

ANNOTATED AGENDA

for
July 9, 2013

CITY COUNCIL MEETING *Regular Meeting*

Order of Council vote: AYES:

Council Members Wilson, Rocha, Tiscareno, Agopian and
Mayor Harper

Notice of Availability of Reports

This agenda is a summary of the actions proposed to be taken by the City Council. For almost every agenda item, materials have been prepared by the City staff for the Council's consideration. These materials include staff reports which explain in detail the item before the Council and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included. All of these materials are available at the City Clerk's Office, located on the 3rd Floor of City Hall, 200 H Street, Antioch, CA 94509, during normal business hours for inspection and (for a fee) copying. Copies are also made available at the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the City Clerk's Office, who will refer you to the appropriate person.

Notice of Opportunity to Address Council

The public has the opportunity to address the Council on each agenda item. To address the Council, fill out a yellow Speaker Request form, available on each side of the entrance doors, and place in the Speaker Card Tray. See the Speakers' Rules on the inside cover of this Agenda. Comments regarding matters not on this Agenda may be addressed during the "Public Comments" section.

6:30 P.M. ROLL CALL for Closed Session – *All Present*

PUBLIC COMMENTS for Closed Session – *None*

CLOSED SESSION:

- 1) **CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Session is authorized by California Government Code section 54957.6. City designated representatives; Michelle Fitzer and Denise Haskett; Employee organization: APSMA
Direction given to Labor Negotiators

URGENCY ITEM – CLOSED SESSION: *The City Attorney reported that an item had come to her attention since the posting of the agenda when she spoke to counsel in the state of Indiana regarding a case filed by the Cincinnati Specialty Underwriters Insurance Company against F.D. Deskins and the City of Antioch regarding insurance coverage in the underlying lawsuit that the City filed against Deskins Co. and others regarding the water treatment plant. The City needs to decide how to handle this lawsuit before the next Council meeting because of court deadlines. Therefore, by unanimous vote, the City Council added the following item to the closed session agenda as an urgency item:*

Approved, 5/0

- 2) **URGENCY ITEM: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – Pursuant to Government Code section 54956.9(d)(1): City of Antioch vs. Black & Veatch Corporation, F.D. Deskins Company, Inc., TW Associates dba MISCOWater, Contra Costa Superior Court Case No. 00227; The Cincinnati Specialty Underwriters Insurance Company v. F.D. Deskins Company Inc. and City of Antioch, Hamilton Circuit Court, Indiana, Cause No. 29C01 1306 CT511
Direction given to the City Attorney

7:05 P.M. ROLL CALL for Council Members – *All Present*

PLEDGE OF ALLEGIANCE

URGENCY ITEM – REGULAR AGENDA ITEM ‘5’: The City Attorney reported that staff recommends that an urgency item be added regarding the letter received July 8, 2013 from Joseph Canciamilla, County Clerk-Recorder and Registrar of Voters. The letter indicates that despite numerous prior communications between the County Elections Office and the City over the past several months, Mr. Canciamilla determined yesterday that the City needed to accept ballot arguments on the Restoring Antioch Services Sales Tax measure until August 16, 2013. There is a need to take action since the deadline for the ballot arguments had been 5:00 p.m. July 9, at which time the documents would become public. If the deadline was being extended by the County Elections Office, then the electorate would need to be notified. By unanimous vote, the Council added the Urgency Item to the Regular Agenda as Item 5.

Approved, 5/0

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS (Deadline date to apply 07/25/13)
Citizens Advisory Committee, 1 vac., 4-yr term,
Planning Commission, 1 partial vac., expiring Oct. 2013,
Parks & Recreation Commission, 2 partial vac., expiring April 2014,
Board of Administrative Appeals (Alternate), 1 vac., 4-yr term

PUBLIC COMMENTS—Only unagendized issues will be discussed during this time

CITY COUNCIL SUBCOMMITTEE REPORTS

MAYOR’S COMMENTS

**PRESENTATIONS – Life Saving Recognition presented to Kevin Brady and Officer Ryan McDonald
Municipal Internship Program, Jeffery Belle**

PRESENTATION

1. CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR JUNE 25, 2013

Continue to 07/30/13 Adjourned Regular Meeting, 5/0

Recommended Action: Motion to continue to Adjourned Regular Meeting on July 30, 2013 at 7:00 p.m. at the Public Works Building Training Room located at 1204 W. Fourth Street, Antioch

MINUTES

B. APPROVAL OF COUNCIL WARRANTS

Approved, 5/0

Recommended Action: Motion to approve the warrants

STAFF REPORT

C. ADOPTION OF AN ORDINANCE FOR DAVIDON HOMES DEVELOPMENT AGREEMENT APPLICABLE TO THE APPROXIMATELY 170 ACRE PROPERTY GENERALLY LOCATED EAST OF CANADA VALLEY ROAD AND WEST OF STATE ROUTE 4 (BYPASS). DAVIDON HOMES HAS ENTITLEMENTS TO DEVELOP THE SUBJECT PROPERTY WITH 525 SINGLE FAMILY HOMES. THE PLANNING COMMISSION RECOMMENDED APPROVAL OF THE DEVELOPMENT AGREEMENT BY A 5-0 VOTE WITH TWO ABSENCES ON JUNE 5, 2013 (*Introduced on 06/25/13*).

