed by all parties and then only to the extent set forth in such agreement.
- 16) This Agreement may be executed in two or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Execution of duplicates and delivery by facsimile will be binding upon the Parties hereto.

IN WITNESS WHEREOF, the parties have signed this Out of Agency Service Agreement as of the date signified below.


CITY OF ANTIOCH

By: 
Name: JIM JAKES
Title: City Manager

PACIFIC GAS & ELECTRIC
COMPANY

By: 
Name: Steve G. Royall
Title: Gateway Generating Station,
Plant Manager

STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF SEPTEMBER 8, 2009

Prepared by: Victor Carniglia, Consultant 

Date: August 31, 2009

Subject: Extension to a previously approved Out of Agency Service Agreement with PG&E for the PG&E Power Plant currently in operation located at 3225 Wilbur Avenue

RECOMMENDATION

Staff recommends that the City Council take the following action:

- Adopt the attached resolution to extend for a period of one (1) year the previously approved "Out of Agency Service Agreement" with PG&E for the PG&E Gateway Power Plant located at 3225 Wilbur Avenue

BACKGROUND

On March 28, 2008 the City Council directed staff to execute an Out of Agency Services Agreement with PG&E to allow the City to provide potable water and sewer collection to the Gateway Power Plant, which was under construction at the time. Such an agreement was needed to extend City services to an area outside of the City's jurisdiction. LAFCO on April 9, 2008 subsequently authorized the City to execute the "Out of Agency Agreement". The agreement was negotiate and executed by both parties on September 9, 2008. The term of the agreement was for a one (1) year period, with any extension beyond that time subject to the agreement of both parties. It was anticipated at that time that the annexation process would be completed within the one year timeframe. While the annexation process has progressed, a hearing before LAFCO is not anticipated until January/February 2010. As a result, the Out of Agency Agreement needs to be extended. Staff is proposing that the agreement be extended for a one year period. No changes are proposed to the conditions of the agreement. Attached is a copy of the executed agreement (see Attachment B).

ENVIRONMENTAL REVIEW

A Negative Declaration, which covers the Out of Agency Agreement, was previously adopted by City Council on March 28, 2008.



9-08-09

FISCAL IMPACTS

PG&E has paid the costs of installing the necessary sewer and water lines and all required connection fees, use fees, etc. The ultimate annexation of the area has a significant potential fiscal benefit to the City, due in large part to future revenues from franchise fees and property tax.

OPTIONS

The City could deny the extension of the Out of Agency Services Agreement. If the City ceased providing potable water and sewer collection to the power plant, the power plant would likely have to cease operation.

ATTACHMENTS

- Attachment A: Resolution extending Out of Agency Service Agreement with PG&E
- Attachment B: Executed Out of Agency Agreement

RESOLUTION NO. 2009/83

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AUTHORIZING STAFF TO EXTEND FOR A ONE YEAR PERIOD THE
EXISTING OUT OF AGENCY SERVICE AGREEMENT WITH PG&E FOR THE
GATEWAY POWER FACILITY LOCATED AT 3225 WILBUR AVENUE**

WHEREAS, the City Council on March 28, 2009 authorized City staff to execute an Out of Agency Agreement with PG&E for the Gateway Power Plant located at 3225 Wilbur Avenue; and

WHEREAS, LAFCO on April 9, 2008 authorized the City to execute an Out of Agency Service with PG&E for the Gateway Power Plant; and

WHEREAS, such an agreement was executed by City staff and PG&E representatives on September 9, 2008; and

WHEREAS, an extension to this agreement is necessitated due to the amount of time needed to complete the annexation process of the area in which the Gateway Power Plant is located; and

WHEREAS, State Government Code Section 56133 allows a jurisdiction to enter into an "Out of Agency Service Agreement" to permit the provision of services on a temporary basis to property located outside of the boundaries of the jurisdiction, subject to the approval of such a request by LAFCO; and

WHEREAS, the City is authorized to submit an application for an Out of Agency Service Agreement for the Delta Diablo Sanitation District (DDSD) given the City's Co Annexation Agreement with DDSD; and

WHEREAS, a Negative Declaration has been prepared and previously approved by the City Council which adequately addresses the environmental impacts of the project.

NOW THEREFORE BE IT RESOLVED that the City Council makes the following determination:

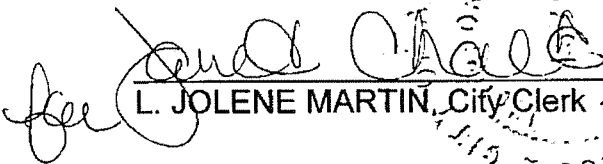
1. The City Manager is authorized to execute a one year extension to the existing Out of Agency Service Agreement between the City of Antioch and PG&E for the PG&E power plant located at 3225 Wilbur Avenue, subject to all the stipulations as contained in the existing Out of Agency Service Agreement. This extended agreement shall expire on September 8, 2010.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a hearing thereof, held on the 8th day of September, 2009, by the following vote:

AYES: Council Members Kalinowski, Rocha, Moore, Parsons and Mayor Davis

NOES: None

ABSENT: None


L. JOLENE MARTIN, City Clerk



**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF DECEMBER 27, 2012**

FROM: Jim Jakel, City Manager

DATE: December 27, 2012

SUBJECT: *Supplemental Staff Report: Agreement with PG&E*

RECOMMENDATION:

Authorize the City Manager to execute an Agreement with Pacific Gas & Electric substantially in the form attached (Attachment A) regarding PG&E's payment towards the environmental review for the Northeast Antioch Area Annexation in lieu of an annexation fee for the Gateway Power Plant.

BACKGROUND:

Since the drafting of the staff report, PG&E requested revisions to the proposed Agreement. Staff recommends accepting all of the revisions with the exception of the revisions to the fifth recital and proposes revisions to that recital as shown on Attachment A.

ATTACHMENTS:

- A. Proposed redline Agreement with PG&E with revisions made by PG&E and recommended by staff

J.C.
12/27/12

AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2012 (Effective Date”), by and between the City of Antioch a California municipal corporation (“City”), and Pacific Gas & Electric Company, a California corporation (“PG&E”).

RECITALS

WHEREAS, on June 26, 2007, the City Council authorized the submission of an application to the Local Agency Formation Commission (“LAFCO”) for annexation of Northeast Antioch Area 1 (“Northeast Antioch Area Annexation”), which included PG&E’s Gateway Power Plant; and

WHEREAS, PG&E desired that the Gateway Power Plant and associated infrastructure located at 3225 Wilbur Avenue, Antioch (“Gateway Power Plant”) be annexed to the jurisdiction of the City of Antioch and Delta Diablo Sanitation District (“DDSD”) through the Northeast Antioch Area Annexation; and

WHEREAS, given the inability to negotiate a Tax Transfer Agreement with Contra Costa County before the start of operations of the Gateway Power Plant, the parties entered into the Out of Agency Service Agreement effective September 9, 2008 for the City to provide potable water and sewer collection services to the Gateway Power Plant for one year on the assumption that the annexation would have been completed soon after the operation of the Gateway Power Plant commenced and with the understanding that PG&E would fund, design and construct the sewer and water lines to serve the Gateway Power Plant, including environmental mitigation and inspection costs, deed these improvements within the public right-of-way of the City to the City free of all liens and encumbrances, and continue to support the annexation of the Gateway Power Plant to the City and pay required annexation fees (“Out of Agency Service Agreement”); and

WHEREAS, the Out of Agency Service Agreement was set to expire by its own terms on September 9, 2009 with the exception of Section 10 of the Out of Agency Service Agreement, so the City Council adopted Resolution No. 2009/83 on September 8, 2009 to extend the Out of Agency Service Agreement for one year expiring on September 9, 2010; and

WHEREAS, since the expiration of the Out of Agency Service Agreement in 2010 with the exception of Section 10, the City has continued to pursue annexation of the area in which the Gateway Power Plant is located and has requested PG&E’s assistance in that effort and financial recognition of the benefits that the City of Antioch is providing to PG&E given that in the event the annexation is not approved yet; and

WHEREAS, as part of the annexation approval process, the City must complete an updated environmental assessment pursuant to the California Environmental Quality Act which now must address as larger annexation area as required by LAFCO; and

WHEREAS, the City has retained a consultant to prepare this updated environmental assessment and related documents that are required for this annexation, and

WHEREAS, the estimated cost to complete the updated environmental assessment and related work is \$100,000, and

WHEREAS, PG&E has agreed to contribute the estimated cost to complete the environmental assessment as advance payment of the City's annexation fee should the Northeast Antioch Area Annexation be finalized and as credit towards a portion of an appropriate community benefit required of PG&E for renewal of the expired Out of Agency Service Agreement for the Gateway Power Plant;

NOW, THEREFORE, BE IT RESOLVED by the parties that:

1. With execution of this Agreement, PG&E will provide a check to the City of Antioch in the amount of \$100,000 for the environmental and consultant costs to complete the Northeast Antioch Area Annexation.
2. Should the annexation be finalized by the issuance of a certificate of completion by LAFCO before December 31, 2017, the City of Antioch hereby accepts PG&E's payment of \$100,000 in complete satisfaction of the annexation fee for the parcels of land on which the Gateway Power Plant is located, generally known as 3225 Wilbur Avenue. If the annexation is not finalized by December 31, 2017, then PG&E's payment of \$100,000 shall be a credit against whatever annexation fee is in effect at that time.
3. PG&E agrees to continue to support the annexation of the Gateway Power Plant to the City of Antioch and DDS D as part of the Northeast Antioch Area Annexation process initiated by the City of Antioch. PG&E agrees not to file an application to annex the Gateway Power Plant to DDS D or support the annexation of the Gateway Power Plant to DDS D that does not include a concurrent annexation to the City.
4. Any notices, documents, correspondence or other communications concerning this Agreement may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; or b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO PG&E:

Plant Manager
Gateway Power Plant
3225 Wilbur Avenue
Antioch, CA 94509

IF TO CITY:

City Manager
City of Antioch
P.O. Box 5007
Antioch, CA 94531

With a copy to:

City Attorney
City of Antioch
P.O. Box 5007
Antioch, CA 94531

5. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Contra Costa, California.
6. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. PG&E may not assign any aspect of this Agreement to any third party without the prior written consent of the City.
7. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so; the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

City of Antioch

PG&E:

Jim Jakel, City Manager

Ronald A. Gawer, Sr. Plant Manager

ATTEST:

Arne Simonsen, City Clerk

APPROVED AS TO FORM:

Lynn Tracy Nerland, City Attorney

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF DECEMBER 27, 2012**

FROM: Michelle Fitzter, Human Resources/Economic Development Director 

REVIEWED

BY: Jim Jakel, City Manager

DATE: December 17, 2012

**SUBJECT: PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) CONTRACT
AMENDMENT FOR LOCAL SAFETY AND MISCELLANEOUS
MEMBERS**

**AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE SIDE
LETTERS OF AGREEMENTS WITH IMPACTED BARGAINING UNITS**

**DIRECTION TO STAFF REGARDING IMPLEMENTATION OF A
LATERAL POLICE OFFICER HIRING POLICY FOR THE PERIOD OF
JANUARY 1, 2013 – JUNE 30, 2014**

RECOMMENDATION

It is recommended that the City Council discuss and consider taking the following action:

- 1) Motion to adopt the ordinance authorizing an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch to provide Section 21363.2 (3% @ 50 Full Formula) to local Safety members, and Section 21354.5 (2.7% @ 55 Full Formula) to local Miscellaneous members employed on or after the effective date of the amendment to contract, with such ordinance being an urgency ordinance effective immediately for the immediate preservation of the public peace, health or safety.
- 2) Motion to adopt a resolution authorizing the City Manager to execute Side Letters of Agreement with impacted Recognized Bargaining Units to implement the PERS Contract Amendment.
- 3) Motion to adopt a resolution providing direction to staff regarding implementation of a lateral Police Officer hiring policy.

BACKGROUND

This is the third meeting at which the Council will discuss and consider this potential action. At the November 27, 2012, and December 4, 2012, Council meetings staff reports and presentations were provided on the policy question of whether or not the

12/27/12

City should consider returning our CalPERS retirement formulas to 3% @ 50 for Public Safety and 2.7% @ 55 for non-safety Miscellaneous member employees (these staff reports can be found as Attachments G and H). Currently the City contracts with PERS for the 3% @ 55 benefit formula for Safety employees (effective September 1, 2012), and the 2% @ 55 formula for Miscellaneous employees (effective November 9, 2007).

On November 27th the Council voted to direct staff to continue investigating the option and get the costs associated with the potential change. On December 4th, staff returned with the PERS actuarial reports outlining the costs for both the Safety and Miscellaneous benefit amendments, as well as a summary document. John Bartel, of the actuarial firm Bartel Associates was also present. At that meeting, Council adopted the Resolution of Intent to amend our contract with PERS and introduced the Ordinance. The action before Council tonight is the final step to authorize the amendment to the City's contract with PERS and return the benefit formulas to the former levels for a subset of employees already in the PERS or reciprocal systems.

- **Public Employees' Pension Reform Act (PEPRA)**

As has also been previously discussed, effective January 1, 2013, all new PERS members will be hired under the benefit formulas enacted with the Public Employees' Pension Reform Act (PEPRA). Those new formulas are 2.7% @ 57 for Safety and 2% @ 62 for Miscellaneous. Under the new statute, the only employees hired after January 1, 2013, who would be entitled to enrollment in the City's pre-2013 benefit formulas are those who are already members of CalPERS or a 1937 Act/reciprocal Retirement System and are moving over from their current public agency to Antioch. We often refer to these candidates as lateral hires. However, because we retain control of our process, should the Council or the City Manager decide at some point that the cost is too high for a new hire Police Officer that would be entitled to our original benefit formula, we can simply recruit for Police Trainee or Academy Student/Graduate, who would then be hired under the PEPRA formula.

Because this issue of controlling the number of lateral Police Officers hired has been of interest in both of the prior presentations, Attachment C to this report is a draft resolution that the Council could consider adopting. Such a resolution would implement a lateral Police Officer hiring policy, and thereby limit the number of authorized lateral hires over the next 18 months. This is a policy action that the Council can take to control the financial exposure of providing the original retirement tier to new hires once the PEPRA provisions are implemented in January, 2013. The resolution does not indicate the number of hires to be authorized, in order to allow the City Manager and the Chief to discuss the Department's needs during the staff presentation.

- **Recruitment Challenges**

As Council is aware, the question of amending the retirement formulas was raised during discussions regarding our recruitment efforts and challenges in the Police Department, specifically for sworn Police Officers. As we have previously discussed, this question was posed simply as a way to provide the City with a recruitment advantage in the marketplace – a tool in our recruitment strategy toolbox. *The City still retains the ability to determine how we recruit, who we recruit, and who we select, within legal parameters.*

Again, amending our PERS contract to return the benefit formulas to their prior levels does not mean everyone hired will receive that benefit. The City controls our actions, and at this point we have no way to predict whether or not the retirement formula will be

enough of an incentive to attract experienced, high quality candidates. As has been said many times now, it is one component of a recruitment strategy. It should also be noted, as the Council has highlighted, that the other pension reform implemented for the Safety employees, including moving to a 3-Year Average Final Compensation Period, would remain in effect. While much of this information was provided in the December 4th staff report, it is important to the consideration of this action, and to the clear understanding of the community, and therefore warrants restating.

Most of the discussion on this topic has revolved around the Police Department's need to hire Police Officers to address our immediate public safety issues in the community. We had a total of 15 positions vacant. Due to our ongoing dedicated recruitment efforts, we have been able to hire 2 new Police Officers who were Academy Graduates and 1 new Police Trainee. However, we could face up to a total of 30 vacant Officer positions within the next 12 months (30% of our currently funded positions).

It may be helpful to know that our most recent lateral Officer hires were in July, 2012. We hired two (2) Officers, both of whom were prior Antioch Police Officers who had taken positions with a neighboring jurisdiction. Of those two, one returned to the other City and one remains with us. Most recently, we have utilized an expedited interview process for lateral Officer candidates. One day in November we had five (5) candidates scheduled for interviews. All five cancelled or did not show. On December 13th we interviewed two lateral Officer candidates. Neither are expected to continue on in the recruitment process. The point is, it is not easy to attract quality lateral Police Officer candidates, and at this time the City would benefit from having many different recruitment tools available that may be attractive to high quality candidates.

While we have focused on the Police Department sworn positions, we should note that there is also a public safety consideration in several of the Miscellaneous employee classifications. For example, recruitments for Police Dispatchers, Code Enforcement staff, and Water Treatment Plant staff all have a direct nexus to the safety of our community. Attracting experienced staff that will be able to more quickly serve community needs, especially in our current environment, is imperative. More detail on all of these classifications is provided later in this report.

- **Procedures**

Because there is a one percent (1%) increase in the Employee Contribution Rate for the 2.7% @ 55 Miscellaneous formula, PERS requires an election of the impacted employees. In this case, there were 21 current employees hired under the existing formula. A secret ballot election was held on December 8th and 9th. The results were 11 employees voting yes, to move to the new formula and accept the additional Employee Contribution Rate, and 2 employees voting no. Under the PERS regulations, a majority of the impacted employees (11) would have had to vote no for the election to fail. Therefore, the election results are that the employees have elected to be subject to the new formula and increased Employee Contribution Rate. If the Council adopts the ordinance this evening, these impacted employees will begin paying a contribution rate in the same amount as the employees currently covered by the 2.7% @ 55 formula, in accordance with the applicable collective bargaining agreements.

At the December 4th Council meeting, the question was posed as to how many of these 21 employees had prior public employment before coming to Antioch. In other words, how many would be considered lateral hires. A review of the personnel files shows that 8 of these employees had prior public sector employment, while 13 did not. This question is relevant as the Council and staff attempt to extrapolate from our prior

recruitment experience how successful a recruitment tool the new retirement tier may be. However, we should keep in mind that the global Great Recession we have been experiencing since 2007 has had a significant impact on the City's revenues, and our recruitment needs. We also know that concern over our financial condition has been a deciding factor for several candidates in recent recruitments who turned down conditional offers of employment. So while this data is helpful, it may or may not be a good predictor of our future recruitment success, as the City comes out of the economic challenges of the last several years.

- **Urgency Ordinance for Public Peace, Health or Safety**

To be applicable under PEPR, the proposed ordinance must be effective by December 31, 2012. Pursuant to Government Code section 36937, an urgency ordinance is effective immediately upon passage if for the immediate preservation of the public peace, health or safety. Such ordinance requires an affirmative 4/5th's vote of the Council to pass. The action qualifies for urgency consideration due to the nexus to efforts to address our immediate public safety needs, specifically impacted by our current ability to recruit and retain Public Safety employees, both sworn and non-sworn, as well as Water Treatment Plant and Code Enforcement staff. As was stated earlier in this report, specifically for sworn Police Officer and Police Management positions, we now have 12 vacancies, with an anticipated minimum of 10 more within the next 12 months. We could be facing a vacancy rate of up to 30% of the total sworn Police staffing allocation if we are unable to successfully recruit and retain staff. We are already facing serious challenges in providing adequate public safety services at our current staffing level. If our vacancy rate increases, especially to as high as 30%, there could be a significant negative impact to our ability to respond to calls for service, let alone investigating open cases, or working with the District Attorney's Office to prosecute offenders.

As indicated by the Police Chief in his presentation at the November 13, 2012 City Council meeting (see the presentation on the City's website at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/111312/111312.pdf> and attached), all part I crimes (serious crimes) are up in Antioch with double digit increases from 2011 to 2012 (with the exception of arson) and arrests in all categories are down significantly due to the lack of staffing resources. For example, robberies have increased by 24% and aggravated assaults by 46% comparing January to September 2011 to 2012. Thefts are up 62% during this same period. There have been 10 homicides this year in the City. The safety of residents is critical and having a full-staffed, experienced Police Department is immediately needed to preserve the public safety and peace.

Without the benefit of being able to attract lateral Officers, the Police Department will be limited to recruiting entry level Police Trainees and Police academy students or graduates. There is a significant financial cost to training an inexperienced Police Officer recruit, and a significant investment of time. On average the approximate cost to train an entry level recruit is about \$60,000. It has been the Police Department's experience that approximately 50% of recruits do not succeed, which further increases costs. The Academy is six (6) months in duration, and the standard field training time for a recruit is one (1) week of administrative training and then sixteen (16) weeks of field training with a Field Training Officer. A return on the investment for a recruit Officer is not realized until they have graduated from the field training program and begin working in an independent capacity, which is usually seventeen (17) weeks.

Having the ability to recruit a lateral Officer can save up to 75% of the training time for a new Officer, not to mention the elimination of the six months at the Academy. The Police Department has been able to place a lateral Officer in an independent status in as little as (4) four weeks, which equates to a significant cost savings. In addition, from a risk management perspective there are advantages to being able to hire a lateral Police Officer. A lateral Officer is much more experienced and usually more mature than a recruit. Critical decision making skills are significantly enhanced with a lateral Officer, and they are able to provide a much safer and improved level of public safety service. In comparison to a recruit Officer with no prior experience, a lateral Officer can hit the ground running and effectively provide professional public safety service much more quickly, having a profound and positive effect on helping to reduce crime in the City of Antioch. Lastly, amending the PERS contract will afford future City policy makers the latitude and ability to attract professional and competent Police managers to fill those vacancies caused by retirements.