Ord. No. 2069-C-S, 5/0

Recommended Action: Motion to adopt the ordinance

STAFF REPORT

CONSENT CALENDAR — Continued

- D.** ASSESSING FISCAL RISK – RESPONSE TO GRAND JURY REPORT (REPORT 1311)
Approved, 5/0
Recommended Action: Motion to approve and authorize the Mayor to sign the response to the Grand Jury Report: “Assessing Fiscal Risk” (Report 1311)
STAFF REPORT
- E.** AUTHORIZE RESPONSE TO GRAND JURY REPORT NO. 1305 “GETTING TO CLEAN WATER IN CONTRA COSTA COUNTY – WHAT’S THE PLAN AND WHERE’S THE MONEY?”
Approved, 5/0
Recommended Action: Motion to approve and authorize the Mayor to sign the response to the Grand Jury Report: “Getting to Clean Water in Contra Costa County – What’s the Plan and Where’s the Money?”
STAFF REPORT
- F.** APPROVE AMENDMENT NO. 4 TO THE CONSULTANT SERVICES AGREEMENT FOR MONITORING WELLS CLOSURE SUPPORT WITH NICHOLS CONSULTING ENGINEERS, CHTD. (P.W. 143-P, 514-4 AND 516-A)
Approved, 5/0
Recommended Action: Motion to approve Amendment No. 4 to the Consultant Services Agreement with Nichols Consulting Engineers, Chtd. for continued support with the closure of three underground storage tank sites
STAFF REPORT
- G.** RESOLUTION OF LOCAL SUPPORT AND AUTHORIZING THE FILING OF A GRANT APPLICATION TO MTC FOR FEDERAL FUNDING FOR THE NINTH STREET ROADWAY IMPROVEMENTS (P.W. 687)
Reso No. 2013/34, 5/0
Recommended Action: Motion to adopt the resolution authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds for the Ninth Street Roadway Improvements and amend the FY 2013-14 CIP budget by \$647,000 from Measure “J” funds to bring the City’s local matching funds for this project to the amount of \$927,000
STAFF REPORT
- H.** RESOLUTION OF LOCAL SUPPORT AND AUTHORIZING THE FILING OF A GRANT APPLICATION TO MTC FOR FEDERAL FUNDING FOR THE SIDEWALK, HANDICAP RAMPS AND PEDESTRIAN IMPROVEMENTS AT VARIOUS LOCATIONS PROJECT (P.W. 409-3)
Reso No. 2013/35, 5/0
Recommended Action: Motion to adopt the resolution authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds for the Sidewalk, Handicap Ramps and Pedestrian Improvements at Various Locations Project, and amend the FY 2013-14 CIP budget to include this new project for a total budget of \$520,000, \$330,000 funded through the federal grant and \$190,000 from Measure “J” funds for the City’s local matching funds for this project
STAFF REPORT

END OF CONSENT CALENDAR

PUBLIC HEARING

2. Z-13-03 - THE CITY OF ANTIOCH IS REQUESTING APPROVAL OF THE PREZONING FOR THE NORTHEAST ANTIOCH AREA. THERE ARE THREE SUBAREAS CONSIDERED FOR PREZONING, WHICH ARE ALL LOCATED WITHIN UNINCORPORATED CONTRA COSTA COUNTY, CONSISTING OF APPROXIMATELY 678 ACRES. THE ZONING FOR AREA 1 (470 ACRES) IS BEING PROPOSED AS HEAVY INDUSTRIAL AND OPEN SPACE, AREA 2A AS URBAN WATERFRONT, (94 ACRES), AND AREA 2B (103 ACRES) AS A STUDY ZONE. THE THREE SUBAREAS ARE LOCATED GENERALLY SOUTH OF THE SACRAMENTO COUNTY LINE ALONG THE SAN JOAQUIN RIVER IN THE VICINITY OF WILBUR AVENUE, WEST OF THE CITY OF OAKLEY, NORTH AND EAST OF THE BOUNDARIES OF THE CITY OF ANTIOCH. THE PLANNING COMMISSION RECOMMENDED TO THE CITY COUNCIL APPROVAL OF THE PREZONING BY A 6-0 VOTE WITH ONE MEMBER ABSENT. ALSO FOR CONSIDERATION BY THE CITY COUNCIL WILL BE THE ANNEXATION AND TAX REVENUE ALLOCATION AGREEMENT BETWEEN THE CITY OF ANTIOCH AND THE COUNTY FOR THE NORTHEAST ANTIOCH ANNEXATION AND AGREEMENT BETWEEN THE CITY OF ANTIOCH AND THE COUNTY FOR THE FUNDING AND CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS SERVING ANNEXATION AREA 2B. A MITIGATED NEGATIVE DECLARATION IS ALSO BEING CONSIDERED FOR ADOPTION.

Continue to 07/30/13 Adjourned Regular Meeting, 5/0

Recommended Action: Motion to continue to Adjourned Regular Meeting on July 30, 2013 at 7:00 p.m. at the Public Works Building Training Room located at 1204 W. Fourth Street, Antioch

STAFF REPORT

3. PUBLIC HEARING TO CONFIRM ASSESSMENTS FOR THE LANDSCAPE MAINTENANCE DISTRICTS 1, 2A, 4, 5, 9, AND 10 FOR FISCAL YEAR 2013/2014 (PW 500)

Reso No. 2013/36, 5/0

Recommended Action: Motion to adopt the resolution

STAFF REPORT

4. ADOPTION OF AN URGENCY ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF TOBACCO AND PARAPHERNALIA RETAILERS AND INCLUDING THE PROHIBITION ON COMPUTER GAMING AT TOBACCO AND PARAPHERNALIA RETAILERS

Ord No. 2070-C-S, 5/0

Recommended Action: Motion to adopt the urgency ordinance (4/5 vote required)

STAFF REPORT

STAFF REPORT

5. **URGENCY ITEM:** COMMUNICATIONS FROM THE COUNTY CLERK'S OFFICE REGARDING THE DEADLINE FOR SUBMISSION OF BALLOT ARGUMENTS ON THE "RESTORING ANTIOCH SERVICES SALES TAX"

Reso No. 2013/37, 5/0

Action: Motion to adopt the amended resolution indicating that as directed by the County Clerk-Recorder the City Clerk's Office will accept ballot arguments on the Restoring Antioch Services Sales Tax measure until **5:00 p.m. on Friday, August 16, 2013** and that the City Clerk will keep any ballot arguments received sealed (confidential) until that date, along the Impartial Analysis. The City Clerk will make arrangements to keep City Hall opened on the furlough day of August 16, 2013 for the sole purpose of accepting ballot arguments. Further, pursuant to Elections Code Section 9163, any ballot arguments already submitted can be changed up to 5:00 p.m. on Friday, August 16, 2013.

STAFF REPORT

PUBLIC COMMENT

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS

ADJOURNMENT – 9:36 p.m. to Adjourned Regular Meeting on July 30, 2013 at

**Location: Public Works Building Training Room
1201 W. Fourth Street
Antioch, CA 94509**

Municipal Internship Program (A-MIP) City of Antioch

Presented by:

Jeff Belle, Senior Fellow

Public Policy and Leadership Development

What is A-MIP? Why is it Needed?

- What are the two most Powerful Resources on Earth?
- Kodak and Instagram: Where the past meets future Perfect
- **A-MIP is A Bridge and opportunity for both the City and Youth to: Invest in shaping and creating a Future Perfect.**
- Opportunity Youth, Internship, and City of Antioch
- Benjamin Franklin in the rear- view mirror

The Price of ignorance

Fiscal Impact (Ages 16 to 65)

- \$ 14,000 Annually per youth
- \$ 170,000 Life Time per youth
- \$ 707 billion (Aggregate)

Social Impact (Ages 16 to 65)

- \$ 37,500 Annually per youth
- \$570,000 Life Time per youth
- \$1.96 trillion (Aggregate)

Opportunity Youth

- ✓ Unprepared for Work
- ✓ Unprepared for Careers
- ✓ Under-Attached
- ✓ Over-Burden
- ✓ Over Due
- ✓ Overloaded with Potential



City of Antioch

➤ Underfunded

➤ Over-budgeted

➤ Understaffed

➤ Overworked

Underutilizing the most
powerful resources

Overestimating the
future

- Benjamin Franklin's advice may be timely:
 - Tell me and I forget.
 - Teach me and I remember.
 - Involve me and I Learn.

What Could Be?

- **“A Step into the Future is a Step out of the Past.”**
- **A-MIP is A Bridge and opportunity for both the City and Youth to: Invest in shaping and creating a Future Perfect.**
- **Future Perfect is where Youth and Ideas meet resulting in an Explosion of Creativity, Innovation and Synergy!!!!**

Okay Interns, where do we begin?



Benefits of A- MIP

- ❖ Allows staff to focus on larger tasks
- ❖ Pipeline for talent
- ❖ Increased Community Visibility
- ❖ Investment in shaping our future community

Benefits in Numerical terms

Reduces the costs of training new employees and decreases economic burden of Opportunity Youth-

- Fiscal Burden (\$14,000)
- Social Burden (\$37,500)
- New Employee training/wages (\$25,920)
- Dollarized Impact(annually)-\$77,420 – Consulting fee of \$14,400= \$63,020

Where the past meets the future....



Role of Consultant

- Facilitate, market and promote A-MIP among key stakeholders (Federal, State, Local).
- Recruit, select and establish interns at worksite.
- Provide training, technical assistance and consultation for worksite staff and intern(s).
- Instruct and guide interns in specific research, proposal development, and technical assistance.
- Procure private and public funding opportunities to enhance the impact of A-MIP.

Where the disconnected becomes re-connected



Experience of Consultant in Internship Development and Coordination

- Managed and Coordinated Internships
 - 133 Students
 - 21 Worksites
 - 17 years of experience
- Current participation in Youth Internships
 - County WDB
 - LMCHD
 - NAACP East Bay
- Former Certified Circuit Rider City Manager

Potential Projects

- Prepare and present marketing or promotional ideas in order to enhance the City of Antioch
- Resource assistant to various boards and commissions
- Review and research business policies and practices including recruitment and retention
- Grant writing, legal research, updating files and library
- Recreational, public works and public safety customer service support
- Collect, analyze, review data and prepare reports
- Assist elected officials and staff in preparing for council meetings, public hearings and community forums.

Wow, I can make a difference!



The Power of An Internship!



The Bridge from today's dreams to tomorrow's possibilities....



**REPORT FROM THE CITY CLERK'S OFFICE TO THE CITY COUNCIL FOR
CONSIDERATION AT THE COUNCIL MEETING OF JULY 9, 2013**

PREPARED BY: Christina Garcia, Deputy City Clerk

REVIEWED BY: Jim Jakel, City Manager

DATE: July 2, 2013

SUBJECT: APPROVAL OF COUNCIL MINUTES

The Minutes of June 25, 2013 are continued to the next meeting.

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

100 General Fund

Non Departmental

345791 BLUE ROCK PARTNERS LLC	DEPOSIT REFUND	3,550.00
345819 KIPER DEVELOPMENT	DEPOSIT REFUND	28,821.59
345879 AMERICAN PLUMBING INC	SMIP FEE REFUND	1.50
345894 CALIF BUILDING STANDARDS COMMISSION	4TH QTR 2012	4,042.80
345949 HANSEN, TIFFANY	BARRICADE DEPOSIT REFUND	30.00
346017 RHL DESIGN GROUP	DEPOSIT REFUND	451.83
346025 SIMAC CONSTRUCTION	DEPOSIT REFUND	1,594.00
346052 DELTA DENTAL	PAYROLL DEDUCTIONS	303.28

City Attorney

345874 XEROX CORPORATION	COPIER LEASE/USAGE	228.36
345903 COLANTUONO AND LEVIN PC	LEGAL SERVICES	2,856.00
345959 JARVIS FAY AND DOPORTO LLP	LEGAL SERVICES	2,583.75
345971 LEXISNEXIS	ONLINE LEGAL RESEARCH	76.50
346045 WENDEL ROSEN BLACK AND DEAN	LEGAL SERVICES	1,662.60

City Manager

202620 COSTCO	MEETING EXPENSE	26.47
345874 XEROX CORPORATION	COPIER LEASE/USAGE	228.36
345892 CA SHOPPING CART RETRIEVAL CORP	SHOPPING CART RETRIEVAL	171.00
345913 CONTRA COSTA TELEVISION	PRODUCTION	256.34
345920 DANIELS, SHARON P	EXPENSE REIMBURSEMENT	10.41
345967 LEACH, TAMARA L	EXPENSE REIMBURSEMENT	72.40

City Clerk

345810 EIDEN, KITTY J	MINUTES CLERK	364.00
345874 XEROX CORPORATION	COPIER LEASE/USAGE	228.34
345933 EIDEN, KITTY J	MINUTES CLERK	168.00

City Treasurer

345945 GARDA CL WEST INC	ARMORED CAR PICK UP	210.12
346006 PFM ASSET MGMT LLC	ADVISORY SERVICES	7,243.83

Human Resources

202805 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	18.54
345844 PSYCHOLOGICAL RESOURCES INC	PROFESSIONAL SERVICES	850.00
345874 XEROX CORPORATION	COPIER LEASE/USAGE	665.49
345883 EMPLOYEE	EMPLOYMENT RECOGNITION	300.00
345997 OFFICE MAX INC	OFFICE SUPPLIES	109.19

Economic Development

345785 BANK OF AMERICA	SUPPLIES	1,937.29
345794 CAMDEN VILLAGE LLC	AGREEMENT PYMT 9 OF 10	200,000.00
345827 MUNICIPAL RESOURCE GROUP LLC	CONSULTANT SERVICES	8,160.00
345874 XEROX CORPORATION	COPIER LEASE/USAGE	228.36
345911 CONTRA COSTA COUNTY	2A REORGANIZATION APP	1,100.00
345966 LAFCO	2A REORGANIZATION APP	3,885.00