In a similar manner, the City's ability to respond to serious code enforcement matters has been constrained, as discussed in the report presented to the City Council on May 22, 2012 (see the report on the City's website at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/052212/052212.pdf> and attached). These code enforcement matters significantly affect the public peace, health and safety and include matters such as sewer backups and spills, uninhabitable buildings often where squatters or others make illegal electrical connections seriously increasing the risk of fire, and marijuana grow houses that create significant fire and public safety risks.

Although not as extensive as with a Police Officer, there is a great deal of training involved in getting a Code Enforcement Officer proficient and safe. Frequently, there is a criminal element associated with the more significant cases investigated by Code Enforcement Officers. Furthermore, there is a great deal of passion and emotion involved from sometimes frustrated or financially stressed property owners. This was sadly demonstrated recently in the Central Valley, when an Animal Control/Code Enforcement Officer was shot and killed simply walking to the front door of what should have been a vacant home. Earlier this year a Code Enforcement Officer in southern California was shot in the head while contacting a hoarder.

For these reasons, the ability to recruit qualified and experienced Code Enforcement Officers is critical. The experience of working in the field, with a demonstrated proficiency in dealing with difficult people and situations could take years to develop with a new, inexperienced employee with no training. That same training and experience is a benefit to the resident being served as well. Being able to identify those situations that have the potential to become public health or safety issues comes from working through those situations in the past. Lateral recruits from other cities often bring ideas and experience they have obtained from working in the field elsewhere.

Beyond traditional law and code enforcement, it is also critical to have a safe water supply by having the system operated by trained and experienced staff members. With the Water Treatment staff, there are a limited number of candidates who possess the required certifications issued by the State of California to operate the Treatment Plant. Our biggest competitors for job applicants are local special districts, Contra Costa Water District and East Bay MUD. Historically, both of these Districts have had more attractive total compensation packages than the surrounding cities who operate their own water services. We anticipate at least one retirement within the next 12-24 months, likely in the management ranks. Management classifications require even higher grade

certifications. If we were unable to successfully recruit to fill a vacancy at that level, our entire water enterprise could be in jeopardy. We are hopeful that being one of the few agencies offering experienced people the opportunity to have the 2.7% @ 55 retirement formula will provide us with a recruiting advantage for these crucial positions.

FINANCIAL IMPACT

As was discussed at the December 4th Council meeting, due to new costing methods at CalPERS, the financial impacts for the Safety and Miscellaneous plans have to be explained separately.

Attachment D is a summary of the actuarial information provided by CalPERS. You will see that the Miscellaneous Plans are listed first, then following a small break is the Safety Plan data.

- **Miscellaneous Employee Plan**

The City's FY 2013/14 combined Employer Contribution Rate for our current two retirement formula tiers (2.7% for those hired before November, 2007, and 2% for those hired since) is **23.489%**. The FY 2013/14 Employer Contribution Rate to cover all Miscellaneous employees under the 2.7% @ 55 formula is **23.687%**. The difference is **0.198%**. Here's where we start the explanation of the difference in how the cost is calculated between the Safety and Miscellaneous plans. For the Miscellaneous employees, this 0.198% increase will be applied to all of the City's Miscellaneous employee's payroll each pay period. In other words, the 0.198% cost increase does not simply get applied to the 21 employees moving from the current formula to the new formula – the cost is spread over all of the Miscellaneous payroll. That being said, the calculation results in an annual cost increase of **\$23,670**. Of this amount, **less than \$10,000** will be charged to the General Fund due to the way the Miscellaneous employee's payroll is allocated. Because the cost is spread over all of the Miscellaneous employee's payroll, the special enterprise funds will be charged proportionately to the payroll allocation. This is also true for some employees whose budget allocation indicates 100% General Fund, because some of their cost is transferred to the special enterprise funds through administrative charges. But the short answer is that the total budget impact across all of the City's funds for FY 2013/14 is **\$23,670**.

- **Safety Employee Plan**

The Safety plan is a little more complicated. CalPERS is now implementing a tiered rate structure for multi-tiered formulas. For our Safety Plan that means that the current 3% @ 50 rate will not be impacted by any changes to the retirement formula moving forward. So, all of the existing employees will fall under the FY 2013/14 rate of 31.680%. Therefore, the question becomes the cost difference between the current 3% @ 55 formula and the potential 3% @ 50 formula. The projected FY 2013/14 rate for the 3% @ 55 formula is **22.502%**. The rate for returning to the 3% @ 50 formula, but retaining the 3-year average final compensation period, will be **26.896%**. The difference is **4.394%**. However, this is where the key difference between the Safety and Miscellaneous plan cost calculations comes into play. As stated above, the Miscellaneous employee cost increase is spread over all of the Miscellaneous payroll. This is not the case for the Safety plan. The new projected rate would be applied only to the employees hired under the new formula tier.

Because until December 10th we had not hired any Safety employees, there is no increased cost to the City. In fact, our Finance Director indicated that for FY 2012/13 she budgeted all of the funded positions at the 31% rate because PERS had not yet notified the City of their new rate tiering method. So, either the 3% @ 55 or the potential new 3% @ 50 formula tier will provide the City with savings over our current costs, and budget allocations. The question really becomes how much of a savings will we realize. As was stated at the December 4th meeting, it boils down to whether we wish to realize 4.394% less of a savings in order to provide the City with this potential recruitment advantage.

In looking at a dollar impact, again we must look at it on an individual basis. Since the cost will be applied only to those eligible employees (remember, after January 1, 2013, only existing PERS or 1937 Act/reciprocal system members will be eligible), we took an example of hiring one (1) Police Officer on July 1, 2013, at Step E of the salary range. The annual PERS cost under the current 3% @ 55 formula would be \$23,054; under the possible 3% @ 50 formula it would be \$27,556; for an annual difference of **\$4,502**.

Again, since we have budgeted at the higher contribution rate, we included a higher anticipated PERS cost of \$32,457. If we retain the 3% @ 55 formula we will have an annual savings over the budgeted cost of \$9,403 (\$32,457 - \$23,054). If we move to the new potential 3% @ 50 formula, we will have an annual savings over budgeted cost of \$4,901 (\$32,457 - \$27,556). Safety employees are budgeted 100% to the General Fund.

- **Other Financial Issues**

At the December 4th meeting a couple of questions were asked that required some additional research. The first question was how much money had the City been saving by having 15 Police Officer vacancies. This is difficult to quantify because we have had a varying number of vacancies over time, up to 15 until the recent appointments were made. However, we can say that on average one (1) Police Officer's total annual compensation is budgeted at \$157,000. Breaking that down to a monthly rate would give us \$13,083 per month. Now we still cannot say that we save all of the \$13,803 for every Officer vacancy that we have, because we likely have to cover several vacant shifts on an overtime basis, which will cut into the estimated "savings."

The final question that was asked that required additional research was how much of the \$47,679 unfunded liability that will be added to the Miscellaneous Plan is included in the annual increased cost of \$23,670. According to our Actuary, John Bartel, of the \$23,670 approximately \$4,000 is to pay down the unfunded liability amount. As you may recall from the discussion at the meeting, the unfunded liability is added to the Employer Contribution Rate and amortized over a 20 year period.

ATTACHMENTS

- A. Ordinance authorizing an Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch and Draft Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch
- B. Resolution Authorizing the City Manager to Execute Side Letters of Agreement with Impacted Recognized Bargaining Units to Implement the PERS Contract Amendment

- C. Resolution Implementing a Lateral Police Officer Hiring Policy for the period of January 1, 2013 – June 30, 2014
- D. Summary of Financial/Rate Impacts for FY 2012/13; FY 2013/14; and FY 2014/15
- E. CalPERS Actuarial Report for the Safety Group at 3% @ 50 Benefit Formula
- F. CalPERS Actuarial Report for the Miscellaneous Group at 2.7% @ 55 Benefit Formula
- G. November 27, 2012 Staff Report on PERS Contract Amendment
- H. December 4, 2012 Staff Report on PERS Contract Amendment
- I. November 2012 Presentation by the Police Chief to the City Council
- J. May 22, 2012 Staff Report to the City Council regarding Code Enforcement

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY
COUNCIL OF THE CITY OF ANTIOCH AND THE BOARD OF ADMINISTRATION OF
THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

The City Council of the City of Antioch does ordain as follows:

Section 1. That an amendment to the contract between the City Council of the City of Antioch and the Board of Administration, California Public Employees' Retirement System (CalPERS) is hereby authorized, a copy of said contract being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

To provide Section 21354.5 (2.7% @ 55 Full Formula) for local miscellaneous members in employment on or after the effective date of this amendment to contract, and Section 21362.2 (3.0% @ 50 Full Formula) for local safety members.

Section 2. The Mayor of the City of Antioch is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3. This ordinance is adopted as an urgency ordinance pursuant to Government Code Section 36937 for public peace, health, or safety and shall take effect immediately upon its adoption by at least a four-fifths (4/5) vote of the City Council. The adoption of this urgency ordinance is based on the following findings as more fully set forth in the written and oral staff reports and testimony at the meetings on December 4, 2012 and December 27, 2012:

- (A) This Ordinance creates a recruitment tool to address significant public peace, health and safety issues in Antioch by providing a more attractive retirement formula that on and after January 1, 2013, will apply only to experienced lateral hires already in CalPERS or other reciprocal system.
- (B) As indicated by the Police Chief in his presentation at the November 13, 2012 City Council meeting (<http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/111312/111312.pdf>) all part I crimes (serious crimes) are up in Antioch with double digit increases from 2011 to 2012 (with the exception of arson) and arrests in all categories are down significantly due to the lack of staffing resources. Robberies have increased by 24% and aggravated assaults by 46% comparing January to September 2011 to 2012. Thefts are up 62% during this same period. There have been 10 homicides this year in the City. The safety of residents is critical and having a full-staffed, experienced Police Department is immediately needed to preserve the public safety and peace.

- (C) The City of Antioch is presently having significant difficulties recruiting experienced, qualified, quality lateral Police Officers to fill twelve (12) current vacancies. As an example, in November and December 2012 expedited interviews were scheduled for a total of seven (7) lateral Police Officer candidates. Five (5) did not appear for their scheduled interview, and two (2) did not pass the interview process.
- (D) The City of Antioch Police Department is expecting additional vacancies of at least ten (10) positions within the next twelve (12) months due to retirement. In the event that these additional positions become vacant while the existing vacancies remain, there could be up to a thirty percent (30%) vacancy rate of sworn Police positions.
- (E) If the vacancy rate for sworn Police Officer and management positions in the Police Department increases, the City of Antioch is facing a significant negative impact to our ability to provide public safety services, including responding to calls for service, investigating open cases, and working with the District Attorney's Office to prosecute offenders.
- (F) The time required before a Police Officer can be fully functioning out on the street is greatly reduced (by up to 75%) for a lateral hire versus a recruit. The Antioch Police Department has been able to put lateral hire Police Officers out on the street within four (4) weeks, instead of the seventeen (17) weeks for a Police Academy Graduate, and up to forty-three (43) weeks for a Trainee who must also attend the Academy for six (6) months.
- (G) In a similar manner, the City's ability to respond to serious code enforcement matters has been constrained, as discussed in the report presented to the City Council on May 22, 2012 (<http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/052212/052212.pdf>). These code enforcement matters significantly affect the public peace, health and safety and include matters such as sewer backups and spills, uninhabitable buildings often where squatters or others make illegal electrical connections seriously increasing the risk of fire, and marijuana grow houses that create significant fire and public safety risks.
- (H) Although not as extensive as a Police Officer, there is a great deal of training involved in getting a Code Enforcement Officer proficient and safe. Frequently, there is a criminal element associated with the more significant cases investigated by Code Enforcement Officers. Furthermore, there is a great deal of passion and emotion involved from sometimes frustrated or financially stressed property owners. For these reasons, the ability to recruit qualified and experienced Code Enforcement Officers is critical. The experience of working in the field, with a

demonstrated proficiency in dealing with difficult people and situations, could take years to develop with a new, inexperienced employee with no training. That same training and experience is a benefit to the resident being served as well. Being able to identify those situations that have the potential to become public health or safety issues comes from working through those situations in the past. Lateral recruits from other cities often bring ideas and experience they have obtained from working in the field elsewhere.

- (I) The City was unsuccessful in efforts to recruit a full-time Code Enforcement Officer, having the top three candidates reject the City's conditional offer of employment.
- (J) Beyond traditional law and code enforcement, it is also critical to have a safe water supply by having the system operated by trained and experienced staff members. With the Water Treatment staff, there are a limited number of candidates who possess the required certifications issued by the State of California to operate the Treatment Plant. Our biggest competitors for job applicants are local special districts, Contra Costa Water District and East Bay MUD. Historically, both of these Districts have had more attractive total compensation packages than the surrounding cities who operate their own water services. We anticipate at least one retirement within the next 12-24 months, likely in the management ranks. Management classifications require even higher grade certifications. If we were unable to successfully recruit to fill a vacancy at that level, our entire water enterprise could be in jeopardy.

SECTION 4. CEQA. This Ordinance is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

SECTION 5. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 6. Effective Date. This Ordinance shall take immediately as an urgency ordinance as provided by Government Code Section 36937.

SECTION 7. Publication; Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a special meeting of the City Council of the City of Antioch, held on the 4th day of December, 2012, and passed and adopted as a urgency ordinance effective immediately at a special meeting thereof, held on the 27th day of December, 2012 by at least a four-fifths vote.

MAYOR OF THE CITY OF ANTIOCH

AYES:

NOES:

ABSENT:

Attest:

CITY CLERK OF THE CITY OF ANTIOCH



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Antioch

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective July 1, 1950, and witnessed May 29, 1950, and as amended effective July 1, 1958, July 1, 1959, July 1, 1963, May 27, 1973, February 15, 1974, May 1, 1974, January 4, 1976, July 4, 1976, January 2, 1977, July 3, 1977, January 1, 1978, October 7, 1979, June 23, 1982, December 26, 1982, July 1, 1986, November 29, 1994, September 9, 2001, September 8, 2002, November 9, 2007 and September 14, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective September 14, 2012, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1950 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Police Officers (herein referred to as local safety members);
 - b. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **SCHOOL CROSSING GUARDS HIRED ON AND AFTER FEBRUARY 15, 1974;**
 - b. **POLICE TRAINEES HIRED ON AND AFTER JULY 1, 1986; AND**
 - c. **FIRE FIGHTERS ON AND AFTER JULY 1, 1975.**
6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment before and not on or after September 8, 2002 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to December 31, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
7. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment on or after September 8, 2002 and not entering membership for the first time in the miscellaneous classification after November 9, 2007 shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service prior to December 31, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after November 9, 2007 and in employment before and not on or after the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

9. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after the effective date of this amendment to contract shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
 - c. Section 20042 (One-Year Final Compensation) for local miscellaneous members and for those local safety members entering membership on or prior to September 14, 2012.
 - d. Section 20425 ("Local Police Officer" shall include employees of a police department who were employed to perform identification or communication duties on August 4, 1972 and who elected to be local safety members).
 - e. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
 - f. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members only.
 - g. Section 21335 (5% Cost-of-Living Allowance) for local miscellaneous members only.
 - h. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.

- i. Section 20614, Statutes of 1978, (Reduction of Normal Member Contribution Rate). From October 7, 1979 and until December 26, 1982, the normal local safety member contribution rate shall be 4.5%. Legislation repealed said Section effective September 29, 1980.
 - j. Section 21024 (Military Service Credit as Public Service).
 - k. Section 20475 (Different Level of Benefits). Section 20037 (Three-Year Final Compensation) is applicable to local safety members entering membership for the first time in the safety classification after September 14, 2012.
- 12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on January 2, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
- 13. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
- 14. Public Agency shall also contribute to said Retirement System as follows:
 - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
- 15. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

16. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF ANTIOCH

BY _____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date _____

Attest:

Clerk

RESOLUTION NO. 2012/XX

**RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE SIDE LETTERS OF AGREEMENT WITH IMPACTED RECOGNIZED
BARGAINING UNITS TO IMPLEMENT THE PERS CONTRACT AMENDMENT**

WHEREAS, on December 27, 2012, the City Council adopted an ordinance authorizing an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch to provide Section 21363.2 (3% @ 50 Full Formula) to local Safety members, and Section 21354.5 (2.7% @ 55 Full Formula) to local Miscellaneous members employed on or after the effective date of the amendment to contract, matching the benefit formulas to those provided to all current Safety, and most Miscellaneous employees; and

WHEREAS, adoption of these benefit formulas at this time is specifically intended to create a recruitment tool to address significant public peace, health and safety issues in Antioch by providing a more attractive retirement, that on and after January 1, 2013, would apply only to experienced lateral hires already in CalPERS or other reciprocal systems; and

WHEREAS, implementation of this contract amendment requires execution of side letters of agreement between the City of Antioch and the impacted Recognized Bargaining Units.

NOW, THEREFORE, BE IT RESOLVED that the City Manager is hereby authorized to execute Side Letters of Agreement required to implement the PERS contract amendment with the impacted Recognized Bargaining Units.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a special meeting thereof, held on the 27th day of December, 2012, by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK OF THE CITY OF ANTIOCH

RESOLUTION NO. 2012/XX

RESOLUTION IMPLEMENTING A LATERAL POLICE OFFICER HIRING POLICY FOR THE PERIOD OF JANUARY 1, 2013 – JUNE 30, 2014

WHEREAS, on December 27, 2012, the City Council adopted an ordinance authorizing an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch to provide Section 21363.2 (3% @ 50 Full Formula) to local Safety members employed on or after the effective date of the amendment to contract; and

WHEREAS, providing this retirement formula to lateral hire Police Officers will reduce the City's anticipated savings for retirement costs; and

WHEREAS, the City Council wishes to initially limit the number of Police Officer lateral hires for the period of January 1, 2013 – June, 30, 2014, without further Council authorization, to up to _____ (____); and

WHEREAS, in the event that the Police Department has qualified, quality lateral Police Officer candidates for hiring consideration above _____ (____) during this period, or due to separation of seasoned Officers there is a need to hire additional laterals, the City Manager is allowed and encouraged to return to Council to request authorization to hire above the limit established in this resolution.

NOW, THEREFORE, BE IT RESOLVED that the Police Department is authorized to hire up to ____ (____) lateral Police Officers during the period of January 1, 2013 – June 30, 2014, without further Council authorization; and

BE IT FURTHER RESOLVED that in the event the Police Department has qualified, quality lateral Police Officer candidates for hiring consideration above _____ (____) during this period, or due to separation of seasoned Officers there is a need to hire additional laterals, the City Manager should return to Council to request authorization to hire above the limit established in this resolution.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a special meeting thereof, held on the 27th day of December, 2012, by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK OF THE CITY OF ANTIOCH

Potential PERS Rate Impacts if Return to Prior Pension Formulas - December 4, 2012

| FY | Miscellaneous Plan Current Tiers Combined | Miscellaneous Plan Returning to 2.7% @ 55 (EEs Hired Since 11/07) | % Difference | Safety Plan Current 3% @ 50 Not Impacted by Possible Change in Formula (Current EEs) | Safety Plan Current 3% @ 55 (New Hires) | Safety Plan New 3% @ 50 (New Hires) | % Difference Between Current 3% @ 55 and Possible 3% @ 50 |
|---------------------|---|---|--------------|--|---|-------------------------------------|---|
| 2012/13 | 20,968 | 21,166 | 0.198 | 31,002 | 21,785 | 26,179 | 4,394 |
| 2013/14 - estimated | 23,489 | 23,687 | 0.198 | 31,680 | 22,502 | 26,896 | 4,394 |
| 2014/15 - estimated | 24,400 | 24,600 | 0.200 | 33,900 | 24,000 | 28,700 | 4,700 |

CalPERS is now implementing a tiered rate structure for multi-tier formulas. For the Safety Group this means that the current 3% @ 50 rate will not be impacted by any changes to the formula moving forward. So all of the existing employees will fall under the above rate for the current 3% @ 50 plan. The rate for any employees hired under the 3% @ 55 formula would fall under the second column above. Should the City elect to return to the 3% @ 50 formula for new hires, the third column represents the new 2nd tier rate. Therefore, the difference represents the change in potential savings per employee hired under the possible new 3% @ 50 tier, not a total impact to all of the Safety employee's PERS rates across the City.

The above Miscellaneous Employer Rate impact of 0.198% does represent the impact to all of the Miscellaneous employee payroll cost across the City. If the Employer Rate impact for the Miscellaneous Employees was calculated in the same fashion as the Safety, the impact would be 5.1% for the new hires.

Safety Example: If we hire 1 Officer on July 1, 2013 at Step E

| | |
|--|-----------------|
| Annual PERS cost for base pay for 3% @ 55 formula would be: | \$23,054 |
| Annual PERS cost for base pay for 3% @ 50 formula would be: | \$27,556 |
| Annual Difference (for 1 Officer) | \$4,502 |
| Annual Misc Rate Impact for FY 2013/14 in Dollars would be: | \$23,670 |



California Public Employees' Retirement System
Actuarial Office
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (916) 795-3240
(888) 225-7377 phone • (916) 795-2744 fax
www.calpers.ca.gov

November 30, 2012

CALPERS ID: 7701602999
Employer Name: CITY OF ANTIOCH
Rate Plan: SAFETY SECOND TIER PLAN

Dear Requestor:

A contract amendment(s) cost analysis for the valuation(s) requested and related information is enclosed.

The change in the employer contribution rate, as of the effective date of the proposed amendment, is displayed on page 3.

If you are aware of others interested in this information (i.e., payroll staff, county court employees, port districts, etc.), please inform them. Sections 20463 (b) and (c) of the California Public Employees' Retirement Law require the governing body of a public agency which requests a contract amendment cost analysis to provide each affected employee organization with a copy within five days of receipt. Likewise if a cost analysis is requested by an employee organization, the employee organization is required to provide a copy of the analysis to the public agency within five days of receipt.

This cost analysis expires December 31, 2012. The final ordinance must be adopted no later than December 30, 2012 with an amendment effective date no later than December 31, 2012. If either of these two conditions is not met, you will not be able to complete this amendment.

To complete the contract amendment process based on the enclosed analysis, you must do the following:

- Follow the Contract Amendment Request process laid out by your agency and your contracts analyst.

Important Risk Disclosure

- **The Nature of Actuarial Work:** All actuarial calculations, including the ones in this cost estimate are based on numerous assumptions about the future. This includes demographic assumptions about the percentage of your employees that will terminate, die, become disabled, and retire in each future year, and economic assumptions about what salary increases each employee receives and the most important assumption, what the assets at CalPERS will earn for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. **This means that your employer contribution retirement rate can vary dramatically with or without any benefit changes because short term experience does not conform to the long term actuarial assumptions.**

- Investment return is much more volatile than liability fluctuations and can cause employer rates to vary significantly. For example, for the past twenty year period ending June 30, 2012, returns for each fiscal year ranged from -24% to +20.7%. The impact of investment return on employer contribution rates varies significantly based on the plan's volatility index (the ratio of the market value of assets to the payroll).
- **Projected Volatility Index:** As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Even if these assumptions (terminations, deaths, disabilities, retirements, salary growth, and investment return) are exactly realized, there will be differences on a year to year basis. This year to year difference between actual experience and the assumptions is called a gain or loss which serves to lower or raise the employer's rates from year to year, respectively. So, the rates will fluctuate, especially due to the ups and downs of investment returns.

The volatility in annual employer rates may be affected by this amendment. The reason is that this amendment will require your plan to transfer into a pool with higher benefits and earlier retirement ages. This will in turn require the accumulation of more assets per member earlier in their career. Rate volatility can be measured by the ratio of plan assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two pools, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active member payroll. In a given year, when assets rise or fall 10% above or below the actuarial assumption, the pool with a volatility index of 4 experiences a dollar gain or loss of 40% of payroll while the pool with a volatility index of 8 experiences a dollar gain or loss of 80% of payroll. If this gain or loss is spread over 20 years (and we oversimplify by ignoring interest on the gain or loss), then the first pool's rate changes by 2% of pay while the second pool's rate changes by 4% of pay.

For all pools, the desired state is to be 100% funded (i.e., assets to equal accrued liability). Therefore, we disclose the ratio of accrued liability to payroll rather than assets to payroll as a measure of the pool's potential future rate volatility. The higher the ratio, the more volatile the future rate may be. The table below contains these measures of potential future rate volatility for the plan's current pool and the new pool into which it would transfer. It should be noted that these ratios increase over time but generally tend to stabilize as the plan matures.

| As of June 30, 2011 | Current Pre-Amendment Pool | New Post-Amendment Pool |
|----------------------------|----------------------------|-------------------------|
| Pool's Accrued Liability | \$ 2,061,923,933 | \$ 10,951,745,049 |
| Pool's Payroll | 225,026,216 | 949,833,090 |
| Projected Volatility Index | 9.2 | 11.5 |

Modified smoothing policy: As you no doubt are aware, the current financial market volatility has impacted the CalPERS trust fund and will impact future employer rates. The CalPERS Board has adopted a *temporary modification* to the smoothing policy which was implemented in the June 30, 2009 valuation. The modification does the following:

- Expanded the rate smoothing corridor from 80% to 120% of market value of assets (MVA) to 60% to 140% of MVA for June 30, 2009, to 70% to 130% for June 30, 2010, and back to 80% to 120% of MVA for June 30, 2011.
- Isolated and amortized gains and losses recognized on these three years using a fixed and declining 30-year period as opposed to the rolling 30-year amortization period.

Actuarial Assumptions: The CalPERS Actuarial office conducted a study and hired an independent evaluator to assess current economic assumptions. Based on the information from both studies, the CalPERS Board of Administration has adopted updated economic assumptions to be used beginning with the June 30, 2011 valuation. In particular, the recommendation based on both studies was to lower the price inflation from 3.00 to 2.75 percent.

Lowering the price inflation had a direct impact on the Investment Return and the Overall Payroll Growth assumptions. The Investment Return assumption is calculated as the sum of the price inflation and the real rate of return. Our assumed real rate of return is 4.75 percent. When added to our new price inflation of 2.75 percent, the resulting investment return is 7.50 percent. The Overall Payroll Growth is calculated as the sum of the price inflation and real wage inflation. Our assumed real wage inflation is 0.25 percent. When added to our new price inflation of 2.75 percent, the resulting overall payroll growth is 3.00 percent.

The effect of the change in assumptions on your employer contribution rate is included in this cost analysis.

The limitations on benefits imposed by Internal Revenue Code Section 415 were taken into account in this valuation. The effect of these limitations has been deemed immaterial on the overall results and no additional charge to the change in assumptions base was added.

If you have questions about the cost analysis, please call (888) CalPERS (225-7377). Please ask to speak to a contract analyst for questions about the timing of the contract amendment. Please ask to speak to me for questions about this cost analysis.



FRITZIE ARCHULETA, ASA, MAAA
Senior Pension Actuary, CalPERS

Enclosures

Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- The first was described in the risk disclosure and involves the nature of actuarial work based on demographic and economic assumptions.
- The second is the fact that the actuarial funding process produces the answer to the question of amendment cost as the sum of two separate pieces:
 1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and
 2. The increase in Past Service Cost (i.e., Accrued Liability – representing the current value of the increased benefit for all past service of eligible members) which is expressed as a lump sum dollar amount.

To communicate the total cost, the Past Service Cost (i.e., the lump sum) is converted to a percent of payroll and added to the Normal Cost to set the employer rate required for the amendment. Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. For plans that amend, the amortization period is usually 20 years.

Assets for Pooled Plans

Pooled plans at CalPERS share assets within the pool. Therefore, the concepts of a plan's assets and surplus/unfunded liability are no longer valid, with two exceptions. The first exception is the need to determine superfunded status and the second exception is the need to transfer assets between pools when a plan changes benefit formulas and must transfer from one pool to another. This transfer process is described in the section below. Replacing the concept of a plan's assets and a plan's surplus/unfunded liability are the pool's assets and surplus/unfunded liability and the concept of the plan's side fund.

The potential change to each meaningful measurement for the plan due to this potential plan amendment will be disclosed in the remaining sections of this communication.

Changes in the Present Value of Benefits

The table below shows the change in the plan's total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for *current* members of the plan (i.e., without regard to future employees). The increase in this amount must be paid by increases in future employer and perhaps future employee contributions. As such, the change in the present value of benefits due to the plan amendment represents the total "cost" of the plan amendment. Some of this total cost may be covered by additional employee contributions and/or current side fund surplus.

| | Pre-Amendment As of 06/30/2011 | Change As of 06/30/2011 | Post-Amendment As of 06/30/2011 |
|-----------------------------------|---|------------------------------------|--|
| Plan's Present Value of Benefits* | \$0 | \$0 | \$0 |

* There are no participants in the plan. This box **does not** illustrate this amendment has no cost.

Change in Superfunded Status

A plan with actuarial value of assets (AVA) in excess of the total present value of benefits is called *superfunded*, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move from being superfunded to being in an unfunded position. It is CalPERS policy to retain a plan's superfunded status throughout a fiscal year based on the most recently completed actuarial valuation regardless of plan amendments. So, superfunded status would change only on the subsequent valuation date, for the 2014/2015 fiscal year. The projected superfunded status for fiscal year 2014/2015 with and without this plan amendment is shown below.

| | Pre-Amendment Fiscal Year 2014/2015 | Post-Amendment Fiscal Year 2014/2015 |
|---------------------------|--|---|
| Plan's Superfunded Status | No | No |

Changes in Accrued Liability

The actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates this "desirable" level of funding as of that point in time. The *accrued liability* is equal to the present value of benefits less the present value of scheduled future employee contributions and future employer normal costs. That is, the present value of benefits represents the funding level needed if there are to be no future contributions and the accrued liability represents the funding level if there are to be future contributions (employee contributions and future employer normal costs). When a plan is "on schedule", only future employee contributions and future employer normal costs are needed. A plan that is "behind schedule" must temporarily increase contributions to get back on schedule and a plan that is "ahead of schedule" can temporarily reduce future contributions. If this amendment were included in the June 30, 2011 annual valuation, your plan's accrued liability would change as shown below.

| | Pre-Amendment As of 06/30/2011 | Change As of 06/30/2011 | Post-Amendment As of 06/30/2011 |
|---------------------------|---|------------------------------------|--|
| Plan's Accrued Liability* | \$0 | \$0 | \$0 |

* There are no participants in the plan. This box **does not** illustrate this amendment has no cost.

Changes in the Plan's Side Fund

Shown below is the development of the plan's projected assets to be "cashed out" of the pool it is leaving.

| Projected Pre-Amendment Amounts as of 06/30/2012 | | |
|---|----|---------------|
| 1. Plan's projected Accrued Liability without the plan amendment | \$ | 0 |
| 2. Current Pool's projected Accrued Liability | | 2,194,728,498 |
| 3. Plan's share of current Pool's projected Accrued Liability (1) / (2) | | 0% |
| 4. Current Pool's projected Actuarial Value of Assets excluding side funds | \$ | 1,895,459,577 |
| 5. Plan's share of Current Pool's projected non-side fund Assets (3) x (4) | | 0 |
| 6. Plan's projected side fund without plan amendment | | 0 |
| 7. Plan's projected total asset "cash out" of current pool at actuarial value (5) + (6) | | 0 |

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2011
SAFETY SECOND TIER PLAN FOR CITY OF ANTIOCH
CALPERS ID: 7701602999
Benefit Description: Section 21362.2: 3%@50 Full Formula for Local Safety Members

Shown below is the plan's "buy in" to the new pool and the change in the plan's side fund projected as of June 30, 2011.

| Projected Post-Amendment Amounts As of 06/30/2012 | | |
|--|----|-------|
| 1. Plan's projected Accrued Liability with plan amendment | \$ | 0 |
| 2. New Pool's projected funded ratio | | 83.8% |
| 3. Projected assets needed to "buy into" new Pool (1) x (2) | \$ | 0 |
| 4. Plan's projected total Assets Available (from (7) in table above) | | 0 |
| 5. Plan's projected new side fund (4) - (3) | | 0 |

Changes in the Initial Employer Contribution Rate

The Public Employees' Retirement Law requires rate changes due to plan amendments to be implemented immediately on the effective date of the change in plan benefits. This change is displayed as the "Change to Total Employer Rate" below. If the contract amendment effective date is on or before June 30, 2013, the change in the employer contribution rate will be added to the employer's rate for the current fiscal year.

In general, CalPERS' policy provides that, upon a plan amendment, the side fund will be broken into two components. The first component is the change in the side fund due to the plan amendment. This component will be separately amortized over 20 years. The second component of the side fund is the remaining unamortized portion of side fund as though no amendment had occurred. This pre-existing component will continue to be amortized as it was prior to the plan amendment. Finally, these two components will be added together to form a single side fund amount. The amortization period of this combined single side fund will be set to produce a single side fund payment that is as close as possible to the payment that would have resulted had the two side fund components not been combined. CalPERS amortization policies may require a further change in the amortization period known as a fresh start. These policies are contained in Appendix A of Section 2 of your 2011 annual actuarial report.

The following table shows the change in your plan's employer contribution rate for fiscal 2013/2014 due to the plan amendment. The post-amendment information shown is the actual initial contribution rate that will apply during fiscal 2013/2014 if you adopt the amendment prior to fiscal 2013/2014. The change in normal cost may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The plan's amortization of its side fund is a temporary adjustment to the employer contribution to "get the plan back on schedule" over the amortization period shown.

| | Pre-Amendment | Change | Post-Amendment |
|--|----------------------|---------------|-----------------------|
| 2013/2014 Employer Rate | | | |
| Pool's Net Employer Normal Cost | 15.811% | 1.991% | 17.802% |
| Pool's Payment on the Unfunded Liability | 4.963% | 2.403% | 7.366% |
| Surcharge for Class 1 Benefits | | | |
| a) PRSA | 1.728% | 0.000% | 1.728% |
| Phase out of Normal Cost Difference | 0.000% | 0.000% | 0.000% |
| Amortization of Side Fund | 0.000% | 0.000% | 0.000% |
| Total Employer Rate | 22.502% | 4.394% | 26.896% |
| Side Fund Amortization Period | 0 | | 0 |
| 2014/2015 Estimated Employer Rate | * | | 28.7% |

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2011
SAFETY SECOND TIER PLAN FOR CITY OF ANTIOCH
CALPERS ID: 7701602999
Benefit Description: Section 21362.2: 3%@50 Full Formula for Local Safety Members

In the above table, the Total Employer Rate is the actual initial contribution rate that will apply during fiscal year 2013/2014 if you adopt the amendment. The 2013/2014 rates do not incorporate the investment return for the fiscal year ending June 30, 2012. However, the 2014/2015 Estimated Employer Rate does incorporate this return, but assumes no demographic gains or losses.

The table below shows the change in your plan's employee contribution rate (if any) for fiscal year 2013/2014 due to the plan amendment.

| | Pre-Amendment | Change | Post-Amendment |
|-------------------------|----------------------|---------------|-----------------------|
| 2013/2014 Employee Rate | 9.000% | 0% | 9.000% |

Additional Disclosure

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes **may not** be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Please note that the cost analysis provided in this document **may not** be relied upon after July 1, 2013. If you have not taken action to amend your contract by this date, you must contact our office for an updated cost analysis, based on the new annual valuation.

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendices of the June 30, 2011 annual report. Please note that the results shown here are subject to change if any of the data or plan provisions differ from what was used in this study.

Certification

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2011 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.



FRITZIE ARCHULETA, ASA, MAAA
Senior Pension Actuary, CalPERS

Summary of Plan Amendments Valued

COVERAGE GROUP 75101

Pre-Amendment

- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 3% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by \$133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

| <u>Retirement Age</u> | <u>3% at 55 Factor</u> |
|-----------------------|------------------------|
| 50 | 2.400% |
| 51 | 2.520% |
| 52 | 2.640% |
| 53 | 2.760% |
| 54 | 2.880% |
| 55 and older | 3.000% |

Post-Amendment

- The Service Retirement benefit calculated for service earned by this group of members (applying to active members only) is a monthly allowance equal to the product of the 3% @ 50 benefit factor, years of service, and final compensation. (Final compensation is reduced by \$133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

| <u>Retirement Age</u> | <u>3% at 50 Factor</u> |
|-----------------------|------------------------|
| 50 | 3.000% |
| 51 | 3.000% |
| 52 | 3.000% |
| 53 | 3.000% |
| 54 | 3.000% |
| 55 and older | 3.000% |



California Public Employees' Retirement System
Actuarial Office
P.O. Box 942709
Sacramento, CA 94229-2709
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(888) 225-7377 phone • (916) 795-2744 fax
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November 30, 2012

CALPERS ID: 7701602999
Employer Name: CITY OF ANTIOCH
Rate Plan: MISCELLANEOUS PLAN

Dear Requestor:

A contract amendment(s) cost analysis for the valuation(s) requested and related information is enclosed.

The change in the employer contribution rate, as of the effective date of the proposed amendment, is displayed on page 3.

If you are aware of others interested in this information (i.e., payroll staff, county court employees, port districts, etc.), please inform them. Sections 20463 (b) and (c) of the California Public Employees' Retirement Law require the governing body of a public agency which requests a contract amendment cost analysis to provide each affected employee organization with a copy within five days of receipt. Likewise if this cost analysis is requested by an employee organization, the employee organization is required to provide a copy of the analysis to the public agency within five days of receipt.

This cost analysis expires July 1, 2013. A Resolution of Intention (R of I) approved by the agency governing body to amend the contract must be received by this office on or before July 1, 2013 and the amendment effective date must be before July 1, 2014. If either of these two conditions is not met, an updated cost analysis is required to amend the contract. An updated cost analysis may be available as early as November 2013.

To complete the contract amendment process based on the enclosed analysis, you must do the following:

- Follow the Contract Amendment Request process on MyCalPERS with our Retirement Contract Services Unit.
- Complete and return the adopted R of I to CalPERS on or before July 1, 2013. Adoption of the Final Resolution by this date is not required.

Important Risk Disclosure

- **The Nature of Actuarial Work:** All actuarial calculations, including the ones in this cost estimate are based on numerous assumptions about the future. This includes demographic assumptions about the percentage of your employees that will terminate, die, become disabled, and retire in each future year, and economic assumptions, about what salary increases each employee receives and the most important assumption, what the assets at CalPERS will earn for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. **This means that your employer contribution retirement rate can vary dramatically with or without any benefit changes because short term experience does not conform to the long term actuarial assumptions.**

- Investment return is much more volatile than liability fluctuations and can cause employer rates to vary significantly. For example, for the past twenty year period ending June 30, 2012, returns for each fiscal year ranged from -24% to +20.7%. The impact of investment return on employer contribution rates varies significantly based on the plan's volatility index (the ratio of the market value of assets to the payroll).
- **Projected Volatility Index:** As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Even if these assumptions (terminations, deaths, disabilities, retirements, salary growth, and investment return) are exactly realized, there will be differences on a year to year basis. This year to year difference between actual experience and the assumptions is called a gain or loss which serves to lower or raise the employer's rates from year to year, respectively. So, the rates will fluctuate, especially due to the ups and downs of investment returns.

The volatility in annual employer rates may be affected by this amendment. The reason is that higher benefits and earlier retirement ages require the accumulation of more assets per member earlier in their career. Rate volatility can be measured by the ratio of plan assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two plans, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active member payroll. In a given year, when assets rise or fall 10% above or below the actuarial assumption, the plan with a volatility index of 4 experiences a dollar gain or loss of 40% of payroll while the plan with a volatility index of 8 experiences a dollar gain or loss of 80% of payroll. If this gain or loss is spread over 20 years (and we oversimplify by ignoring interest on the gain or loss), then the first plan's rate changes by 2% of pay while the second plan's rate changes by 4% of pay.

Your plan's current volatility index (assets to payroll ratio) is 8.2. When you amend your plan, the liability changes but assets do not. So, the volatility index does not change immediately. However, as assets grow to equal your new accrued liability, your volatility index will also grow. So, we also disclose the ratio of accrued liability to payroll below to show what your future volatility index will become when you are 100% funded. The higher this ratio, the more volatile your future contribution rate will be. The table below contains these measures of potential future rate volatility. We call this the Projected Volatility Index.

| As of June 30, 2011 | Current Plan | Post-Amendment |
|-----------------------------------|----------------|----------------|
| Accrued Liability | \$ 129,429,446 | \$ 129,477,125 |
| Payroll | 11,380,100 | 11,380,100 |
| Projected Volatility Index | 11.4 | 11.4 |

It should also be noted that these ratios tend to stabilize as the plan matures. That is, all plans with no past service start their lives with zero assets and zero accrued liability – thus, asset to payroll ratio and liability to payroll ratio are equal to zero. However, as time goes by these ratios begin to rise and then tend to stabilize at some constant amount as the plan matures. Higher benefit levels and earlier expected retirements produce higher constant future ratios.

Modified smoothing policy: As you no doubt are aware, the current financial market volatility has impacted the CalPERS trust fund and will impact future employer rates. The CalPERS Board has adopted a *temporary modification to the smoothing policy* which was implemented in the June 30, 2009 valuation. The modification did the following:

- Expanded the rate smoothing corridor from 80% to 120% of market value of assets (MVA) to 60% to 140% of MVA for June 30, 2009, to 70% to 130% for June 30, 2010, and back to 80% to 120% of MVA for June 30, 2011.
- Isolated and amortized gains and losses recognized on these three years using a fixed and declining 30-year period as opposed to the rolling 30-year amortization period.