Finance Administration

345831 OFFICE MAX INC	OFFICE SUPPLIES	24.52
345861 STATE OF CALIFORNIA	LICENSE RENEWAL	120.00

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

345874 XEROX CORPORATION	COPIER LEASE/USAGE	622.29
Finance Accounting		
202805 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	10.43
Finance Operations		
345831 OFFICE MAX INC	OFFICE SUPPLIES	49.76
345874 XEROX CORPORATION	COPIER LEASE/USAGE	4,265.26
346036 TYLER TECHNOLOGIES	MONTHLY INSITE FEES	680.00
Non Departmental		
345872 WAGWORKS	ADMIN FEES	150.00
346053 PERS	PAYROLL DEDUCTIONS	1,272.23
919818 RETIREE	PPPA	1,654.43
Public Works Maintenance Administration		
345874 XEROX CORPORATION	COPIER LEASE/USAGE	88.97
Public Works General Maintenance Services		
345874 XEROX CORPORATION	COPIER LEASE/USAGE	237.28
Public Works Street Maintenance		
345916 COUNTY ASPHALT	ASPHALT	991.99
345975 LOWES COMPANIES INC	TARP	45.50
Public Works-Signal/Street Lights		
345837 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	225.14
346027 STATE OF CALIFORNIA	SIGNAL/LIGHTING MAINTENANCE	2,339.32
919752 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,709.44
Public Works-Striping/Signing		
345838 PAPA	SEMINAR-DOSSEY	80.00
345958 INTERSTATE SALES	STENCILS	846.30
345975 LOWES COMPANIES INC	SUPPLIES	4.88
345982 MB COMPANIES INC	SUPPLIES	1,168.46
346004 PACIFIC PRODUCTS AND SERVICES INC	SUPPLIES	968.07
346030 SUBURBAN PROPANE	PROPANE	689.25
919807 GRAINGER INC	SUPPLIES	223.66
Public Works-Facilities Maintenance		
202767 CITY OF ANTIOCH	KEYS	29.84
345887 BAY CITIES PYROTECTOR	SYSTEM TEST	375.00
345925 DREAM RIDE ELEVATOR	ELEVATOR SERVICE	240.00
345975 LOWES COMPANIES INC	SUPPLIES	724.37
345996 OAKLEYS PEST CONTROL	PEST CONTROL SERVICE	100.00
345999 ORCHARD SUPPLY HARDWARE	SUPPLIES	98.66
346014 REAL PROTECTION INC	ALARM SYSTEM TESTING	360.22
919754 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	2,494.82
919785 CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	23.57
Public Works-Parks Maint		
345775 ACE HARDWARE, ANTIOCH	SUPPLIES	37.84
345805 DELTA FENCE CO	FENCE REPAIR	1,264.94
345835 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	41,420.17
345837 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	132.89
345922 DELTA FENCE CO	GATE REPAIR	2,710.00

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

345968 LEATHERS AND ASSOCIATES	EQUIPMENT	546.09
345975 LOWES COMPANIES INC	SUPPLIES	133.10
919826 JOHN DEERE LANDSCAPES PACHECO	VALVES	840.37
Public Works-Median/General Land		
345775 ACE HARDWARE, ANTIOCH	PVC FITTINGS	32.66
345836 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	6,423.00
345837 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	65.41
346003 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	1,714.00
346029 STEWARTS TREE SERVICE	TREE SERVICES	400.00
Police Administration		
202651 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	5.00
345783 ARROWHEAD 24 HOUR TOWING INC	TOWING SERVICES	90.00
345786 BANK OF AMERICA	SUPPLIES	3,078.50
345787 BANK OF AMERICA	MEETING EXPENSE	97.00
345801 COSTCO	BUSINESS EXPENSE	73.92
345820 LC ACTION POLICE SUPPLY	RIFLE CASES	883.89
345831 OFFICE MAX INC	OFFICE SUPPLIES	776.36
345843 PORAC LAW ENFORCEMENT NEWS	ADVERTISEMENT	1,550.00
345852 SHRED IT INC	SHRED SERVICE	305.10
345871 VERIZON WIRELESS	AIR CARDS	82.29
345874 XEROX CORPORATION	COPIER LEASE/USAGE	3,714.31
345890 BITTNER, DESMOND D	PER DIEM	355.00
345893 CALIF ASSOC OF TACTICAL TRAINERS	TRAINING-BITTNER/WISECARVER	1,226.00
345896 CARMEL MISSION INN	LODGING-BITTNER	835.75
345897 CARMEL MISSION INN	LODGING-WISECARVER	835.75
345907 COMMERCIAL SUPPORT SERVICES	CAR WASHES	619.50
345908 CONTRA COSTA COUNTY	TRAINING	15,955.00
345914 COPWARE INC	SITE LICENSES	1,300.00
345917 CRIME SCENE CLEANERS INC	CRIME SCENE CLEANUP	70.00
345960 JOHNSON, VIRGINIA L	PER DIEM	332.00
345981 MARRIOTT HOTEL	LODGING-JOHNSON	700.56
345997 OFFICE MAX INC	OFFICE SUPPLIES	4.72
346028 STATE OF CALIFORNIA	FINGERPRINTING	253.00
346040 VERIZON WIRELESS	AIR CARDS	76.02
346046 WISECARVER JR, JIMMY R	PER DIEM	355.00
919749 ARATA PRINTING	BUSINESS CARDS	189.88
919751 HUNTINGTON COURT REPORTERS INC	TRANSCRIPTION SERVICES	1,408.64
919753 IMAGE SALES INC	ID CARDS	29.30
919782 COMPUTERLAND	MONITOR	328.42
919823 HUNTINGTON COURT REPORTERS INC	TRANSCRIPTION SERVICES	2,777.12
Police Prisoner Custody		
346053 PERS	PAYROLL DEDUCTIONS	1,746.91
Police Community Policing		
202645 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	65.39
202651 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	86.40
345845 PERS	PAYROLL DEDUCTIONS	195.31

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

345888	BENZLER, BLAIR	COURT APPEARANCE	191.64
345921	DELAVAN, BARRY	COURT APPEARANCE	183.82
345931	EAST BAY VETERINARY EMERGENCY	VETERINARY SERVICES	372.82
345940	RETIREE	PENSION PAYMENT	3,999.00
345941	RETIREE	PENSION PAYMENT	4,999.00
345944	RETIREE	PENSION PAYMENT	2,132.80
345953	HUNT AND SONS INC	FUEL	483.49
345955	HYNES, MARTIN P	MILEAGE REIMBURSEMENT	42.94
345988	MOORE K9 SERVICES	K9 TRAINING	500.00
345990	MORIN, SHAWN M	MILEAGE REIMBURSEMENT	133.57
346043	WARD, NICHOLAS G	EXPENSE REIMBURSEMENT	49.44
346049	RETIREE	PENSION PAYMENT	3,999.00
Police Investigations			
202645	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	33.15
202651	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	7.14
345874	XEROX CORPORATION	COPIER LEASE/USAGE	1,473.37
345910	CONTRA COSTA COUNTY	SART EXAMS	4,000.00
345961	JOHNSON, VIRGINIA L	MILEAGE REIMBURSEMENT	67.80
345983	MEADS, ROBERT P	MILEAGE REIMBURSEMENT	58.76
345984	METRO PCS	PHONE RECORDS	100.00
346053	PERS	PAYROLL DEDUCTIONS	2,045.14
Police Special Operations Unit			
346032	TOYOTA FINANCIAL SERVICES	VEHICLE LEASE	1,543.90
Police Communications			
345881	AT AND T MOBILITY	HIGH SPEED WIRELESS	840.92
345882	AT AND T MOBILITY	HIGH SPEED WIRELESS	435.04
345905	COLMENERO, NICOLE SUZANNE	MILEAGE REIMBURSEMENT	75.94
346052	DELTA DENTAL	PAYROLL DEDUCTIONS	111.74
Police Community Volunteers			
345788	BANK OF AMERICA	SUPPLIES	260.23
345801	COSTCO	WATER	31.80
Police Facilities Maintenance			
345793	CAMALI CORP	MAINTENANCE SERVICE	345.00
345876	ACME SECURITY SYSTEMS	CARD READER REPLACEMENT	524.21
345887	BAY CITIES PYROTECTOR	SYSTEM TEST	500.00
345925	DREAM RIDE ELEVATOR	ELEVATOR SERVICE	80.00
345975	LOWES COMPANIES INC	SUPPLIES	185.85
346014	REAL PROTECTION INC	ALARM SYSTEM TESTING	311.38
919752	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,318.00
919754	LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	4,411.17
Community Development Administration			
345874	XEROX CORPORATION	COPIER LEASE/USAGE	749.67
Community Development Land Planning Services			
345930	DYETT AND BHATIA	CONSULTING SERVICES	540.00
346013	RANEY PLANNING & MANAGEMENT INC	CONSULTING SERVICES	4,151.25