MISCELLANEOUS PLAN OF THE CITY OF ANTIOCH (CALPERS ID: 7701602999)

November 2012

Page 3

If you have questions about the cost analysis, please call (888) CalPERS (225-7377). Please ask to speak to a contract analyst for questions about the timing of the contract amendment. Please ask to speak to me for questions about this cost analysis.



FRITZIE ARCHULETA, ASA, MAAA
Senior Pension Actuary, CalPERS

Enclosures

Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- The first was described in the risk disclosure and involves the nature of actuarial work based on demographic and economic assumptions.
- The second is the fact that the actuarial funding process produces the answer to the question of amendment cost as the sum of two separate pieces:
 1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and
 2. The increase in Past Service Cost (i.e., Accrued Liability – representing the current value of the increased benefit for all past service of eligible members) which is expressed as a lump sum dollar amount.

To communicate the total cost, the Past Service Cost (i.e., the lump sum) is converted to a percent of payroll and added to the Normal Cost to set the employer rate required for the amendment. Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. For plans that amend the amortization period is usually 20 years.

Present Value of Projected Benefits

The table below shows the change in the plan's total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for *current* members of the plan (i.e., without regard to future employees). The difference between this amount and current plan assets must be paid by future employee and employer contributions. As such, the change in the present value of benefits due to the plan amendment represents the "cost" of the plan amendment.

However, for plans with excess assets some or all of this "cost" may already be covered by current excess assets.

| As of June 30, 2011 | Current Plan | Post-Amendment |
|--|--------------------|--------------------|
| Total Assets at Market Value (MVA) | \$ 93,225,214 | \$ 93,225,214 |
| Actuarial Value of Assets (AVA) | 105,248,476 | 105,248,476 |
| AVA / MVA | 112.9% | 112.9% |
| Present Value of Projected Benefits (PVB) | \$ 145,406,024 | \$ 145,640,576 |
| Actuarial Value of Assets (AVA) | <u>105,248,476</u> | <u>105,248,476</u> |
| Present Value of Future Employer and Employee Contributions (PVB – AVA) | \$ 40,157,548 | \$ 40,392,100 |
| Change to PVB | | 234,552 |

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June 30, 2011**MISCELLANEOUS PLAN FOR CITY OF ANTIOCH**

Calpers ID: 7701602999

Benefit Description: Section 21354.5: 2.7% @ 55 Full Formula for Local Miscellaneous Members

Accrued Liability

It is not required, nor necessarily desirable, to have accumulated assets sufficient to cover the total present value of benefits until every member has left employment. Instead, the actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates the "desirable" level of plan assets as of that point in time by subtracting the present value of scheduled future employee contributions and future employer normal costs from the total present value of benefits. The resulting "desirable" level of assets is called the *accrued liability*.

A plan with assets exactly equal to the plan's accrued liability is simply "on schedule" in funding that plan, and only future employee contributions and future employer normal costs are needed. A plan with assets below the accrued liability is "behind schedule", or is said to have an *unfunded liability*, and must temporarily increase contributions to get back on schedule. A plan with assets in excess of the plan's accrued liability is "ahead of schedule", or is said to have *excess assets*, and can temporarily reduce future contributions. A plan with assets (AVA) in excess of the total present value of benefits is called *superfunded*, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move all the way from being superfunded to being in an unfunded position.

The changes in your plan's accrued liability, unfunded accrued liability, and the actuarial values of assets funded ratio as of June 30, 2011 due to the plan amendment are shown in the table below.

| As of June 30, 2011 | Current Plan | Post-Amendment |
|--|---------------------|-----------------------|
| Entry Age Normal Accrued Liability (AL) | \$ 129,429,446 | \$ 129,477,125 |
| Actuarial Value of Assets (AVA) | 105,248,476 | 105,248,476 |
| Unfunded Liability/(Excess Assets) (UAL = AL – AVA) | \$ 24,180,970 | \$ 24,228,649 |
| Funded Ratio (AVA / AL) | 81.3% | 81.3% |
| Change to AL | | 47,679 |

Total Employer Contribution Rate

While the table above gives the changes in the accrued liability and funded status of the plan due to the amendment, there remains the question of what will happen to the employer contribution rate because of the change in plan provisions.

CalPERS policy is to implement rate changes due to plan amendments immediately on the effective date of the change in plan benefits. This change is displayed as the "Change to Total Employer Rate" on the following page. If the contract amendment effective date is on or before June 30, 2013, the change in the employer contribution rate should be added to the employer's current rate. In general, the policy also provides that the change in unfunded liability due to the plan amendment will be separately amortized over a period of 20 years from the effective date of the amendment and all other components of the plan's unfunded liability/excess assets will continue to be amortized separately.

However, your actuary may choose to apply different rules to plans with a current employer contribution rate of zero. The pre-amendment excess assets in these plans were sufficient to cover the employer's normal cost for one or more years into the future. A plan amendment will use up some or all of the pre-amendment excess assets. In order to maintain our goal of providing rates that are relatively stable, while taking into account known or expected future events, your actuary may decide to spread any remaining excess assets over a single number of years. This is known as a "fresh start" and will, in no case, be less than 5 years. You may call your actuary to discuss further alternative financing options. If the amendment uses up all excess assets and creates

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June 30, 2011

MISCELLANEOUS PLAN FOR CITY OF ANTIOCH

Calpers ID: 7701602999

Benefit Description: Section 21354.5: 2.7% @ 55 Full Formula for Local Miscellaneous Members

an unfunded liability (i.e., from being ahead of schedule to behind schedule), the total post-amendment unfunded liability may be amortized over 20 years.

In no case may the annual contribution with regard to a positive unfunded liability be less than the amount which would be required to amortize that unfunded liability, as a level percent of pay, over 30 years. The table below shows the change in your plan's employer contribution rate due to the plan amendment for fiscal year 2013/2014.

| As of June 30, 2011 | Current Plan | Post-Amendment |
|--------------------------------------|--------------|----------------|
| 2013/2014 Employer Rate | | |
| Payment for Normal Cost | 10.207% | 10.342% |
| Payment on Amortization Bases | 13.282% | 13.345% |
| Total Employer Rate | 23.489% | 23.687% |
| | | |
| Change to Normal Cost | | 0.135% |
| Change to Total Employer Rate | | 0.198% |
| | | |
| 2013/2014 Employee Rate | | |
| Total Employee Rate | 7.945% | 8.000% |
| Change to Total Employee Rate | | |
| 2014/2015 | | |
| Estimated Employer Rate | 24.4% | 24.6% |

In the above table, the Total Employer Rate is the actual initial contribution rate that will apply during fiscal year 2013/2014 if you adopt the amendment. The 2013/2014 rates do not incorporate the investment return for the fiscal year ending June 30, 2012. However, the 2014/2015 Estimated Employer Rate does incorporate this return, but assumes no demographic gains or losses.

Note that the change in normal cost in the table above may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The plan's payment on amortization bases shown in the table above is a temporary adjustment to the employer contribution to "get the plan back on schedule". This temporary adjustment to the employer rate varies in duration from plan to plan. For example, a plan with initial excess assets being amortized over a short period of time will typically experience a large rate increase when excess assets are fully amortized. While a plan amendment for such a plan may produce little or no increase in the employer contribution rate now, the change in normal cost due to the plan amendment will become fully reflected in the employer contribution rate as soon as initial excess assets are fully amortized.

Additional Disclosure

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes **may not** be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Please note that the cost analysis provided in this document **may not** be relied upon after July 1, 2013. If you have not taken action to amend your contract, by this date, you must contact our office for an updated cost analysis, based on the new annual valuation.

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June 30, 2011

MISCELLANEOUS PLAN FOR CITY OF ANTIOCH

Calpers ID: 7701602999

Benefit Description: Section 21354.5: 2.7% @ 55 Full Formula for Local Miscellaneous Members

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendices of the June 30, 2011 annual report. Please note that the results shown here are subject to change if any of the data or plan provisions change from what was used in this study.

Certification

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2011 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.



FRITZIE ARCHULETA, ASA, MAAA
Senior Pension Actuary, CalPERS

Fin Process Ids: Annual-389049 Base-401065 Proposal-401066

Summary of Plan Amendments Valued

COVERAGE GROUP 70001

Pre-Amendment
 No change

Post-Amendment
 No change

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June 30, 2011
MISCELLANEOUS PLAN FOR CITY OF ANTIOCH
Calpers ID: 7701602999
Benefit Description: Section 21354.5: 2.7% @ 55 Full Formula for Local Miscellaneous Members

COVERAGE GROUP 70002

Pre-Amendment
 No change

Post-Amendment
 No change

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June 30, 2011
MISCELLANEOUS PLAN FOR CITY OF ANTIOCH
Calpers ID: 7701602999
Benefit Description: Section 21354.5: 2.7% @ 55 Full Formula for Local Miscellaneous Members

COVERAGE GROUP 70003

Pre-Amendment
No change

Post-Amendment
No change

COVERAGE GROUP 70004

Pre-Amendment
No change

Post-Amendment
No change

COVERAGE GROUP 70101

Pre-Amendment

- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 2% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by \$133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

| <u>Retirement Age</u> | <u>2% at 55 Factor</u> | <u>Retirement Age</u> | <u>2% at 55 Factor</u> |
|-----------------------|------------------------|-----------------------|------------------------|
| 50 | 1.426% | 57 | 2.104% |
| 51 | 1.522% | 58 | 2.156% |
| 52 | 1.628% | 59 | 2.210% |
| 53 | 1.742% | 60 | 2.262% |
| 54 | 1.866% | 61 | 2.314% |
| 55 | 2.000% | 62 | 2.366% |
| 56 | 2.052% | 63 and older | 2.418% |

- This group of members is required to contribute 7% of reportable earnings. (Members with a modified formula contribute 7% of reportable earnings in excess of \$133.33 per month).

Post-Amendment

- The Service Retirement benefit calculated for service earned by this group of members (applying to active members only) is a monthly allowance equal to the product of the 2.7% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by \$133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

| <u>Retirement Age</u> | <u>2.7% at 55 Factor</u> |
|-----------------------|--------------------------|
| 50 | 2.000% |
| 51 | 2.140% |
| 52 | 2.280% |
| 53 | 2.420% |
| 54 | 2.560% |
| 55 and older | 2.700% |

- This group of members is required to contribute 8% of reportable earnings. (Members with a modified formula contribute 8% of reportable earnings in excess of \$133.33 per month).

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June 30, 2011**MISCELLANEOUS PLAN FOR CITY OF ANTIOCH**

Calpers ID: 7701602999

Benefit Description: Section 21354.5: 2.7% @ 55 Full Formula for Local Miscellaneous Members

Probability of Retirement for New Miscellaneous Benefit Formulas

The introduction of the three new miscellaneous formulas will affect future retirement behavior. As a result, we developed 3 sets of probability of retirements to reflect the estimated changes in retirement pattern. At this point, we cannot know the exact impact the new formulas will have. As we perform experience studies in the future, we will modify our retirement assumptions accordingly. The table below contains the new probability of retirement.

| Retirement Age | 2.5% @ 55 | | 2.7% @ 55 | | 3% @ 60 | |
|----------------|-----------|--------|-----------|--------|---------|--------|
| | Male | Female | Male | Female | Male | Female |
| 50 | 5% | 7% | 5% | 7% | 5% | 7% |
| 51 | 2% | 5% | 2% | 5% | 2% | 5% |
| 52 | 3% | 5% | 3% | 5% | 3% | 5% |
| 53 | 3% | 5% | 3% | 6% | 3% | 5% |
| 54 | 4% | 5% | 4% | 6% | 4% | 5% |
| 55 | 8% | 9% | 9% | 10% | 8% | 9% |
| 56 | 6% | 7% | 7% | 8% | 7% | 8% |
| 57 | 7% | 6% | 8% | 7% | 8% | 7% |
| 58 | 8% | 10% | 8% | 10% | 9% | 11% |
| 59 | 9% | 9% | 10% | 9% | 11% | 10% |
| 60 | 16% | 12% | 17% | 13% | 19% | 15% |
| 61 | 15% | 10% | 16% | 11% | 17% | 12% |
| 62 | 26% | 21% | 28% | 23% | 31% | 25% |
| 63 | 22% | 18% | 23% | 20% | 26% | 22% |
| 64 | 15% | 13% | 16% | 14% | 18% | 16% |
| 65 | 25% | 25% | 27% | 27% | 30% | 30% |
| 66 | 14% | 15% | 15% | 16% | 17% | 18% |
| 67 | 12% | 14% | 13% | 16% | 14% | 17% |
| 68 | 12% | 11% | 13% | 12% | 15% | 13% |
| 69 | 9% | 13% | 10% | 14% | 11% | 15% |
| 70 | 100% | 100% | 100% | 100% | 100% | 100% |

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF NOVEMBER 27, 2012**

FROM: Michelle Fitzer, Human Resources/Economic Development Director

WAS

REVIEWED

BY: Jim Jakel, City Manager

DATE: November 19, 2012

**SUBJECT: PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) CONTRACT
AMENDMENT FOR LOCAL SAFETY AND MISCELLANEOUS
MEMBERS**

RECOMMENDATION

It is recommended that the City Council discuss and consider taking the following actions:

- 1) Motion to adopt a Resolution of Intention to approve an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch to provide Section 21363.2 (3% @ 50 Full Formula) to local Safety members, and Section 21354.5 (2.7% @ 55 Full Formula) to local Miscellaneous members hired after the effective date of the amendment to contract.
- 2) Motion to introduce the ordinance by title only.
- 3) Motion to introduce the ordinance authorizing an Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City Antioch.

BACKGROUND

During labor negotiations between the City and the Antioch Police Officers' Association earlier this year, the parties agreed to amend the City's contract with PERS to provide Section 21363.1 (3% @ 55 Full Formula) and Section 20037 (Three-Year Final Compensation).

On July 24th and August 14, 2012, the Council acted to implement this contract amendment. The new benefit tier applies to all local safety members entering into membership after the effective date of the amendment to the contract, which was September 1, 2012.

As the Council is aware, currently the City is trying to hire several Police Officers to fill vacancies. Although we have continuous recruitments for Police Trainee, Police Officer Academy Graduates, and Lateral Police Officers, we continue to have difficulties in

3

11/27/12

attracting enough candidates to fill all of our vacancies. As always, there is an interest in attracting Lateral Police Officers from other agencies, for several reasons. One reason being, the amount of training time required before they can be independently out on the street is greatly reduced from that of a Trainee or Academy Graduate. In addition, the experience they have gained as an Officer provides a good foundation for responding to calls for service, situations that arise, and community needs.

In discussing the recruitment status with Chief Cantando, the idea of returning the PERS benefit formula to the prior 3% @ 50 tier was raised. As has been discussed with Council, the Public Employees' Pension Reform Act (PEPRA) recently signed into law makes significant changes to all new public employee pensions as of January 1, 2013. However, the law provides that existing members of PERS or 1937 Act retirement plans, hired by a new public agency on or after January 1, 2013, shall be placed in the hiring agencies original tier. As we stand today, our original tier for public safety employees is 3% @ 55.

In the context of our recruitment challenges, the question that was posed was whether the City should amend our PERS contract for Safety members to reinstate the 3% @ 50 benefit formula by December 31, 2012, making that our original tier under the pension reform. On and after January 1, 2013, only Lateral Sworn Police new hires would be placed in the 3% @ 50 benefit tier. In accordance with the pension reform legislation, all Trainees and Academy Graduate new hires would be placed in the new Safety Tier of 2.7% @ 57.

A quick survey of some surrounding agencies found the following:

| Agency: | Retirement Formula: |
|----------------|--|
| Benicia | 3% @ 55 – effective 6/1/11 |
| Brentwood | 3% @ 55 – effective 9/1/12 |
| Clayton | 2% @ 50 – effective 1/10/11 |
| Concord | 3% @ 50 |
| El Cerrito | 3% @ 50 |
| Fairfield | 3% @ 55 – effective |
| Hercules | 3% @ 55 – effective 12/11/11 |
| Martinez | 3% @ 55 – effective 7/1/12 |
| Pittsburg | 3% @ 55 – effective 10/31/11 |
| Richmond | 3% @ 50 |
| San Pablo | 3% @ 50 |
| San Ramon | 3% @ 55 – in progress; effective by 12/31/12 |
| Vacaville | 2% @ 50 – effective 9/1/12 |
| Vallejo | 3% @ 50 |
| Walnut Creek | 3% @ 55 – effective 11/23/12 |

The question to consider is whether reinstating the 3% @ 50 retirement benefit will be a strong enough incentive to attract quality lateral Officers from their existing agencies.

Further discussion raised the same issue of our ability to hire non-safety lateral employees, with them returning to the former retirement formula. Considering the number of vacant positions the City has citywide (more than 150 from our authorized peak of 401), in order to be equitable and competitive, should the Miscellaneous employee benefit formula be returned to 2.7% @ 55 from the current 2% @ 55? We have had 2% @ 55 in place for Miscellaneous employees since 2007.

Although many of the vacancies in the Miscellaneous positions were unfunded in FY 2012/13, looking long-term when revenues increase we will need to recruit for at least some of these positions and again, does the enhanced retirement formula provide us with an advantage to recruit quality candidates from other local agencies.

FINANCIAL IMPACT

Returning to the 3% @ 50 and 2.7% @ 55 benefit formulas will increase the City's PERS Employer Contribution Rate. This is particularly true for the Miscellaneous employee group, as we have hired some employees under the 2% @ 55 formula who would have their City service converted to the 2.7% @ 55 benefit. PERS was unable to provide the actuarial valuations at the time of the writing of this report, but they are working on them. That information is required by law to be available when the agenda item is discussed.

As this discussion arose late in the week preceding an early agenda packet, we expect to have additional information to share with the Council during the meeting on the 27th, including the actuarial valuation and Employer Contribution Rate impacts. If this information is not available by the meeting on the 27th, and Council wishes to consider this amendment, special meetings will be required for action because everything must be adopted and effective by no later than December 31, 2012.

At this time there is no way to project an actual annual dollar amount impact, as we have no way to determine how many Lateral Officers or existing Miscellaneous members will be hired over the next several years.

We should note that eventually, as employees under these enhanced retirement formulas throughout the State retire and new employees are hired under the pension reform tier, the 3% @ 50, 3% @ 55, 2.7% @ 55 and 2% @ 55 formulas will extinguish themselves through attrition.

OPTIONS

Recognizing the recruitment challenge in the Police Department as the rationale for the question, we must acknowledge that other incentives are available to attract qualified Lateral Officer candidates.

One option that could be considered is cash payment incentives, similar to the plan we had previously. Under these plans, Lateral Officer hires could be provided with a lump sum payment at the time of hire, or payments could be spread out with a smaller payment at hire, another at the completion of probation, and other payment(s) at increments as determined in the plan, up to a capped amount.

Another option to consider could be a deferred compensation contribution by the City. What we cannot do under the pension reform provisions is implement a supplemental retirement plan, such as PARS.

Of course, there is also an option to simply increase base pay to make Antioch a more attractive employer to all prospective new hires. With any of these options, the City is able to control the costs, rather than being subject to the fluctuations in the PERS Employer Contribution Rate that has been experienced in recent year.

Staff has not had sufficient time to prepare all accompanying documents as of the writing of this report. Therefore, it is very likely that additional information will be

available for discussion and documentation distributed on the night of the Council meeting.

The anticipated timing for action, should the Council wish to implement, is as follows:

- November 27, 2012 – Adopt Resolution of Intent to Amend the PERS Contract
- December 18, 2012 – Adopt Ordinance Amending the PERS Contract

In the event that PERS is unable to provide the necessary documents by the November 27th meeting, special meetings will be required. At this time those meetings will likely need to be as follows:

- December 4, 2012 – Adopt Resolution of Intent to Amend the PERS Contract
- December 26 or 27, 2012 – Adopt Ordinance Amending the PERS Contract

ATTACHMENTS

None at this time – to be provided on the dais on November 27th.

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF DECEMBER 4, 2012****FROM:** Michelle Fitzer, Human Resources/Economic Development Director **REVIEWED
BY:** Jim Jakel, City Manager**DATE:** November 29, 2012**SUBJECT: PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) CONTRACT
AMENDMENT FOR LOCAL SAFETY AND MISCELLANEOUS
MEMBERS**

RECOMMENDATION

It is recommended that the City Council discuss and consider taking the following actions:

- 1) Motion to adopt a Resolution of Intention to approve an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch to provide Section 21363.2 (3% @ 50 Full Formula) to local Safety members, and Section 21354.5 (2.7% @ 55 Full Formula) to local Miscellaneous members employed on or after the effective date of the amendment to contract.
- 2) Motion to introduce the ordinance by title only.
- 3) Motion to introduce the ordinance authorizing an Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City Antioch.

BACKGROUND

At the November 27, 2012, Council meeting a full staff report and presentation was provided on the policy question of whether or not the City should consider returning our CalPERS retirement formulas to 3% @ 50 for Public Safety and 2.7% @ 55 for non-safety Miscellaneous member employees. As was outlined in that report, the question was raised during discussions regarding our recruitment efforts and challenges in the Police Department, specifically for sworn Police Officers.