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

Community Development Neighborhood Improvement

202805 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	20.00
345831 OFFICE MAX INC	SUPPLIES	125.44
345867 TURNAGE II, KEN	ABATEMENT SERVICES	8,389.99
345878 ALLIED WASTE SERVICES	GARBAGE SERVICES	464.76

PW Engineer Land Development

345874 XEROX CORPORATION	COPIER LEASE/USAGE	391.81
346053 PERS	PAYROLL DEDUCTIONS	1,343.77

Community Development Building Inspection

345879 AMERICAN PLUMBING INC	ENERGY FEE REFUND	62.83
------------------------------	-------------------	-------

Capital Imp. Administration

345874 XEROX CORPORATION	COPIER LEASE/USAGE	66.85
--------------------------	--------------------	-------

Community Development Engineering Services

345874 XEROX CORPORATION	COPIER LEASE/USAGE	501.31
--------------------------	--------------------	--------

212 CDBG Fund

CDBG

345776 ADVANCE TITLE RESEARCH INC	APPRAISAL FEE	165.00
345799 CONTRA COSTA COUNTY	CDBG SERVICES	15.00
345812 HEWLETT PACKARD COMPANY	COMPUTER EQUIPMENT	804.23

CDBG NSP

345950 HEART AND HANDS OF COMPASSION	NSP REHABILITATION LOAN	22,505.28
--------------------------------------	-------------------------	-----------

213 Gas Tax Fund

Streets

345837 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	80.48
------------------------------------	----------	-------

214 Animal Control Fund

Animal Control

345817 JOHNSON, GABRIELLE M	EXPENSE REIMBURSEMENT	46.00
345874 XEROX CORPORATION	COPIER LEASE/USAGE	349.59
345931 EAST BAY VETERINARY EMERGENCY	VETERINARY SERVICES	64.92
345952 HILLS PET NUTRITION	SUPPLIES	368.59
345964 KOEFRAN SERVICES INC	ANIMAL DISPOSAL SERVICES	1,850.00
345975 LOWES COMPANIES INC	SUPPLIES	35.66
919754 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	435.75

Maddie's Fund Grant

345809 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	6,407.85
345932 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	356.21

215 Civic Arts Fund

Civic Arts

202805 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	17.30
346014 REAL PROTECTION INC	ALARM SYSTEM TESTING	67.60

216 Park-In-Lieu Fund

Parks & Open Space

345899 CITY MECHANICAL	HEATER REPAIRS	5,333.57
345995 NEPTUNE BENSON	EMERGENCY REPAIRS	6,225.68
346007 PRECISION LEAK DETECTION INC	UNDERGROUND REPAIR	1,759.00
919752 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	672.30

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

219 Recreation Fund

Non Departmental

345891 CA CONNECTIONS ACADEMY	DEPOSIT REFUND	500.00
346023 SANDOVAL, LETICIA	DEPOSIT REFUND	1,000.00
346038 USA NORTH 811	DEPOSIT REFUND	500.00

Recreation Admin

345887 BAY CITIES PYROTECTOR	SPRINKLER INSPECTION	250.00
346014 REAL PROTECTION INC	ALARM SYSTEM TESTING	94.63

Senior Programs

202821 CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	51.84
345912 CCC HARDWOOD FLOOR SERVICE	CLEANING SERVICE	3,250.61

Recreation Classes/Prog

202734 DUNCAN, KARIN	CLASS REFUND	28.00
202735 NEELY, SALINA	CLASS REFUND	65.00
202737 WONG, MAUREEN	CLASS REFUND	98.00
202738 HERVEY, LEEAN	CLASS REFUND	56.00
202739 STONESTREET, SHELLY	CLASS REFUND	56.00
202740 PEREZ, SAMUEL	CLASS REFUND	56.00
202841 CALIO, LORI	CLASS REFUND	48.00
202842 FUENTES, AMANDEEP	CLASS REFUND	58.00
202843 SINGH, MANJEET	CLASS REFUND	56.00
202844 ARCEO, VIRGINA	CLASS REFUND	54.00
202845 MARTIN, ANA	CLASS REFUND	71.00
202846 MARTIN, ANA	CLASS REFUND	58.00
202847 PILGRIM, ROBEE	CLASS REFUND	37.00
202848 ASH, ALBERTA	CLASS REFUND	54.00
345884 BANKS, MELLONIE	CLASS REFUND	159.00
345924 DISCOUNT SCHOOL SUPPLY	SUPPLIES	608.03
345929 DUGAND, KARINA	CONTRACTOR PAYMENT	567.60
345936 FERNANDEZ, ANTHONY	CLASS REFUND	147.00
345943 GARCIA, DACIA	CLASS REFUND	132.00
345962 JUMP BUNCH	CONTRACTOR PAYMENT	338.40
345965 KOVALICK, LUANNE	CONTRACTOR PAYMENT	468.27
345973 LIPPE, PATRICIA	CONTRACTOR PAYMENT	113.22
345978 LUCAS, SUSAN	CLASS REFUND	142.00
346000 ORTIZ, CHERYL	CONTRACTOR PAYMENT	138.60
346012 RAMIREZ, ALICIA	CLASS REFUND	176.00
346044 WE ARE ONE PRODUCTIONS	CONTRACTOR PAYMENT	1,260.00
346050 ZAPATA, ZOE	CLASS REFUND	212.00

Recreation Sports Programs

202736 HAND, DOROTA	CLASS REFUND	22.00
345895 CALIFORNIA USSSA	REGISTRATION FEES	748.00
919829 KARSTE CONSULTING INC	CONSULTING SERVICES	940.20

Recreation Special Needs

345997 OFFICE MAX INC	OFFICE SUPPLIES	53.28
-----------------------	-----------------	-------

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

Recreation-New Comm Cntr

345784 AT AND T MCI	PHONE	63.43
345851 S AND S SERVICES	REPAIR SERVICE	600.00
345874 XEROX CORPORATION	COPIER LEASE/USAGE	595.03
345977 LSA ASSOCIATES INC	MONITORING SERVICES	1,294.90
345980 MARLIES CLEANING SERVICE	CLEANING SERVICES	270.00
346014 REAL PROTECTION INC	ALARM SYSTEM TESTING	405.00
346051 BLUE SHIELD LIFE	PAYROLL DEDUCTIONS	11.25
346052 DELTA DENTAL	PAYROLL DEDUCTIONS	105.60
346053 PERS	PAYROLL DEDUCTIONS	786.59

226 Solid Waste Reduction Fund

Solid Waste Used Oil

345848 RECYCLEMORE	OUTREACH CAMPAIGN	5,000.00
--------------------	-------------------	----------

229 Pollution Elimination Fund

Non Departmental

345863 STATE WATER RESOURCES BOARD	STORM WATER PERMIT	1,359.00
------------------------------------	--------------------	----------

Channel Maintenance Operation

345780 ANKA BEHAVIORAL HEALTH INC	LANDSCAPE MAINTENANCE	4,968.00
-----------------------------------	-----------------------	----------

238 PEG Franchise Fee Fund

Non Departmental

345927 DSAN CORPORATION	KEYPAD INSTALLATION	4,208.00
-------------------------	---------------------	----------

251 Lone Tree SLLMD Fund

Lonetree Maintenance Zone 1

345830 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	2,700.00
346003 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	1,198.00

Lonetree Maintenance Zone 2

345830 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	4,800.00
---------------------------------	--------------------	----------

252 Downtown SLLMD Fund

Downtown Maintenance

345951 HILLCREST TOPSOIL	BARK	630.18
--------------------------	------	--------

254 Hillcrest SLLMD Fund

Hillcrest Maintenance Zone 1

346002 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	2,204.00
---------------------------------------	--------------------	----------

Hillcrest Maintenance Zone 2

346003 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	3,511.00
---	--------------------	----------

Hillcrest Maintenance Zone 4

345836 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	2,420.00
346003 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	2,420.00

255 Park 1A Maintenance District Fund

Non Departmental

345835 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	160.00
---------------------------------------	--------------------	--------

256 Citywide 2A Maintenance District Fund

Non Departmental

345808 EAST BAY MUNICIPAL UTILITY DISTRICT	REVOCABLE LICENSE	787.80
--	-------------------	--------

Citywide 2A Maintenance Zone 3

345808 EAST BAY MUNICIPAL UTILITY DISTRICT	REVOCABLE LICENSE	17.65
--	-------------------	-------

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

257 SLLMD Administration Fund

SLLMD Administration

345775 ACE HARDWARE, ANTIOCH	HEX KEY SET	12.68
345803 CROP PRODUCTION SERVICES INC	CHEMICALS	10,904.25
345838 PAPA	SEMINAR-GOSS	240.00
345942 FURBER SAW INC	POWER MOWER	2,227.43
345957 INTERNATIONAL SOCIETY	APPLICATION FEE	250.00

259 East Lone Tree SLLMD Fund

Zone 1-District 10

345830 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	5,940.00
345837 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	95.25

311 Capital Improvement Fund

Public Buildings & Facilities

345789 BEALS ALLIANCE INC	CONSULTANT SERVICES	2,805.53
345947 GOODLAND LANDSCAPE CONSTRUCTION	SOCCER FIELDS PROJECT	442,397.57
345993 MUSCO LIGHTING	SOCCER FIELDS PROJECT	200,920.30

376 Lone Diamond Fund

Assessment District

346008 PUBLIC STORAGE	STORAGE FEES	576.00
-----------------------	--------------	--------

570 Equipment Maintenance Fund

Non Departmental

345814 HUNT AND SONS INC	FUEL	15,858.94
345953 HUNT AND SONS INC	FUEL	14,818.88

Equipment Maintenance

202768 LEHR AUTO ELECTRIC	HEADLIGHT FLASHER	63.49
345781 ANTIOCH AUTO PARTS	AC COMPRESSOR	1,452.57
345790 BILL BRANDT FORD	SENSOR	146.36
345834 OPTIC FUEL CLEAN	GENERATOR SERVICE	1,390.00
345842 PETERSON	LATCHES	71.02
345849 RESPONSIVE COMMUNICATION SERVICES	SUPPLIES	171.91
345874 XEROX CORPORATION	COPIER LEASE/USAGE	108.75
345898 CHUCKS BRAKE AND WHEEL SERVICE INC	ALTERNATOR	371.37
345909 CONTRA COSTA COUNTY	RADIO SERVICE	480.00
345975 LOWES COMPANIES INC	SUPPLIES	26.66
345979 MAACO	VEHICLE PAINT	2,500.00
345986 MITCHELL ONE INC	EQUIPMENT TESTING	633.65
346009 PURSUIT NORTH	VEHICLE BUILD	4,533.69
346033 TRED SHED, THE	TIRES	4,166.74
346042 WALNUT CREEK FORD	COOLING FAN	323.22
919758 A1 TRANSMISSION	TRANSMISSION REBUILD	2,230.64