As a brief recap, the City moved to the 3% @ 55 benefit formula for Safety employees effective September 1, 2012, and the 2% @ 55 formula for Miscellaneous employees effective November 9, 2007. Effective January 1, 2013, all new PERS members will be hired under the benefit formulas enacted with the Public Employees' Pension Reform Act (PEPRA). Those new formulas are 2.7% @ 57 for Safety and 2% @ 62 for

Miscellaneous. Under the new statute, the only employees hired after January 1, 2013, who would be entitled to enrollment in the City's pre-2013 benefit formulas are those who are already members of CalPERS or a 1937 Act Retirement System and are moving over from their current public agency to Antioch. We often refer to these candidates as lateral hires.

As was discussed by the Council on November 27th, this question was posed simply as a way to provide the City with a recruitment advantage in the marketplace – a tool in our recruitment strategy toolbox. The City still retains the ability to determine how we recruit, who we recruit, and who we select. For example, should the City decide at some point that the cost is too high for a new hire Police Officer that would be entitled to our original benefit formula, we can simply recruit for Police Trainee or Academy Student/Graduate.

Amending our PERS contract to return the benefit formulas to their prior levels does not mean everyone hired will receive that benefit. The City controls our actions, and at this point we have no way to predict whether or not the retirement formula will be enough of an incentive to attract experienced, high quality candidates. Again, it is one component of a recruitment strategy. It should also be noted, as the Council highlighted during the last meeting, that the other pension reform implemented for the Safety employees, including moving to a 3-Year Average Final Compensation Period, would remain in effect.

Most of the discussion has revolved around the Police Department's need to hire 14 Officers currently, and up to a total of 30 Officers within the next 12 months (30% of our currently funded positions), to address our immediate public safety issues in the community. However, there is also a public safety consideration in several of the Miscellaneous employee classifications. For example, recruitments for Police Dispatchers, Water Treatment Plant staff, and Code Enforcement staff all have a direct nexus to the safety of our community. Attracting experienced staff that will be able to more quickly serve community needs, especially in our current environment, is imperative.

In addition to the discussion on the pension formulas, the Council expressed a specific interest in staff developing a recruitment plan that would include other potential incentives to attract skilled, highly qualified lateral applicants. Some ideas were provided in the prior staff report and some discussed at the meeting. Staff will work on developing a comprehensive draft incentive plan document, and expect to be able to present it to Council sometime after the first of the year.

Moving forward, staff advised PERS of Council's direction on November 27th to continue with the process to possibly amend the City's PERS contract to return to our prior benefit formulas for both the Safety and Miscellaneous employees. As was discussed, because of the PERS regulations that only one contract amendment can be in process at a time, the action before the Council on December 4th will be for both Safety and Miscellaneous members. Due to the short timeline, at this point there is no way to bifurcate those actions, so the choice for the Council is to amend the contract for both groups, or for neither of them.

Should the Council take action to adopt the Resolution of Intent and introduce the Ordinance, a special meeting will be required for the final adoption of the Ordinance. PERS law requires no less than 20 days between these two actions, which means the special meeting will need to be held on either December 26th or December 27th. It

would be considered an urgency ordinance, as it will become effective immediately, and will require an affirmative 4/5th's vote of the Council to pass.

FINANCIAL IMPACT

Staff continues to work with PERS to obtain the actuarial valuations which will outline the fiscal impacts of this potential action. As of the writing of this report PERS has not been able to provide these valuations. The data will be available at the December 4th meeting and an Actuary will be present to answer any questions related to the valuations.

While we anticipate an impact to the Employer Contribution rate for returning the Safety plan to the 3% @ 50 formula, there have not been any employees hired under this formula so there is no unfunded liability.

The same cannot be said for returning the Miscellaneous plan to the 2.7% @ 55 benefit formula. Staff continues to analyze the potential impacts, particularly to the General Fund. Unfortunately, staff has learned that the number of regular status employees hired under the 2% @ 55 benefit formula since its inception in November of 2007 is actually 16, not the 8 originally identified. The only good news, from the perspective of the unfunded liability calculation, is that half of those employees have been hired within the last 12 months. Therefore, the unfunded liability for that group should be negligible. But again, we cannot make an accurate evaluation of the cost until PERS provides the actuarial information and Employer Contribution rates. A full analysis of the General Fund and Enterprise Fund future costs is expected to be available at the meeting.

ATTACHMENTS – to be provided at the December 4th meeting, as CalPERS is still working on them. The attachments to the report are expected to be:

- A. CalPERS Actuarial Report for the Safety Group at 3% @ 50 Benefit Formula
- B. CalPERS Actuarial Report for the Safety Group at 2.7% @ 55 Benefit Formula
- C. Resolution of Intent to approve an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Antioch
- D. Draft Ordinance authorizing an Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City Antioch
- E. Draft Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City Antioch

ANNOUNCEMENT for



ALLAN CANTANDO
CHIEF OF POLICE

CITY COUNCIL REPORT



3rd Quarter 2012

PART 1 CRIME STATISTICS

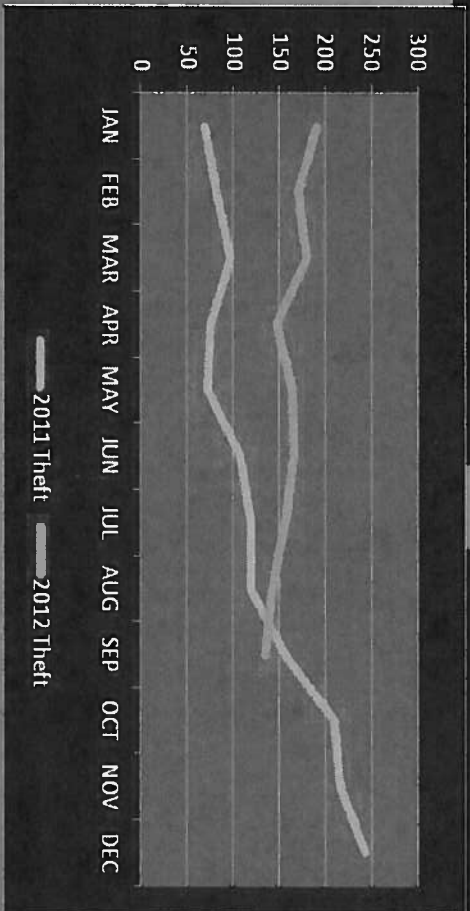
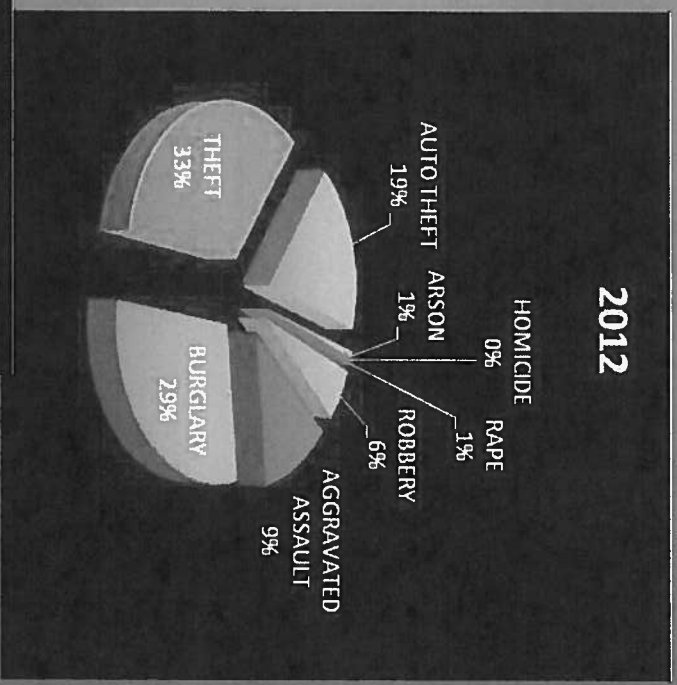
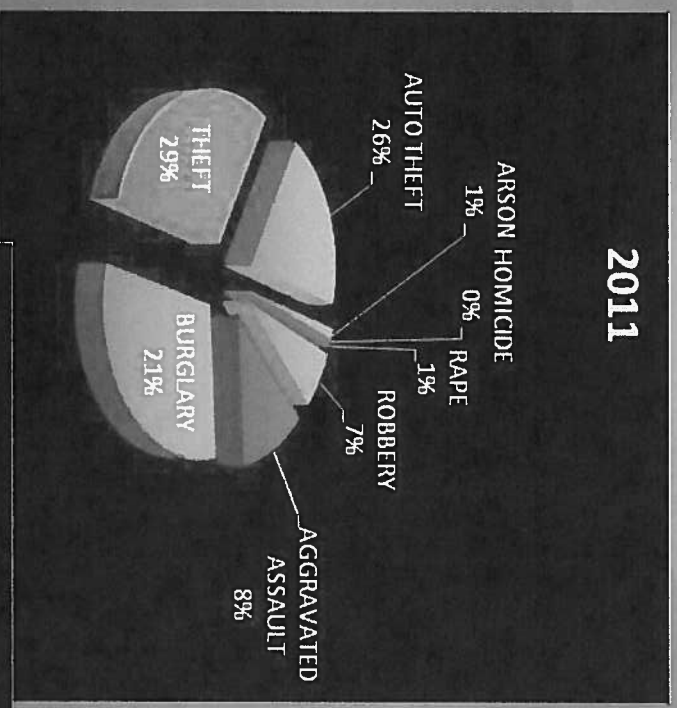
January – September 2011 vs. 2012

| PART 1 CRIME COMPARISON | | | | |
|-------------------------|---------------------|---------------------|------------------------|------------------------|
| 2011 - 2012 | | | | |
| | Jan-Sep 11 Total | Jan-Sep 12 Total | #Change 2011 - 2012 | %Change 2011 - 2012 |
| *HOMICIDE | 4 | 5 | 1 | 25.0% |
| RAPE | 18 | 24 | 6 | 33.3% |
| ROBBERY | 206 | 257 | 51 | 24.8% |
| AGGRAVATED ASSAULT | 341 | 498 | 157 | 46.0% |
| Total Violent Crime | 569 | 784 | 215 | 37.8% |
| BURGLARY | 919 | 1277 | 358 | 39.0% |
| THEFT | 900 | 1458 | 558 | 62.0% |
| AUTO THEFT | 642 | 844 | 202 | 31.5% |
| Total **Property Crime | 2461 | 3579 | 1118 | 45.4% |
| TOTAL PART 1 Crime | 3030 | 4363 | 1333 | 44.0% |
| ARSON | 36 | 32 | -4 | -11.1% |
| Adult Arrests | 2727 | 2171 | -556 | -20.4% |
| Juvenile Arrests | 716 | 679 | -37 | -5.2% |
| TOTAL ARRESTS | 3443 | 2850 | -593 | -17.2% |

*Murder & Nonnegligent Manslaughter as reported in FBI UCR tables

PART 1 CRIME STATISTICS

January – September 2011 vs. 2012



Online Reporting
Public Start
06/23/2011

PART 1 CRIME STATISTICS

2008 – 2012 COMPARISON

3 Quarters

| CITY OF ANTIOCH | | | | | | |
|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| PART 1 CRIME COMPARISON | | | | | | |
| 2008-2012 - 3 Quarters | | | | | | |
| | 2008 | 2009 | 2010 | 2011 | 2012 | |
| | Jan - Sep | Jan - Sep | Jan - Sep | Jan - Sep | Jan - Sep | Jan - Sep |
| *HOMICIDE | 5 | 4 | 7 | 4 | 5 | |
| RAPE | 23 | 36 | 23 | 18 | 24 | |
| ROBBERY | 304 | 242 | 256 | 206 | 257 | |
| AGGRAVATED ASSAULT | 310 | 416 | 393 | 341 | 498 | |
| Total Violent Crime | 642 | 698 | 679 | 569 | 784 | |
| BURGLARY | 657 | 601 | 795 | 919 | 1277 | |
| THEFT | 847 | 879 | 845 | 900 | 1458 | |
| AUTO THEFT | 499 | 614 | 646 | 642 | 844 | |
| Total Property Crime | 2003 | 2094 | 2286 | 2461 | 3579 | |
| TOTAL PART 1 Crime | 2645 | 2792 | 2965 | 3030 | 4363 | |
| ARSON | 27 | 32 | 33 | 36 | 32 | |
| Adult Arrests | 4165 | 4120 | 2976 | 2727 | 2171 | |
| Juvenile Arrests | 1273 | 956 | 847 | 716 | 679 | |
| TOTAL ARRESTS | 5438 | 5076 | 3823 | 3443 | 2850 | |

*Murder & Nonnegligent Manslaughter as reported in FBI UCR tables

UCR REPORTED PART 1 CRIME / CLEARANCES

2006 - 2012

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 9mo | *2010 Nat'l Clearance Rate |
|--------------------|------------|------------|------------|-------------|------------|-------------|------------|----------------------------|
| HOMICIDE | 10 | 10 | 8 | 5 | 13 | 5 | 5 | |
| CLEARANCE | 9 | 2 | 6 | 6 | 11 | 6 | 2 | |
| Clearance Rate | 90% | 20% | 75% | 120% | 85% | 120% | 40% | 62.5% |
| RAPE | 35 | 27 | 29 | 40 | 32 | 21 | 24 | |
| CLEARANCE | 22 | 8 | 13 | 23 | 24 | 11 | 7 | |
| Clearance Rate | 63% | 30% | 45% | 58% | 75% | 52% | 29% | 36.6% |
| ROBBERY | 285 | 411 | 398 | 315 | 313 | 290 | 257 | |
| CLEARANCE | 64 | 104 | 131 | 104 | 94 | 88 | 72 | |
| Clearance Rate | 22% | 25% | 33% | 33% | 30% | 30% | 28% | 27.6% |
| AGR ASSAULT | 327 | 412 | 440 | 537 | 506 | 502 | 498 | |
| CLEARANCE | 181 | 233 | 277 | 343 | 288 | 257 | 230 | |
| Clearance Rate | 55% | 57% | 63% | 64% | 57% | 51% | 46% | 54.0% |
| BURGLARY | 840 | 1,027 | 923 | 824 | 1,087 | 1,335 | 1,277 | |
| CLEARANCE | 88 | 113 | 112 | 72 | 87 | 98 | 88 | |
| Clearance Rate | 10% | 11% | 12% | 9% | 8% | 7% | 7% | 11.0% |
| THEFT | 1,124 | 1,146 | 1,241 | 1,082 | 1,049 | 1,571 | 1,458 | |
| CLEARANCE | 352 | 377 | 441 | 333 | 368 | 368 | 281 | |
| Clearance Rate | 31% | 33% | 36% | 31% | 35% | 23% | 19% | 20.9% |
| MVTHEFT | 880 | 949 | 686 | 747 | 960 | 967 | 842 | |
| CLEARANCE | 114 | 88 | 66 | 60 | 108 | 103 | 95 | |
| Clearance Rate | 13% | 9% | 10% | 8% | 11% | 11% | 11% | 10.0% |
| ARSON | 56 | 51 | 38 | 40 | 37 | 56 | 32 | |
| CLEARANCE | 10 | 11 | 2 | 12 | 7 | 7 | 3 | |
| Clearance Rate | 18% | 22% | 5% | 30% | 19% | 13% | 9% | 16.6% |

*<http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl25.xls>
Cites: (100,000 - 249,999)

BUREAU OF SUPPORT SERVICES

VOLUNTEER PROGRAM

January – September 2012

- APD Volunteers have worked a total of 7,857.52 hours
 - Field Services 6560.67
 - Investigations 268.30
 - Professional Standards 91.03
 - Records 937.52
- The value of the work provided is *\$183,001.64
- Decoy Patrol Car Program is functioning 6 days a week.

* Based on \$23.29 an hour

ANIMAL SERVICES KENNEL STATISTICS

| INTAKES BETWEEN 01/01/12 AND 09/30/12 | | | | |
|---------------------------------------|--------------|--------------|------------|--------------|
| | CAT | DOG | OTHER | TOTAL |
| ADOPTRT | 6 | 8 | 0 | 14 |
| DOA | 88 | 60 | 39 | 187 |
| EUTH REQ | 18 | 69 | 2 | 89 |
| OWNER SUR | 205 | 121 | 33 | 359 |
| POSS.OWNER | 20 | 344 | 3 | 367 |
| PROCT.HD | 13 | 57 | 1 | 71 |
| QUARANTINE | 4 | 22 | 0 | 26 |
| STRAY | 961 | 675 | 16 | 1,652 |
| WILDLIFE | 0 | 0 | 48 | 48 |
| TOTAL | 1,315 | 1,356 | 142 | 2,813 |

| OUTCOMES BETWEEN 01/01/12 AND 09/30/12 | | | | |
|--|--------------|--------------|------------|--------------|
| | CAT | DOG | OTHER | TOTAL |
| ADOPTION | 202 | 225 | 6 | 433 |
| DIED | 69 | 16 | 7 | 92 |
| DOA | 88 | 60 | 39 | 187 |
| EUTH | 657 | 443 | 27 | 1,127 |
| FOSTER | 74 | 30 | 3 | 107 |
| MISSING | 1 | 0 | 0 | 1 |
| RELEASE | 0 | 0 | 17 | 17 |
| RESCUE | 109 | 233 | 30 | 372 |
| RTO | 16 | 305 | 0 | 321 |
| TRANSFER | 0 | 0 | 1 | 1 |
| TOTAL | 1,216 | 1,312 | 130 | 2,658 |

| ANIMALS ADOPTED BETWEEN 01/01/12 AND 09/30/12 | | | | |
|---|-----|-----|-------|-------|
| | CAT | DOG | OTHER | TOTAL |
| ADOPTED | 200 | 225 | 6 | 431 |

Animals on hand on September 30, 2012 **322**

January – September 2012
 61 Volunteers worked 3,508.14 Hours
 *Value of work provided: \$81,704.58
 * Based on \$23.29 an hour
 Pay Pal Account Generated: \$1,000.00

INTERNAL AFFAIRS

January – September 2012

| # Complaints | Allegation | Finding |
|--------------|--------------------------|---|
| 1 | Social Network Violation | 1 - Sustained |
| 1 | Missed Court | 1 - Sustained |
| 9 | Neglect of Duty | 2 - Sustained 1 - Not Sustained 1 - No Finding 5 - Pending |
| 3 | Use of Force | 1 - Sustained 2 - Pending |
| 4 | Unlawful Search/Seizure | 2 - Exonerated 2 - Pending |
| 7 | Conduct Unbecoming | 4 - Sustained 1 - Pending 1 - Exonerated 1 - No Finding |
| 1 | False Report | 1 - Pending |
| 1 | On-Duty Auto Collision | 1 - Pending |

13 – Citizen Complaints

14 – Internal Complaints

27 – Total Investigations

GENERAL INVESTIGATION DIVISION

January – September 2011 vs. 2012

OFFENDERS SUBMITTED TO DA

| LEVEL REQUESTED | 2011 | 2012 | %CHANGE |
|--------------------|--------------|--------------|----------------|
| DIR/MIS FILE | 975 | 1311 | 34.5% |
| FEL FILE | 800 | 844 | 5.5% |
| TOTAL | 1,775 | 2,155 | 21.4% |
| LEVEL FILED | | | |
| | 2011 | 2012 | %CHANGE |
| MISDEMEANOR | 394 | 341 | -13.5% |
| FELONY | 353 | 294 | -16.7% |
| SUB TOTAL | 747 | 635 | -15.0% |
| %FILED | 42.1% | 29.5% | -30.0% |
| NCF/PENDING | 1,028 | 1,520 | 47.9% |

*Pending denotes cases not reported by DA

JUV PROBATION SUBMISSIONS

| | 2011 | 2012 | %CHANGE |
|---------------|------|------|---------|
| # CASES | 209 | 215 | 2.9% |
| # INDIVIDUALS | 301 | 263 | -12.6% |

SPECIALIZED UNITS NARCOTICS

January – September 2012

| SEARCH WARRANTS/SEIZURES | 2012 |
|---------------------------------|-------------|
| Search Warrant | 5 |
| Pro/Par Search | 19 |
| Guns Seized | 13 |
| \$\$\$\$ Seized | \$20,929.00 |
| Meth Seized (grams) | 151.13 |
| Marijuana Seized (grams) | 11,194.6 |
| Cocaine Seized (grams) | 15.3 |
| Heroin Seized (grams) | 0 |
| Ecstasy Pills | 252 |
| Clan Labs | 0 |
| Other (grams) | 0 |

MARIJUANA GROWS

8 – Call-outs

2853 – Plants Seized

SPECIALIZED UNITS INVESTIGATIONS CALL-OUTS

January – September 2012

#CALL-OUTS – 15

CHARGES/REASON

- 5 – Murder
- 1 – Manslaughter
- 1 – Justifiable Homicide
- 3 – Suspicious Deaths
- 1 – Kidnapping / Robbery
- 4 – Officer Involved Shooting