573 Information Services Fund

Information Services

346039 VERIZON WIRELESS	AIR CARD	70.22
-------------------------	----------	-------

Telephone System

345784 AT AND T MCI	PHONE	193.50
---------------------	-------	--------

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

GIS Support Services

345811 ELEVEN BY SEVENTEEN INC	PAPER SUPPLIES	257.49
577 Post Retirement Medical-Police Fund		

Non Departmental

345969 RETIREE	MEDICAL AFTER RETIREMENT	842.00
345994 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
346021 RETIREE	MEDICAL AFTER RETIREMENT	219.32
346026 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
346035 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
346047 RETIREE	MEDICAL AFTER RETIREMENT	461.74
346053 PERS	MEDICAL AFTER RETIREMENT	3,416.45
919759 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919760 RETIREE	MEDICAL AFTER RETIREMENT	219.32
919765 RETIREE	MEDICAL AFTER RETIREMENT	1,111.84
919768 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919777 RETIREE	MEDICAL AFTER RETIREMENT	1,088.53
919778 RETIREE	MEDICAL AFTER RETIREMENT	973.00
919780 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919783 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919794 RETIREE	MEDICAL AFTER RETIREMENT	1,090.04
919799 RETIREE	MEDICAL AFTER RETIREMENT	810.00
919800 RETIREE	MEDICAL AFTER RETIREMENT	219.32
919814 RETIREE	MEDICAL AFTER RETIREMENT	173.37
919817 RETIREE	MEDICAL AFTER RETIREMENT	219.32
919820 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919821 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919822 RETIREE	MEDICAL AFTER RETIREMENT	130.73
919833 RETIREE	MEDICAL AFTER RETIREMENT	173.37
919850 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919852 RETIREE	MEDICAL AFTER RETIREMENT	553.63
919862 RETIREE	MEDICAL AFTER RETIREMENT	352.26
919863 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919865 RETIREE	MEDICAL AFTER RETIREMENT	887.95
919875 RETIREE	MEDICAL AFTER RETIREMENT	553.63
919886 RETIREE	MEDICAL AFTER RETIREMENT	173.32
919889 RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919893 RETIREE	MEDICAL AFTER RETIREMENT	553.63
919903 RETIREE	MEDICAL AFTER RETIREMENT	553.63
919905 RETIREE	MEDICAL AFTER RETIREMENT	193.61

578 Post Retirement Medical-Misc Fund

Non Departmental

345889 RETIREE	MEDICAL AFTER RETIREMENT	239.69
345919 RETIREE	MEDICAL AFTER RETIREMENT	239.69
345923 RETIREE	MEDICAL AFTER RETIREMENT	121.69
345926 RETIREE	MEDICAL AFTER RETIREMENT	387.26
345928 RETIREE	MEDICAL AFTER RETIREMENT	594.38

Prepared by: Georgina Meek
 Finance Accounting

7/3/2013

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

345963 RETIREE	MEDICAL AFTER RETIREMENT	239.69
345985 RETIREE	MEDICAL AFTER RETIREMENT	239.69
346001 RETIREE	MEDICAL AFTER RETIREMENT	121.69
346011 RETIREE	MEDICAL AFTER RETIREMENT	121.69
346016 RETIREE	MEDICAL AFTER RETIREMENT	594.38
346020 RETIREE	MEDICAL AFTER RETIREMENT	121.69
346024 RETIREE	MEDICAL AFTER RETIREMENT	239.69
346041 RETIREE	MEDICAL AFTER RETIREMENT	519.26
346053 PERS	MEDICAL AFTER RETIREMENT	6,186.74
919750 RETIREE	MEDICAL AFTER RETIREMENT	243.38
919761 RETIREE	MEDICAL AFTER RETIREMENT	255.43
919762 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919763 RETIREE	MEDICAL AFTER RETIREMENT	146.32
919764 RETIREE	MEDICAL AFTER RETIREMENT	358.51
919767 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919771 RETIREE	MEDICAL AFTER RETIREMENT	239.69
919773 RETIREE	MEDICAL AFTER RETIREMENT	239.69
919775 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919781 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919784 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919788 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919790 RETIREE	MEDICAL AFTER RETIREMENT	239.69
919793 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919796 RETIREE	MEDICAL AFTER RETIREMENT	173.37
919798 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919802 RETIREE	MEDICAL AFTER RETIREMENT	173.37
919806 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919808 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919810 RETIREE	MEDICAL AFTER RETIREMENT	531.64
919811 RETIREE	MEDICAL AFTER RETIREMENT	163.02
919816 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919819 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919827 RETIREE	MEDICAL AFTER RETIREMENT	239.69
919828 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919832 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919835 RETIREE	MEDICAL AFTER RETIREMENT	239.69
919837 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919840 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919843 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919845 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919849 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919858 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919859 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919867 RETIREE	MEDICAL AFTER RETIREMENT	239.69
919870 RETIREE	MEDICAL AFTER RETIREMENT	239.69
919874 RETIREE	MEDICAL AFTER RETIREMENT	594.38

Prepared by: Georgina Meek
 Finance Accounting
 7/3/2013

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

919879 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919888 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919890 RETIREE	MEDICAL AFTER RETIREMENT	255.43
919892 RETIREE	MEDICAL AFTER RETIREMENT	173.37
919896 RETIREE	MEDICAL AFTER RETIREMENT	709.38
919902 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919904 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919906 RETIREE	MEDICAL AFTER RETIREMENT	84.28
919907 RETIREE	MEDICAL AFTER RETIREMENT	121.69

579 Post Retirement Medical-Mgmt Fund

Non Departmental

345885 RETIREE	MEDICAL AFTER RETIREMENT	239.69
345900 RETIREE	MEDICAL AFTER RETIREMENT	964.95
345915 RETIREE	MEDICAL AFTER RETIREMENT	179.69
345939 RETIREE	MEDICAL AFTER RETIREMENT	121.69
345948 RETIREE	MEDICAL AFTER RETIREMENT	239.69
345954 RETIREE	MEDICAL AFTER RETIREMENT	400.00
345970 RETIREE	MEDICAL AFTER RETIREMENT	358.38
345987 RETIREE	MEDICAL AFTER RETIREMENT	759.38
346005 RETIREE	MEDICAL AFTER RETIREMENT	121.69
346015 RETIREE	MEDICAL AFTER RETIREMENT	255.43
346031 RETIREE	MEDICAL AFTER RETIREMENT	594.38
346048 RETIREE	MEDICAL AFTER RETIREMENT	173.37
346053 PERS	MEDICAL AFTER RETIREMENT	9,124.68
919766 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919769 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919770 RETIREE	MEDICAL AFTER RETIREMENT	256.89
919772 RETIREE	MEDICAL AFTER RETIREMENT	179.70
919774 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919776 RETIREE	MEDICAL AFTER RETIREMENT	898.90
919779 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919786 RETIREE	MEDICAL AFTER RETIREMENT	625.86
919787 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919789 RETIREE	MEDICAL AFTER RETIREMENT	594.38
919791 RETIREE	MEDICAL AFTER RETIREMENT	474.38
919792 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919795 RETIREE	MEDICAL AFTER RETIREMENT	255.43
919801 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919803 RETIREE	MEDICAL AFTER RETIREMENT	898.90
919805 RETIREE	MEDICAL AFTER RETIREMENT	121.69
919809 RETIREE	MEDICAL AFTER RETIREMENT	1,184.56
919812 RETIREE	MEDICAL AFTER RETIREMENT	408.20
919813 RETIREE	MEDICAL AFTER RETIREMENT	358.38
919815 RETIREE	MEDICAL AFTER RETIREMENT	461.74
919824 RETIREE	MEDICAL AFTER RETIREMENT	315.64
919830 RETIREE	MEDICAL AFTER RETIREMENT	724.38