SPECIALIZED UNITS

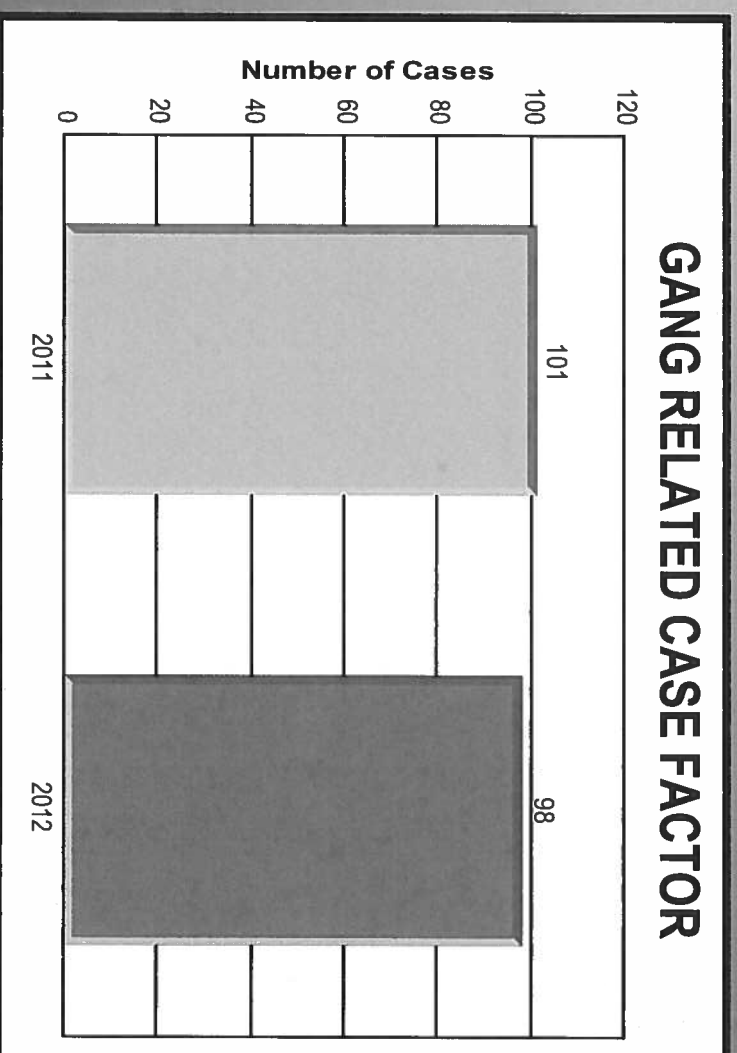
FUGITIVE APPREHENSION

January – September 2012

| | |
|------------------|----------------------------------|
| # OPERATIONS | 13 |
| # CASES Involved | 13 |
| # ARRESTED | 7 |
| CHARGES | 10 Related to Homicide Cases |
| | 3 Witness Intimidation |
| | 1 Attempt Homicide Gang shooting |
| | 1 Burglary |

SPECIALIZED UNITS GANG UNIT

January – September 2011 vs. 2012



SPECIALIZED UNITS SWAT OPERATIONS

January – September 2012

| NATURE OF DEPLOYMENT | |
|--|----------|
| ARREST WARRANTS/SEARCH: ASSAULT w/DEADLY WEAPON & ROBBERY | 1 |
| SEARCH WARRANT: NARCOTICS TRAFFICKING | 1 |
| ARREST WARRANTS/PROBATION SEARCH: HOMICIDE | 1 |
| (DEA) ARREST WARRANTS/ SEARCH: LARGE SCALE MARIJUANA CULTIVATION | 1 |
| PROBATION SEARCH: DANGEROUS GANG MEMBER | 1 |
| SEARCH WARRANT: DANGEROUS GANG MEMBER | 1 |
| SEARCH WARRANT: DRUG DEALING/WEAPONS | 1 |
| TOTAL OPERATIONS | 7 |

| OUTCOME | |
|---------------------|---|
| SUSPECTS IN-CUSTODY | 9 |

BUREAU OF FIELD SERVICES

CALLS FOR SERVICE

January – September 2011 vs. 2012

| PRIORITY | 2011 | 2012 | %CHANGE |
|---------------|---------------|---------------|-------------|
| 1 | 5,924 | 6,564 | 10.8% |
| 2 | 26,773 | 28,683 | 7.1% |
| 3 | 23,457 | 21,013 | -10.4% |
| 4 | 4,027 | 4,013 | -0.3% |
| 5 | 1,602 | 1,561 | -2.6% |
| TOTALS | 61,783 | 61,834 | 0.1% |

| HOW REC'D | 2011 | 2012 | %CHANGE |
|-----------------|---------------|---------------|-------------|
| OFFICER ON-VIEW | 7,904 | 6,032 | -23.7% |
| PHONE | 53,346 | 55,606 | 4.2% |
| *OTHER | 533 | 196 | -63.2% |
| TOTALS | 61,783 | 61,834 | 0.1% |

*Calls For Service which usually are reported at the Station, via teletype or other non-typical means.

PRIORITY 1 - RESPONSE TIMES

CALL RECEIVED TO OFFICER ARRIVED

2010-2011-2012

City of Antioch
 Priority 1 Response Times
 Receive to Arrive
 2010-2011-2012 Comparison

| Year | AVG Rec'd to Arr |
|------|------------------|
| 2010 | 00:08:00 |
| 2011 | 00:08:57 |
| 2012 | 00:11:14 |



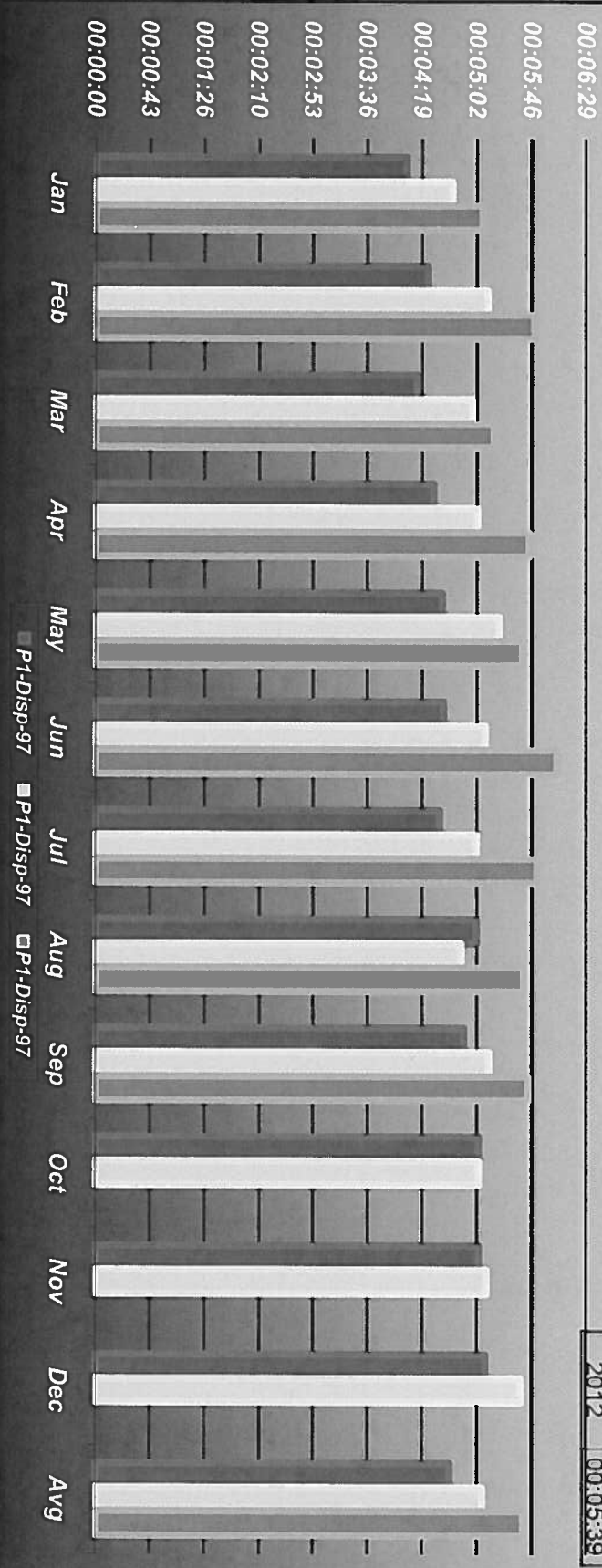
PRIORITY 1 - RESPONSE TIMES

CALL DISPATCHED to OFFICER ARRIVED

2010-2011-2012

City of Antioch
 Priority 1 Response Times
 Dispatch to Arrive
 2010-2011-2012 Comparison

| Year | AVG Dispatch to Arrive |
|------|------------------------|
| 2010 | 00:04:41 |
| 2011 | 00:05:07 |
| 2012 | 00:05:39 |



ARRESTS & CITATIONS

January – September 2011 vs. 2012

| ARRESTS | | |
|--------------|-------|--------------|
| | 2011 | 2012%CHANGE |
| Total | 3,306 | 3,042 -7.99% |

| CITATIONS | | | |
|---|-------------|-------------|----------------|
| CLASS | 2011 | 2012 | %CHANGE |
| ATMC | 196 | 162 | -17.35% |
| TRAFFIC | 2,396 | 1,454 | -39.32% |
| **PARK | 1231 | 1104 | -10.32% |
| TOTAL | 3823 | 1616 | -57.73% |
| **Includes Parking Citations Issued by VIPS | | | |
| PARK by VIPS | 468 | 468 | |

TRAFFIC

January – September 2011 vs. 2012

TRAFFIC COLLISIONS

| CLOSE CLASS | 2011 | 2012 | %CHANGE |
|--------------|--------------|--------------|--------------|
| ACCN | 1,040 | 926 | -11.0% |
| DUIX | 234 | 198 | -15.4% |
| ACCI | 114 | 192 | 68.4% |
| OTHERS | 15 | 16 | 6.7% |
| Total | 1,403 | 1,332 | -5.1% |

| | 2011 | 2012 | %CHANGE |
|---------------------------|----------|----------|------------|
| TRAFFIC FATALITIES | 4 | 6 | 50% |

K-9 Program

- The K-9 Unit is currently staffed with five K-9 teams.
- Three of these teams are P.O.S.T certified and working at full capacity.
- Two of the K-9's purchased in July developed training issues that prevented them from performing at a level commensurate with the standards of the Unit. These K-9's have since been exchanged for two new K-9's and are currently in the training/certification process with the department trainer.

K-9 Program

Fund Raising efforts for the K-9 Unit have continued and in September, the Police Department was awarded a \$4,000.00 grant from TARGET through their 2012 Public Safety Grant Program.

NEW DEVELOPMENTS

facebook

The Facebook project launched in September, 2012.
We have profiled 6 cases and solved 2 with the public's help.



Antioch Police Department

Liked · 19 September

The subject depicted in the attached photograph is a person of interest wanted for questioning by the Antioch Police Department regarding a commercial burglary. The incident took place on September 13th at Walmart in Antioch.

If you can identify the subject in the photo, please contact the Antioch Police Department Investigations Division at 925-779-6927.

To submit anonymous tips, you may also visit TipSoft.com, download the TipSoft mobile app- TipSubmit, or text CRIMES (274637) Keyword: Antioch.

Please reference Antioch Police Department case file #12-8652.

Like · Comment · Share

51 people like this.

39 shares

STAFFING

- 126 Previous Police Positions
- 86 Fulltime positions are filled
- 15 Officers are unable to work at all or in a full duty capacity primarily for medical reasons
- One of the two lateral officers we recently hired has resigned and returned to his last agency.

RECRUITMENTS AND HIRING

- ◆ We have four officer candidates in the final stages of the background processes; two are academy graduates and two are in academies. One will graduate in December and the other in March.
- ◆ The written test for the CSO recruitment was last Saturday.
- ◆ Oral Boards were conducted for police trainees and we have an eligibility list of 20 candidates.

RECRUITMENTS AND HIRING (CONT.)

- ✓ One candidate is in background for a vacancy in dispatch.
- ✓ We are currently recruiting applicants for a secretary position.
- ✓ Recruitments for police officer remain open.

Community Outreach

Coffee with the Cops

Grace Bible Fellowship

Holy Rosary

- ◆ Excellent exchange of ideas
- ◆ Developing Pilot Program for civilian tattoo removal

QUESTIONS?

**STAFF REPORT TO THE CITY COUCIL
FOR CONSIDERATION AT THE MEETING OF MAY 22, 2012**

Prepared by: Ryan Graham, Deputy Director of Community Development 

Approved by: Tina Wehrmeister, Director of Community Development 

Date: May 16, 2012

Subject: Code Enforcement Update

RECOMMENDATION

It is recommended that the Council receive and file this report and authorize the City Manager to enter into a contract to fill one Code Enforcement Officer position.

BACKGROUND INFORMATION

In September of 2011 the City Council approved the hiring of one Code Enforcement Officer using monies from the Solid Waste Fund, Abandoned Vehicle Fund, Community Development Block Grants, and the General Fund. The staff report for that meeting is included as Attachment "A".

A recruitment process was completed. After interviews, three candidates for the position declined the City's offer to move forward in the process. No other candidates were selected to move ahead. As a result, the eligibility list has been exhausted.

It is important to remember as outlined in September that enforcement efforts of this program will be violation specific. It would be irresponsible to ever consider that one person working in Code Enforcement is somehow bringing back the full breadth and scope of a fully staffed Code Enforcement Division. Instead, it is establishing a violation specific effort by the City to tackle one or two of the most prevalent and harmful violations to our community. The specificity of the violations chosen is also in direct relation to the funding sources and requirements attached to the use of those funds.

Council agreed with staff's recommendation in September that unoccupied residential properties (or those that are not legally occupied) and the accumulation of trash and debris on both occupied and unoccupied properties are top priority in violations to be enforced. The Council has recently heard public comments and media reports indicating that unoccupied or not legally occupied structures continue to be a significant problem. This is also in line with

the restrictions attached to the funding sources. There is a myriad of effective state statutes and local municipal codes currently in place to effectively address these issues when staffing is available.

The City previously contracted with a private company to provide code enforcement services to backfill while open positions were being recruited when the program was functioning. This firm is available, knowledgeable about the community, knows the City's process and case tracking program, and has a positive working relationship with various City Departments. They have staff that is well versed in dealing with vacant and foreclosed properties and can be in the field working cases in a matter of weeks. A proposed scope of work is included as Attachment "B".

It is staff's recommendation that the Council authorize the City Manager to enter into a contract to fill one Code Enforcement Officer position.

FISCAL IMPACTS

There are sufficient funds available in the funding sources approved by Council in November 2011. No additional funds are requested.

OPTIONS

Provide staff alternate direction.

ATTACHMENTS

- A: City Council staff report 9/27/11
- B: Scope of Work

ATTACHMENT "A"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF SEPTEMBER 27, 2011

Prepared by: Ryan Graham, Deputy Director of Community Development 

Approved by: Tina Wehrmeister, Director of Community Development 

Date: September 13, 2011

Subject: Code Enforcement Program Funding

RECOMMENDATION

It is recommended that the City Council receive this report and provide direction regarding Code Enforcement Program funding. If the Council decides to fund Code Enforcement, necessary formal budget amendments by resolution will be placed on a future consent calendar.

BACKGROUND INFORMATION

The City of Antioch had a fully functioning Code Enforcement Division that consisted of Neighborhood Improvement Services (traditional Code Enforcement), Residential Rental Inspection Program, Commercial Code Enforcement, and Cost Recovery. In total these programs had a staff of 11 full time employees.

As the City began to fully perceive the impacts of the economic crisis, City services were reduced to those that were required by law or directed to stay intact by Council direction. There is no state mandate that the City have a Code Enforcement program. As such, the Code Enforcement Division as well as others endured several rounds of layoffs and ultimately became completely unstaffed.

The continued economic downturn coupled with the devastating effect of home foreclosures and their negative impact on neighborhoods and an unstaffed Code Enforcement Division seems to have come together in a "Perfect Storm" of circumstances. At this time, the City has one staff person who can be pulled from other duties to handle extreme emergency code enforcement cases as they arise. No one is assigned to day to day enforcement activities. Staff has developed a referral list for residents listing some services provided by outside agencies to help pick up some of the slack but in no way does this compare to having a fully staffed and functioning Code Enforcement Division of our own.

As directed during budget adoption, staff has been working to identify funding sources to bring back any component of Code Enforcement. It is important to realize the objective of this report. Below several options will be presented with the intent of funding one Code Enforcement position. This position's enforcement effort will need to be violation specific. It would be irresponsible to ever consider that one person working in Code Enforcement is somehow bringing back the full breadth and scope of a fully staffed Code Enforcement Division. Instead, it is establishing a violation specific effort by the City to tackle one or two of the most prevalent and harmful violations to our community. The specificity of the violations chosen is also in direct relation to funding opportunities and requirements attached to the use of those funds.

3
9-27-11

AI

With that said, it is very apparent to staff from site inspections, community input, complaints and general observations that unsecure, unoccupied residential properties and the accumulation of trash and debris on both occupied and unoccupied properties are top priority in violations to be enforced. There is a myriad of effective state statutes and local municipal codes currently in place to effectively address these issues if staffing is approved.

FINANCIAL IMPACT

At this time, there is no eligible recall list for the position of Code Enforcement Officer. There are several reputable companies that provide contract Code Enforcement Officers. There is also the possibility of some sort of job sharing agreement with other local agencies. Market analysis shows that a private Code Enforcement contractor and a local agency job sharing agreement are financially comparable at around \$100 an hour. With no certainty of continued funding sources staff does not believe it is prudent to explore hiring a full time employee at this time.

The City previously contracted with a private company to provide code enforcement services to backfill while open positions were being recruited when the program was functioning. This firm is available, knows the City's process and case tracking program, and has a positive working relationship with various Departments. The programs discussed in this report could be started up faster if a contract is entered with this firm under the Sole Source provisions of the City's purchasing policy. Alternatively, an RFP could be issued which would take additional time to prepare and review proposals. There would also be an increase to start up time related to training someone with no prior experience working in the City.

The City has a vehicle that can be used by a Code Enforcement Officer. A fuel budget of \$2,400 a year would need to be secured. An additional \$2,000 in operating costs such as postage and supplies will also be required.

Staff was asked to look at several funds as potential available funding sources. A discussion of each is provided below:

POTENTIAL AVAILABLE FUNDING SOURCES

- *Solid Waste Fund – \$40,000*

Solid waste funds can be used to pay for enforcement efforts related to trash, debris, illegal dumping and other solid waste complaints. City wide Code Enforcement efforts related to solid waste can be charged to this fund.

- *Abandoned Vehicle Fund Program – \$80,000*

The City of Antioch belongs to the Contra Costa Abandoned Vehicle Abatement Service Authority that was established under AB-4114. It has been in existence since 1991 and the legislation allowed 18 Contra Costa cities and the County of Contra Costa to join together and form a service authority to oversee a fund to be used for the removal of abandoned, wrecked, and inoperable vehicles. The revenue was generated by assessing a fee of 1 dollar per vehicle for all vehicles registered in the county. Antioch receives a portion of that fee annually however the program will sunset in 2012. City wide Code Enforcement efforts on these issues can be charged to this fund.

- *CDBG – \$51,000*

The Housing Revolving Loan Fund and Program Income currently have approximately \$51,000 available. These funds are available immediately and can be used to fund Code Enforcement activities in designated low income areas (Attachment "A") that prevent further deterioration of the housing stock, keep our lower income neighborhoods clean and sanitary, and improve living conditions for the thousands of residents living in these areas. Staff estimates that approximately \$30,000 will be available annually in this fund. CDBG Revolving Loan Fund program income is comprised of payments or payoffs of CDBG-funded housing rehabilitation loans. These are most often received when the elderly homeowners refinance or when the title transfers. Housing Revolving Loan funds must be spent only on housing-related activities. This funding source would also be subject to the CDBG funded Code Enforcement program scope discussed below.

FUTURE POTENTIAL FUNDING SOURCES AND PROGRAM INCOME

- *CDBG Application*

An application for funding Code Enforcement through the normal 2 year CDBG grant cycle will be submitted in December 2011. The Council Subcommittee will consider all applications for funding and bring recommendations to Council in April 2012, for funding July 1, 2012. Staff's recommendation is to fund Code Enforcement activities in lower income areas at 20% of the CDBG entitlement grant amount annually, in order to establish a stable funding stream. To illustrate the amount of money that would be utilized for Code Enforcement, the City received \$658,846 in CDBG funds in 2011-12. If Code Enforcement activities were funded this year at 20%, the amount of funding would be \$131,770.

Funding Code Enforcement at 20% is a measured decision based on research of some of the surrounding areas with similar issues. For example, the City of Pittsburg funds Code Enforcement at 23%, Concord at 10%, and the City of San Jose at 18%. 20% should be acceptable to HUD for Code Enforcement. Funding Antioch Code Enforcement at 20% of the annual grant amount and also utilizing the Housing Revolving Loan Fund and program income that comes in each year enables the City, as stated above, to prevent further deterioration of the housing stock, keep our lower income neighborhoods clean and sanitary, and improve living conditions for the thousands of residents living in these areas.

A specific Code Enforcement program will be necessary in order to use CDBG funds within the areas shown in Attachment "A". This program will identify deteriorating or deteriorated areas where such enforcement, together with public improvements, rehabilitation and services to be provided, may be expected to arrest the decline of the area. The Antioch Development Agency has a Housing Rehabilitation program that can assist homeowners by helping them financially to afford essential repairs and disability improvements, preserving the housing stock. The Agency also has a Multi-Family Housing Rehabilitation program that can assist apartment owners in maintaining their properties in safe conditions. Code Enforcement personnel will be tasked with making referrals when they note such deficiencies as may be addressed through these programs. Note that funding for these programs may need further discussion and may need to also be funded by CDBG depending on the outcome of the redevelopment lawsuit.

Code Enforcement will not only deal with deteriorated housing stock, but also with other neighborhood issues and public nuisances that result in the deterioration of lower income areas. For example, excess foliage and underbrush provides a place for vermin and criminals to hide and encourages illicit activity. Accumulation of garbage leads to pests, vermin, cockroaches, and other vectors. Empty housing attracts trespassers and vandals, and the resulting high

crime rate can constitute a serious threat to the public safety and welfare. Empty housing stock with pools can constitute a serious danger that is attractive to youth and children, and can prove to be a breeding ground for mosquitoes.

Finally, lower income areas which are predominately located in Antioch's oldest part of the city, may also have deteriorated or deteriorating infrastructure, such as sidewalks that are missing or uplifted, unsafe, or lacking accessibility by the mobility impaired, drainage issues, sewage issues, and other infrastructure problems. Such deficiencies have been identified by the City's Engineering department and will also be reported by Code Enforcement staff, and an annual plan of coordinated services to address neighborhood issues will be developed and included in the grant application each year.

By enforcing City codes with CDBG funds, the City of Antioch has an opportunity to work together with the community to clean up neighborhoods and maintain a healthy and safe living environment. This can reduce crime, protect the health and well-being of residents, help maintain property values, address unsafe and unsanitary conditions, arrest the deterioration of the site and housing stock, and address conditions that endanger life or property by fire or other causes.

- *New Inspection Fee Procedure*

Currently there are no fees charged to a property owner to recoup the cost of initial inspections. This is not to be confused with Citation fees that are already in place. Citations are used as an enforcement tool and are not intended to be used to recoup the cost of performing inspections. Staff believes inspection fees are important to recoup the real cost of performing Code Enforcement inspections with nonresponsive or negligent property owners. The Master Fee Schedule currently has a Code Compliance Inspection Fee of \$125. Since this fee is already established there is no action needed by Council. Below is the due process legally required to take a Code Enforcement Case with no compliance from the initial inspection to end where the City can ultimately abate the violation.

- Initial Inspection – Violation confirmed and Notice of Violation Mailed
- Follow Up Inspection – Violation Cleared Case Closed / Not Cleared Issue Cite #1
- Follow Up Inspection – Violation Cleared Case Closed / Not Cleared Issue Cite #2
- Follow Up Inspection – Violation Cleared Case Closed / Not Cleared Issue Cite #3
- Abate Property with Warrant from Superior Court

When the Initial Inspection is performed there is obviously no inspection fee imposed. Similarly, at the first follow up inspection if the violation is cleared no inspection fee is imposed to the homeowner. However, if the case progresses beyond the first follow up inspection the property owner will then be charged inspection fees for each inspection from the initial inspection to the point where the violation is cleared and the case closed. Of course, if follow up inspections were needed to clear minor compliance issues or similar situations where the home owner is diligently working to clear the violation no inspection fee would be imposed. The intent is to recoup the cost of inspection from nonresponsive property owners which historically have proven to be the most time consuming cases. Effective cost recovery measures are already in place to recoup citations and abatement cost. The new inspection fee procedure does not require any action from council to be implemented. It is staffs intention to start this procedure unless otherwise directed by council.

CDBG regulations require that any fees collected by CDBG funded Code Enforcement actions be returned to that fund as program income. These funds must then be returned to the Code Enforcement program and spent before drawing down other CDBG funds.

OPTIONS

- Direct the City Manager and Community Development Director to use the funds as outlined in this report to fund a Code Enforcement program which will be limited by the various funding requirements.
- Provide staff with other means of funding.
- Take no action.

ATTACHMENTS

- A. Map of designated CDBG eligible area

3. CONSIDERATION OF FUNDING LIMITED CODE ENFORCEMENT PROGRAM

Deputy Director of Community Development Graham presented the staff report dated September 13, 2011 recommending the City Council receive the report and provide direction.

Deputy Director of Community Development Graham clarified it would take approximately 60-90 days for the RFP process to engage a code enforcement consultant and additional time for training a Code Enforcement employee.

Mayor Davis felt it was important to implement the program immediately and thanked Deputy Director of Community Development Graham for the report.

In response to Councilmember Rocha, City Attorney Nerland stated staff would address the question regarding a business license tax for people who own multiple residential properties.

Councilmember Harper spoke in support of implementing a Code Enforcement Program and stated he would like the program staffed by one fulltime and one part time employee or two full time employees.

In response to Councilmember Kalinowski, Deputy Director of Community Development Graham clarified the \$100.00/per hour cost proposed by the consultant included salary, benefits and overhead costs for one fulltime employee. He added the City's billable rate for a Code Enforcement Officer was \$118.00 per hour.

Councilmember Kalinowski stated he felt the hourly rate was excessive and if the City moved forward he would like to see the RFP justify the rate.

Councilmember Agopian thanked staff for the comprehensive report. He suggested exploring a hybrid program to maximize the funds available. He voiced his support to enhance the program citywide with the use of \$100,000-120,000 of GenOn funding.

Terry Ramus and Sean Wright, representing the Antioch Chamber of Commerce, provided the City Council with a two page summary of opportunities for the business community to prevent code enforcement/blight issues within the City. He noted in cooperation with store managers the City could implement requirements, such as locking spray paint cans, which would allow the companies to come forth with the funds needed.

Mayor Davis thanked Mr. Ramus and Mr. Wright for bringing the issue forward and stated the subcommittee working with Economic Development could address commercial code violations and prevention strategies.

Councilmember Agopian commended Mr. Ramus for taking initiative to bring the issue forward and suggested the graffiti subcommittee be reconfigured to cover blight issues and work with the Chamber of Commerce to develop recommendations for code enforcement.

In response to Councilmember Kalinowski, Finance Director Merchant clarified the top step code enforcement officer salary and benefits was \$57-58 per hour, however the City would bill out \$118.00 to recoup overhead costs.

Following discussion the City Council provided the following direction:

- Limited code enforcement should be funded
- Focus violations specific to vacant unsecure property and trash and debris investigations
- Make sure funding sources from abandoned vehicles was appropriately targeted
- Inspection fees shall be implemented
- Explore timeline for RFP and HR alternative as soon as possible (include possible funding for temporary employee to assist in the HR process)

On motion by Councilmember Agopian, seconded by Councilmember Harper, the City Council unanimously received the report.

Consensus of the City Council agreed to hear agenda item #5 as the next item of business.

ATTACHMENT "B"

Scope of work

PROPOSED SCHEDULE

Our proposed schedule is as follows.

Code Enforcement Services: *Full-time, enforce municipal codes and other applicable codes related to nuisance, zoning, building, pest infestation, noise, blight, graffiti, signage, junk and debris, abandoned or inoperable vehicles on private property, housing, and related abatement activities. Review present ordinances, Prepare Policies and Procedures and Forms. Train Code Enforcement officers if needed.*

Interwest understands the need for staffing flexibility. As workloads increase, additional Interwest staff can be placed onsite to assist and augment existing staff. As development processing is cyclical, any decrease in workload can be offset by a decrease in our presence.

If additional hours or services are needed due to workload or desired by the City we will work with the City on mutually agreed upon staffing requirements and compensation.

FEES FOR SERVICE

Services will be billed at the following hourly rates:

| CLASSIFICATION | HOURLY BILLING RATE |
|--|----------------------------|
| Housing Inspector/Code Enforcement Officer | \$85.00 |
| Overtime | 25% of Above Listed Rates |

Rates are typically reviewed yearly on July 1 and may be subject to revision unless under specific contract obligations. No overtime will be charged without prior authorization by client.

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 27, 2012**

Prepared by: Jim Jakel, City Manager 
Date: December 20, 2012
Subject: USE AGREEMENT WITH CONGRESSMAN MCNERNEY'S
OFFICE FOR OFFICE SPACE AT THE ANTIOCH COMMUNITY
CENTER

RECOMMENDATION

It is recommended that the City Council approve or deny the Use Agreement with Congressman McNerney's Office for office space at the Antioch Community Center.

BACKGROUND INFORMATION

Due to the recent redistricting, Congressman McNerney's existing office space located in Pleasanton is no longer in his district so he is required to relocate no later than January 3, 2013. A representative from Congressman McNerney's Office approached Staff earlier this month about finding a City-owned building that met their needs, and based on the criteria provided by the representative (i.e., minimum square footage, restroom accessibility, conference room availability, etc.), the only City-owned building that satisfactorily met their criteria was for 2139+/- square feet of office space located at the Antioch Community Center (see *Exhibit A*).

Though the amount of revenue that would be generated by the Agreement – \$3,000 per month, or \$36,000 per year – falls below the Purchasing Policy threshold as set by the City Council, due to several requirements exposing the City to risk that the U.S. House of Representatives Office of General Counsel is by law unable to negotiate, Staff felt it appropriate to bring the matter before the City Council for its consideration.

Because they are somewhat of a departure from most traditional commercial lease and use agreement provisions, the non-negotiable requirements of the U.S. House of Representatives Office of General Counsel that are worth noting include:

- No security deposit allowed.
- The federal government will not indemnify the City (which means that the General Fund would need to cover any legal fees necessary for the City to defend itself in the event a lawsuit was brought against it, even if the lawsuit that arose was "out of or in any way connected with Congressman McNerney's Office's operations under the Agreement."). At no time in recent history has the City agreed to forgo this indemnification requirement in a Use Agreement.

- The federal government will not accept liability for damages arising from the negligence of any of its unpaid interns, volunteers or visitors to the office, and will only accept liability for damages arising out of the negligence of its employees.
- If applicable, the federal government will not pay any Possessory Interest bills if any are received from the Contra Costa County Assessor's Office.
- Because it is fully self-insured, the federal government will not provide a Certificate of Insurance.

FINANCIAL IMPACT

The proposed Use Agreement is for an initial one-year (1-year) term at \$3,000 per month, or \$36,000 per year; following the one-year expiration of the Use Agreement, the Agreement would convert to month-to-month and remain at the \$3,000 per month rate.

OPTIONS

- Approve the Use Agreement
- Do not approve the Use Agreement

EXHIBITS

- A: Delineated Office Space Plans
- B: Inventory of City-Owned Furniture and Equipment
- C: Proposed Use Agreement
- D: Rep. McNerney District Office Lease FTCA Letter
- E: District Office Lease Attachment



225 Main Avenue
Berkeley, CA 94710
510 845 8275
fax 510 845 1008

PREWETT PARK COMMUNITY FACILITIES PROJECT



BID DOCUMENTS

SHEET TITLE:
**LAYOUT PLAN
PARTIAL - WEST**

| NO. | DATE | DESCRIPTION |
|-----|------|-------------|
| | | |

DATE: JANUARY 27, 2000
DRAWN: TC, AL, DL
CHECKED: MH, TC
SCALE: AS SHOWN
JOB NO: 2719
SHEET NUMBER:

A2.01

PARTITION TYPE LEGEND

| | | |
|----------------|---------------|------------------|
| FRAMING SIZE | 1.5" S | 4.1" S |
| 10" 12" | | |
| 8" 6" | | |
| 4" 4" | | |
| PARTITION TYPE | 25" INDICATES | STRUCTURAL STUDS |
| | INSULATION | A. ACoustICAL |
| | | THERMAL |

EXT. WALL TYPE LEGEND

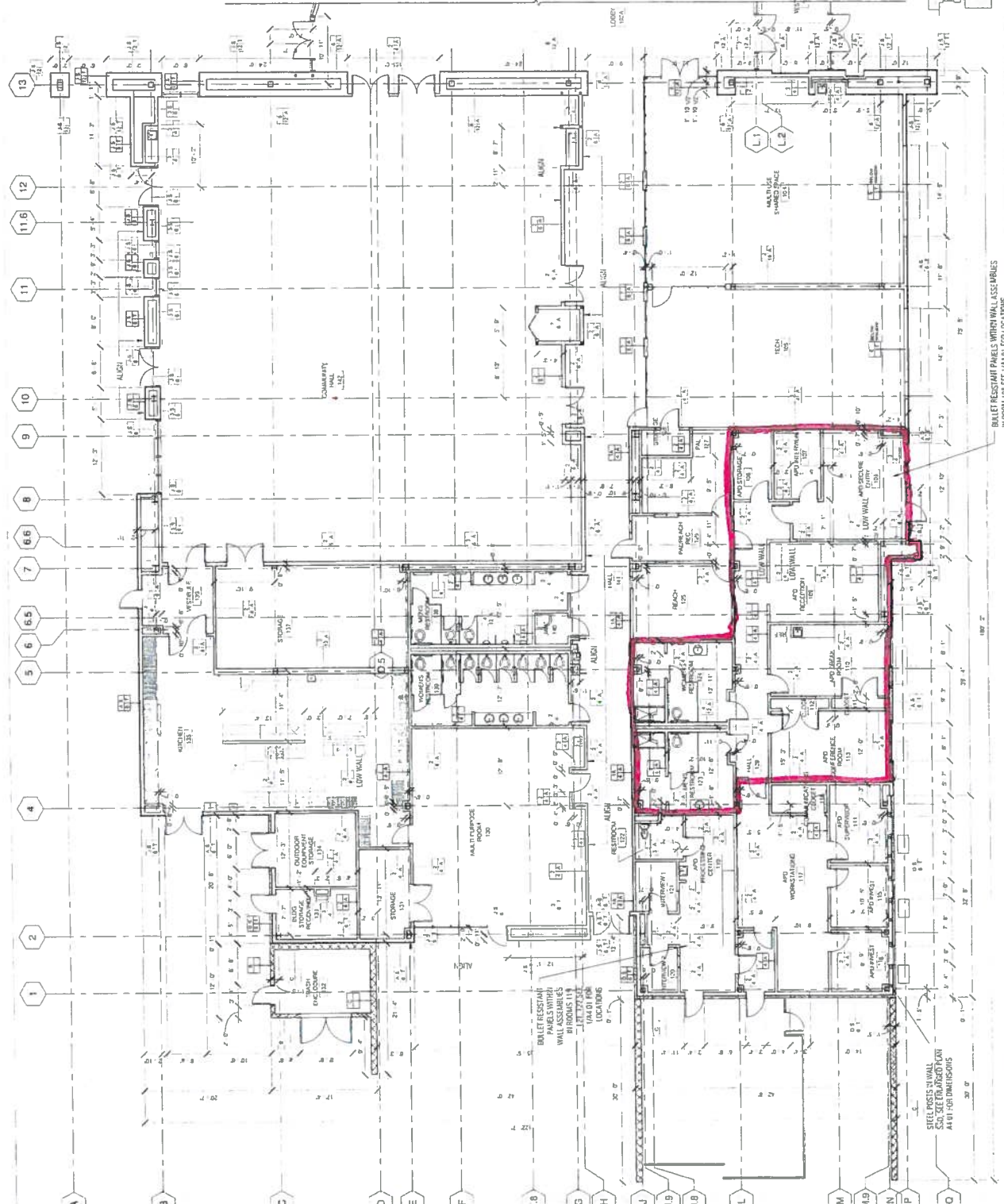
NOTE: REFER TO SHEET A101 FOR INTERIOR PARTITION TYPES

| | | |
|--------------|---------------|---------------------------------|
| FRAMING SIZE | 4.5" S | 4.1" S |
| 10" 12" | | |
| 8" 6" | | |
| 4" 4" | | |
| WALL TYPE | 25" INDICATES | COLD FORMED METAL FRAMING STUDS |
| | INSULATION | A. ACoustICAL |
| | | THERMAL |

NOTE: REFER TO SHEET A101 FOR EXTERIOR WALL TYPES & CWU WALL ASSEMBLIES

GENERAL NOTES

1. EXTERIOR DIMENSIONS ARE FACE OF STUD TO FACE OF STUD ON CENTERLINE OF GRID LINES.
2. INTERIOR DIMENSIONS ARE FACE OF STUD TO FACE OF STUD ON CENTERLINE OF GRID LINES.
3. SEE DIM STRIPPING PLAN FOR COURT LAYOUTS.



BULLET RESISTANT PANELS WITH WALL ASSEMBLIES
#1 ROOM 100 SEE 1/44.811 FOR LOCATIONS

STEEL PRESSURE WALL
SEE SHEET A101 FOR LOCATIONS

1/4" = 1'-0"

1/4" = 1'-0"

EXHIBIT B

| Room/Area | Items | Quantity |
|---------------------|---------------------------|----------|
| Conference Room | Conference Table | 1 |
| | Chair | 10 |
| | Stool | 1 |
| | Podium | 1 |
| | Enclosed White Board | 1 |
| Interview Room | Desk | 1 |
| | Chair | 4 |
| | Telephone | 1 |
| Lounge Area | Table | 2 |
| | Chair | 8 |
| | GE Profile Microwave | 1 |
| | GE Profile Refrigerator | 1 |
| | GE QuietPower3 Dishwasher | 1 |
| | Black Garbage Receptacle | 1 |
| | Telephone | 1 |
| Reception Desk Area | Desk Unit | 1 |
| | Chair | 4 |
| | Filing Cabinet | 1 |
| Records Room | Filing Cabinet | 2 |
| Waiting Room | No Items | 0 |



CONFERENCE ROOM



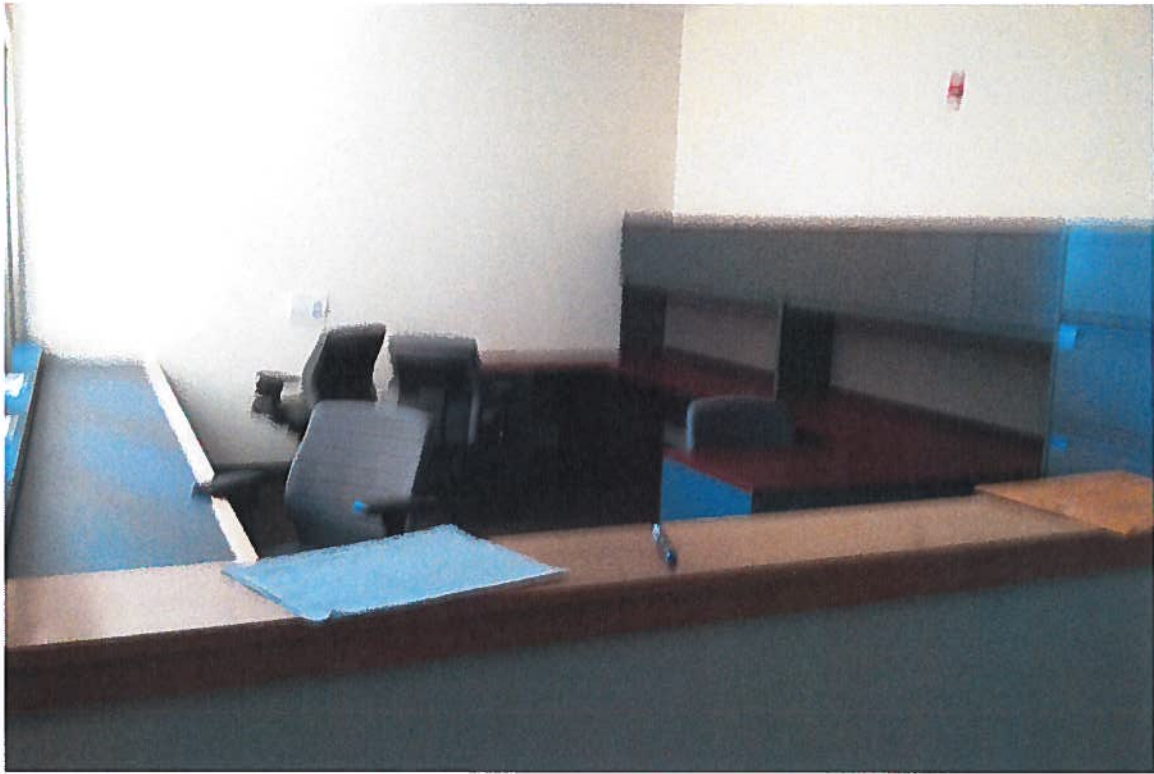
INTERVIEW ROOM



LOUNGE AREA PIC 1



LOUNGE AREA PIC 2



RECEPTION DESK AREA



RECORDS ROOM

USE AGREEMENT

City of Antioch / Office of Congressman Jerry McNerney

THIS USE AGREEMENT ("AGREEMENT") is made and entered into this 3rd day of January, 2013 by and between the CITY OF ANTIOCH, a municipal corporation ("CITY") and the Office of Congressman McNerney ("USER").

Recitals

A. CITY owns real property located at 4703 Lone Tree Way, Antioch, California. This AGREEMENT pertains to the portion of the building delineated in red on the attached exhibit, *Exhibit A* to this Use Agreement. The portion delineated in red on *Exhibit A* will be referred to herein as the "Property."

B. The parties wish to make the Property available in an "as-is" condition to the USER for the purpose of office space. This AGREEMENT is intended to formalize the understandings between the parties regarding the use and operation of the Property.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. TERM. The Term of this AGREEMENT shall be for one (1) year, commencing on January 3, 2013, set to terminate on January 3, 2014.
2. HOLD-OVER. If USER remains in possession of the Property after the termination or expiration of this AGREEMENT, then USER will be deemed to be occupying the Property on a month-to-month basis, subject to the terms and conditions of this AGREEMENT.
3. RENT/DEPOSIT. USER covenants and agrees to pay CITY as rent the sum of three-thousand dollars (\$3,000) per month with such payments sent electronically or hand-delivered to City of Antioch, P.O. Box 5007, Antioch, CA 94531-5007, Attn: Finance Department. USER will also be responsible for certain expenses and utilities as outlined in Paragraph 4.
4. UTILITIES & OTHER EXPENSES. Regarding telephone and security system, the Property is connected to and uses CITY's "switch" and will continue to do so, but any costs related to telephone, data, internet and security system connection, installation, maintenance or service charges are the sole responsibility of USER. USER will provide its own janitorial service at its own cost and expense and shall maintain the Property and its furnishings in a clean, safe and presentable condition at all times. Additional costs that may apply, and are the sole responsibility of the USER if they do apply, include any costs related to the disabling of the "panic buttons" within the

Property upon move-in and the re-enabling of the “panic buttons” upon vacating the Property, disabling of the camera and recording devices serving the Interview Room upon move-in and re-enabling of the camera and recording devices serving the Interview Room prior to vacating the Property, any security system authorization and training services provided by CITY’s security system contractor, and re-keying of any locks on the Property by a professional locksmith upon move-in and re-keying to an existing CITY-issued key of any locks on the Property by a professional locksmith upon vacating the Property; regarding the re-keying of locks upon move-in to the property, USER will provide CITY with a minimum of two (2) keys that provide access to the Property if re-keyed with a single key, or two (2) keys that provide access to each area of the Property if not re-keyed with a single key that fits all locks. USER and CITY acknowledge that due to the difficulty in determining each month an accurate percentage of the electricity consumed, water used and garbage generated by USER, the costs associated with each are included in the monthly rent and will not be separately billed to USER by CITY.

5. USE OF PREMISES.

A. USER will use the premises for the purpose of office space.

B. USER shall not use nor permit the use of the whole or any part of the premises for any purpose other than that set forth in subparagraph 6A herein without having received prior written consent of CITY.

C. USER shall not use any portion of the premises for purposes other than those specified hereinabove, and no use shall be made or permitted to be made upon the premises, nor acts done, which will increase the existing rate of insurance upon the Property, or cause cancellation of insurance policies covering said Property. The Property shall not be used for residential purposes. No storage of flammable liquids or products shall be allowed, unless approved in writing by the Director of Public Works.

D. Without prior written authorization by CITY, USER is not permitted to access any portion of the building beyond the portion identified in *Exhibit A*, although during regular business hours – which are subject to change by CITY at any time without notice – USER may access any portion of the building that is open to the public.

E. USER’s employees may park their vehicles in the main Antioch Community Center parking lot only, located roughly to the south of the Property.

6. MAINTENANCE AND REPAIR.

A. CITY’s Responsibilities:

CITY shall be responsible for the maintenance and repair of the Property including roofing, the driveway, exterior painting, landscaping, HVAC, windows, electrical, plumbing and/or structural repairs. In the event of any repair, whether requested by USER or otherwise, CITY may make the determination whether to

do the work or to terminate this AGREEMENT. CITY will not be responsible for theft or vandalism of the Property, and will not be responsible to repair the Property or replace stolen or damaged items at the Property unless CITY decides to.

B. USER's Responsibilities:

USER shall maintain the Property in a good and safe condition, including janitorial services and decorating. USER shall fully reimburse CITY for the total costs of any repairs to the Property due to damage arising from the negligence of USER or its employees. If USER notices any condition which could represent a safety hazard to occupants, employees or the public, it shall immediately notify CITY.

7. RIGHT OF ENTRY. USER shall permit CITY's employees to enter upon the Property at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

8. SIGNS. USER may not remove any signage from the Property without the prior written consent of the CITY, and USER shall neither construct nor install any exterior signage without the prior written consent of the CITY.

9. IMPROVEMENTS. Any and all improvements made to the Property during the term of this AGREEMENT shall belong to the CITY, except trade fixtures of the USER. USER may, upon termination hereof, remove its own trade fixtures, but shall repair or pay for all repairs necessary for damages to the Property occasioned by such removal. Prior to making any improvements to the Property, USER shall obtain CITY's approval and any required permits.

10. EQUIPMENT. User shall provide its own equipment and any additional furniture if so desired.

11. ABANDONMENT. If USER shall abandon or vacate the Property, any personal property left upon the Property shall be deemed to be abandoned, at the option of the CITY, and shall become CITY's property. A detailed inventory of CITY-owned furniture and equipment is attached as *Exhibit B* to this Agreement, and all items listed in *Exhibit B* are for the USER's use while occupying the Property but are to remain at the Property upon the USER vacating the Property.

12. ASSIGNMENT. USER shall not assign this AGREEMENT without the prior written consent of the City Manager. Any such assignment without consent shall be void and, at the option of CITY, may terminate the AGREEMENT.

13. COMPLIANCE WITH LAWS. USER shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by USER. The commencement or pendency of any state or federal court

abatement proceeding affecting the use of the premises shall, at the option of the CITY, be deemed a breach hereof.

14. CITY'S INDEMNIFICATION. USER hereby agrees to indemnify, hold harmless and defend CITY and CITY'S officers, officials, employees, agents, volunteers, contractors or subcontractors from and against any and all losses, claims, liabilities, damages, costs and expenses, including attorneys' fees and costs, or injuries including personal injuries or death arising out of or in any way connected with the USER'S operations under this AGREEMENT or the performance of this AGREEMENT by USER or its officers, volunteers, directors, officers or agents. Negligent or criminal acts by members of the public at the Property shall not be deemed to be the liability or responsibility of CITY. The indemnity provision of this section shall survive the expiration or cancellation of this AGREEMENT.

15. INSURANCE. USER shall maintain during the term of this AGREEMENT insurance or self-insurance against claims or injuries to persons or damages to property arising from or in connection with USER's operation and use of the premises.

16. DISCLAIMER OF CONDITION OF PROPERTY. CITY makes no warranty or representation of any kind concerning the Property or the fitness of the Property for the use intended by USER. USER has inspected the Property, knows and accepts its condition, and waives any express or implied indemnity against CITY.

17. DAMAGE OR DESTRUCTION. In case the Property is damaged by fire or other casualty, CITY may elect to terminate this AGREEMENT. If CITY is unable or unwilling to repair damage caused by fire or other casualty, USER may elect to terminate this AGREEMENT.

18. DEFAULT BY USER. In the event of any breach of this AGREEMENT, CITY, in addition to other rights and remedies it may have, shall have the right of re-entry and may remove all persons and property from its Property. Such property may be moved and stored in a public warehouse or elsewhere at the cost of, and for the account of, USER. The CITY will store this property for USER for a period of sixty (60) days, after which time the CITY may dispose of the property in any manner in its sole discretion if the USER does not accept responsibility for the property.

19. MISCELLANEOUS PROVISIONS.

A. No Personal Liability. No member, official or employee of CITY shall be personally liable in the event of any default or breach of this AGREEMENT.

B. Entire Agreement. This AGREEMENT and the District Office Lease Attachment constitute the complete agreement between the parties and supersedes any and all other agreements, either oral or in writing between the parties with respect to the subject matter of this AGREEMENT.

C. Modification. This AGREEMENT may be modified or amended only by a written document signed by representatives of both parties.

D. Applicable Law; Attorney's Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this AGREEMENT, the rules, regulations, statutes and laws of the State of California shall control. Any litigation concerning this AGREEMENT shall be initiated in Contra Costa County.

E. Severance. If any party of this AGREEMENT is invalid by reason of law or governmental regulation, or if any provisions are waived by the CITY, the remaining portions of this AGREEMENT shall remain in full force and effect.

F. No Decision. Nothing contained in this AGREEMENT shall be deemed a gift or dedication of any portion of the Property to or for the general public or for any public purpose whatsoever. This AGREEMENT shall be strictly limited to and for the purposes expressed within.

G. Counterparts. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same AGREEMENT.

H. Authority. The parties represent that the individuals signing this AGREEMENT have the authority to do so.

I. Relocation Benefits. USER agrees that its use of Property or this Agreement shall not entitle USER to any relocation benefits pursuant to federal, state or local law and waives any such claim against CITY.

20. NOTICES. Any notice, insurance certificate or endorsement which either party may or is required to give the other shall be given by mailing, postage pre-paid, to the below-designated places, or at such other place as may be designated by the parties from time to time:

To CITY:
City of Antioch
Attn: City Attorney's Office
PO Box 5007
Antioch, CA 94531-5007

To USER:
Office of Congressman Jerry McNerney
Attn: District Director
4703 Lone Tree Way
Antioch, CA 94509

IN WITNESS WHEREOF, this AGREEMENT is executed by the CITY OF ANTIOCH, by its authorized representative, the City Manager, and by _____, acting by and through its authorized representative.

CITY OF ANTIOCH:

OFFICE OF CONGRESSMAN
JERRY McNERNEY:

By: _____

Jim Jakel
City Manager

By: _____

KERRY W. KIRCHER
GENERAL COUNSEL

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF GENERAL COUNSEL
219 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6532
(202) 225-9700
FAX: (202) 226-1360

EXHIBIT D

WILLIAM PITTARD
DEPUTY GENERAL COUNSEL

CHRISTINE DAVENPORT
SENIOR ASSISTANT COUNSEL

TODD B. TATELMAN
ASSISTANT COUNSEL

MARY BETH WALKER
ASSISTANT COUNSEL

ELENI ROUMEL
ASSISTANT COUNSEL

December 19, 2012

VIA EMAIL (bnunnally@ci.antioch.ca.us)

City of Antioch, California
Attn: Brian Nunnally
P.O. Box 5007
Antioch, CA 94531-5007

Re: U.S. Representative Jerry McNerney

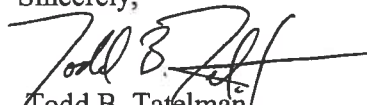
Dear Mr. Nunnally:

I have been asked by U.S. Representative Jerry McNerney of the 11th congressional district of California to explain certain protections that are available to Members of Congress who obtain the use of facilities from nonfederal entities for the purpose of conducting their official and representational duties. It is my understanding that you are seeking a certificate of insurance for a portion of the property located at 4703 Lone Tree Way, Antioch, California 94531, which Congressman McNerney will be leasing from you for use as a district office effective January 3, 2013.

Generally, the United States acts as a self-insurer with respect to its liability for the tortious acts of its employees when they are acting within the scope of their duties. 28 U.S.C. §§ 2671-2680 ("Federal Tort Claims Act"). Thus, any injury to a third party or damage to property resulting from the tortious act or omission of Congressman McNerney or his employees in conducting official activities would be covered under the terms of the Federal Tort Claims Act. Accordingly, please accept this letter in lieu of a certificate of insurance.

Should you have any further questions concerning this matter, please contact me at (202) 225-9700.

Sincerely,


Todd B. Tatelman
Assistant Counsel

cc: Hon. Jerry McNerney
Attn: Nicole Alioto
EMAIL (nicole.alioto@mail.house.gov)

U.S. House of Representatives
Washington, D.C. 20515

District Office Lease Attachment

(Page 1 of 4 – 113th Congress)

1. **Incorporated District Office Lease Attachment.** Lessor (Landlord) and Lessee (Member/Member-Elect of the U.S. House of Representatives) agree that this District Office Lease Attachment (“Attachment”) is incorporated into and made part of the Lease (“Lease”) and, if applicable, District Office Lease Amendment (“Amendment”) to which it is attached.
2. **Performance.** Lessor expressly acknowledges that neither the U.S. House of Representatives (“House”) nor its Officers are liable for the performance of the Lease. Lessor further expressly acknowledges that payments made by the Chief Administrative Officer of the House (“CAO”) to Lessor to satisfy Lessee’s rent obligations under the Lease – which payments are made solely on behalf of Lessee in support of his/her official and representational duties as a Member of the House – shall create no legal obligation or liability on the part of the CAO or the House whatsoever. Lessee shall be solely responsible for the performance of the Lease and Lessor expressly agrees to look solely to Lessee for such performance.
3. **Modifications.** Any amendment to the Lease must be in writing and signed by the Lessor and Lessee. Lessor and Lessee also understand and acknowledge that the Administrative Counsel for the CAO (“Administrative Counsel”) must review and give approval of any amendment to the Lease prior to its execution.
4. **Compliance with House Rules and Regulations.** Lessor and Lessee understand and acknowledge that the Lease shall not be valid, and the CAO will not authorize the disbursement of funds to the Lessor, until the Administrative Counsel has reviewed the Lease to determine that it complies with the Rules of the House and the Regulations of the Committee on House Administration, and approved the Lease by signing on page 4 of this Attachment.
5. **Payments.** The Lease is a fixed term lease with monthly installments for which payment is due in arrears on or before the end of each calendar month. In the event of a payment dispute, Lessor agrees to contact the Office of Finance of the House at 202-225-7474 to attempt to resolve the dispute before contacting Lessee.
6. **Void Provisions.** Any provision in the Lease purporting to require the payment of a security deposit shall have no force or effect. Furthermore, any provision in the Lease purporting to vary the dollar amount of the rent specified in the Lease by any cost of living clause, operating expense clause, pro rata expense clause, escalation clause, or any other adjustment or measure during the term of the Lease shall have no force or effect.
7. **Certain Charges.** The parties agree that any charge for default, early termination or cancellation of the Lease which results from actions taken by or on behalf of the Lessee shall be the sole responsibility of the Lessee, and shall not be paid by the CAO on behalf of the Lessee.
8. **Death, Resignation or Removal.** In the event Lessee dies, resigns or is removed from office during the term of the Lease, the Clerk of the House may, at his or her sole option, either: (a) terminate the Lease by giving thirty (30) days’ prior written notice to Lessor; or (b) assume the obligation of the Lease and continue to occupy the premises for a period not to exceed sixty (60) days following the certification of the election of the Lessee’s successor. In the event the Clerk elects to terminate the Lease, the commencement date of such thirty (30) day termination notice shall be the date such notice is delivered to the Lessor or, if mailed, the date on which such notice is postmarked.

District Office Lease Attachment

(Page 2 of 4 – 113th Congress)

9. **Term.** The term of the Lease may not exceed the constitutional term of the Congress to which the Lessee has been elected. The Lease may be signed by the Member-Elect before taking office. Should the Member-Elect not take office to serve as a Member of the 113th Congress, the Lease will be considered null and void.
10. **Early Termination.** If either Lessor or Lessee terminates the Lease under the terms of the Lease, the terminating party agrees to promptly file a copy of any termination notice with the Office of Finance, U.S. House of Representatives, B-245 Longworth House Office Building, Washington, D.C. 20515, and with the Administrative Counsel, Office of the Chief Administrative Officer, U.S. House of Representatives, 217 Ford House Office Building, Washington, D.C. 20515.
11. **Notification upon Occurrence of Certain Events.** Lessor agrees to promptly notify Lessee in writing in the event Lessor sells, transfers, or otherwise disposes of the leased premises; in the event Lessor is placed in bankruptcy proceedings (whether voluntarily or involuntarily); in the event the leased premises is foreclosed upon; or in the event of any similar occurrence. Lessee shall promptly file a copy of any such notice with the Office of Finance, U.S. House of Representatives, B-245 Longworth House Office Building, Washington, D.C. 20515.
12. **Estoppel Certificates.** Lessee agrees to sign an estoppel certificate relating to the leased premises (usually used in instances when the Lessor is selling or refinancing the building) upon the request of the Lessor. Such an estoppel certificate shall not require the review and approval of the Administrative Counsel.
13. **Maintenance of Common Areas.** Lessor agrees to maintain in good order, at its sole expense, all public and common areas of the building including, but not limited to, all sidewalks, parking areas, lobbies, elevators, escalators, entryways, exits, alleys and other like areas.
14. **Maintenance of Structural Components.** Lessor also agrees to maintain in good order, repair or replace as needed, at its sole expense, all structural and other components of the premises including, but not limited to, roofs, ceilings, walls (interior and exterior), floors, windows, doors, foundations, fixtures, and all mechanical, plumbing, electrical and air conditioning/heating systems or equipment (including window air conditioning units provided by the Lessor) serving the premises.
15. **Lessor Liability for Failure to Maintain.** Lessor shall be liable for any damage, either to persons or property, sustained by Lessee or any of his or her employees or guests, caused by Lessor's failure to fulfill its obligations under Sections 13 and 14.
16. **Initial Alterations.** Lessor shall make any initial alterations to the leased premises, as requested by Lessee and subject to Lessor's consent, which shall not be unreasonably withheld. The cost of such initial alterations shall be included in the annual rental rate.
17. **Federal Tort Claims Act.** Lessor agrees that the Federal Tort Claims Act, 28 U.S.C. §§ 2671-80, satisfies any and all obligations on the part of the Lessee to purchase private liability insurance. Lessee shall not be required to provide any certificates of insurance to Lessor.

District Office Lease Attachment

(Page 3 of 4 – 113th Congress)

18. **Limitation of Liability.** Lessor agrees that neither Lessee nor the House nor any of the House's officers or employees will indemnify or hold harmless Lessor against any liability of Lessor to any third party that may arise during or as a result of the Lease or Lessee's tenancy.
19. **Compliance with Laws.** Lessor shall be solely responsible for complying with all applicable permitting and zoning ordinances or requirements, and with all local and state building codes, safety codes and handicap accessibility codes (including the Americans with Disabilities Act), both in the common areas of the building and the leased space of the Lessee.
20. **Electronic Funds Transfer.** Lessor agrees to accept monthly rent payments by Electronic Funds Transfer and agrees to provide the Office of Finance, U.S. House of Representatives, with all banking information necessary to facilitate such payments.
21. **Refunds.** Lessor shall promptly refund to the CAO, without formal demand, any payment made to the Lessor by the CAO for any period for which rent is not owed because the Lease has ended or been terminated.
22. **Conflict.** Should any provision of this Attachment be inconsistent with any provision of the attached Lease or attached Amendment, the provisions of this Attachment shall control, and those inconsistent provisions of the Lease or the Amendment shall have no force and effect to the extent of such inconsistency.
23. **Construction.** Unless the clear meaning requires otherwise, words of feminine, masculine or neuter gender include all other genders and, wherever appropriate, words in the singular include the plural and vice versa.
24. **Fair Market Value.** The Lease or Amendment is entered into at fair market value as the result of a bona fide, arms-length, marketplace transaction. The Lessor and Lessee certify that the parties are not relatives nor have had, or continue to have, a professional or legal relationship (except as a landlord and tenant).
25. **District Certification.** The Lessee certifies that the office space that is the subject of the Lease is located within the district the Lessee was elected to represent unless otherwise authorized by Regulations of the Committee on House Administration.
26. **Counterparts.** This Attachment may be executed in any number of counterparts and by facsimile copy, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
27. **Section Headings.** The section headings of this Attachment are for convenience of reference only and shall not be deemed to limit or affect any of the provisions hereof.

[Signature page follows.]

U.S. House of Representatives
Washington, D.C. 20515

District Office Lease Attachment
(Page 4 of 4 – 113th Congress)

IN WITNESS WHEREOF, the parties have duly executed this District Office Lease Attachment as of the later date written below by the Lessor or the Lessee.

Print Name (Lessor)

Print Name (Lessee)

Lessor Signature

Lessee Signature

Date

Date

| |
|---|
| From the Member's Office, who is the point of contact for questions? Name _____ Phone (____) _____ E-mail _____@mail.house.gov |
|---|

This District Office Lease Attachment and the attached Lease or Amendment have been reviewed and are approved, pursuant to Regulations of the Committee on House Administration.

Signed _____ Date _____, 20____.
(Administrative Counsel)

| |
|---|
| <p><i>Send completed forms to: Administrative Counsel, 217 Ford House Office Building, Washington, D.C. 20515. Copies may also be faxed to 202-225-6999</i></p> |
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