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

919831	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919834	RETIREE	MEDICAL AFTER RETIREMENT	255.43
919836	RETIREE	MEDICAL AFTER RETIREMENT	594.38
919838	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919839	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919841	RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919842	RETIREE	MEDICAL AFTER RETIREMENT	239.69
919844	RETIREE	MEDICAL AFTER RETIREMENT	239.69
919846	RETIREE	MEDICAL AFTER RETIREMENT	159.02
919847	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919848	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919851	RETIREE	MEDICAL AFTER RETIREMENT	964.95
919853	RETIREE	MEDICAL AFTER RETIREMENT	173.37
919854	RETIREE	MEDICAL AFTER RETIREMENT	255.43
919855	RETIREE	MEDICAL AFTER RETIREMENT	146.32
919856	RETIREE	MEDICAL AFTER RETIREMENT	594.38
919857	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919860	RETIREE	MEDICAL AFTER RETIREMENT	121.69
919861	RETIREE	MEDICAL AFTER RETIREMENT	121.69
919864	RETIREE	MEDICAL AFTER RETIREMENT	1,222.26
919866	RETIREE	MEDICAL AFTER RETIREMENT	121.69
919868	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919869	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919871	RETIREE	MEDICAL AFTER RETIREMENT	239.69
919872	RETIREE	MEDICAL AFTER RETIREMENT	146.32
919873	RETIREE	MEDICAL AFTER RETIREMENT	379.69
919876	RETIREE	MEDICAL AFTER RETIREMENT	898.90
919877	RETIREE	MEDICAL AFTER RETIREMENT	594.38
919878	RETIREE	MEDICAL AFTER RETIREMENT	121.69
919880	RETIREE	MEDICAL AFTER RETIREMENT	255.43
919881	RETIREE	MEDICAL AFTER RETIREMENT	625.86
919883	RETIREE	MEDICAL AFTER RETIREMENT	121.69
919884	RETIREE	MEDICAL AFTER RETIREMENT	898.80
919885	RETIREE	MEDICAL AFTER RETIREMENT	759.38
919887	RETIREE	MEDICAL AFTER RETIREMENT	121.69
919891	RETIREE	MEDICAL AFTER RETIREMENT	255.43
919894	RETIREE	MEDICAL AFTER RETIREMENT	2,051.22
919895	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919897	RETIREE	MEDICAL AFTER RETIREMENT	358.38
919898	RETIREE	MEDICAL AFTER RETIREMENT	1,111.84
919899	RETIREE	MEDICAL AFTER RETIREMENT	121.69
919900	RETIREE	MEDICAL AFTER RETIREMENT	1,623.44
919901	RETIREE	MEDICAL AFTER RETIREMENT	255.43

611 Water Fund

Non Departmental

345850	ROBERTS AND BRUNE CO	SUPPLIES	269.62
--------	----------------------	----------	--------

Prepared by: Georgina Meek
 Finance Accounting

7/3/2013

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

345935 FASTENAL CO	SUPPLIES	721.64
345997 OFFICE MAX INC	SUPPLIES	1,626.20
Water Supervision		
346022 RT LAWRENCE CORP	LOCKBOX PROCESSING FEE	1,465.99
Water Production		
202590 CONSOLIDATED ELECTRICAL DIST INC	WIRE	95.99
345775 ACE HARDWARE, ANTIOCH	SUPPLIES	245.63
345779 ANIMAL DAMAGE MANAGEMENT	PEST CONTROL SERVICE	125.00
345781 ANTIOCH AUTO PARTS	SPARK PLUGS	94.67
345784 AT AND T MCI	PHONE	126.84
345800 CONTRA COSTA WATER DISTRICT	RAW WATER	669,313.43
345813 HILLCREST TOPSOIL	SAND	4,561.26
345814 HUNT AND SONS INC	FUEL	30,013.05
345834 OPTIC FUEL CLEAN	GENERATOR SERVICES	2,869.50
345836 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	857.00
345837 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	21.03
345850 ROBERTS AND BRUNE CO	SUPPLIES	231.93
345854 SPAULDING, ANN B	CONSULTANT SERVICES	1,682.15
345857 STATE OF CALIFORNIA	HAZARDOUS WASTE FEES	457.50
345858 STATE OF CALIFORNIA	HAZARDOUS WASTE FEES	225.00
345869 UNIVAR USA INC	CAUSTIC	5,634.48
345874 XEROX CORPORATION	COPIER LEASE	136.40
345877 ALLIED PACKING AND SUPPLY INC	HOSE	1,563.29
345880 ARAMARK UNIFORM SERVICES	CLEANING SUPPLIES	159.06
345934 ENVIRONMENTAL RESOURCE ASSOC INC	PROFICIENCY TESTING	922.46
345937 FISHER SCIENTIFIC COMPANY	LAB SUPPLIES	245.19
345938 FLW INC	SOLENOID VALVE	275.63
345951 HILLCREST TOPSOIL	SAND	4,601.26
345975 LOWES COMPANIES INC	TOOL KIT	27.82
345997 OFFICE MAX INC	OFFICE SUPPLIES	59.22
345999 ORCHARD SUPPLY HARDWARE	SUPPLIES	24.94
346003 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	857.00
346029 STEWARTS TREE SERVICE	TREE SERVICES	350.00
346037 UNIVAR USA INC	CAUSTIC	12,266.48
346052 DELTA DENTAL	PAYROLL DEDUCTIONS	105.60
346053 PERS	PAYROLL DEDUCTIONS	670.30
919746 AIRGAS SPECIALTY PRODUCTS	AMMONIA	2,101.20
919752 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	453.21
919754 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	658.60
919756 SIERRA CHEMICAL CO	CHLORINE	4,064.55
919797 EUROFINS EATON ANALYTICAL INC	MONITORING SERVICE	1,200.00
919804 GENERAL CHEMICAL CORP	ALUM	30,272.59
919807 GRAINGER INC	SUPPLIES	62.06
919825 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	2,539.67
919882 SIERRA CHEMICAL CO	CHLORINE	4,064.55

Prepared by: Georgina Meek
 Finance Accounting
 7/3/2013

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

Water Distribution

345778	AJW CONSTRUCTION	VARIOUS ASPHALT REPAIRS	84,510.26
345782	ANTIOCH BUILDING MATERIALS	ASPHALT MATERIALS	1,841.76
345802	COUNTY ASPHALT	ASPHALT	641.19
345821	LENHART ALARM AND SECURITY	ALARM SERVICE	54.50
345823	MAIL STREAM	MAILING SERVICES	254.20
345824	MANERI SIGN COMPANY	SUPPLIES	82.46
345825	MT DIABLO LANDSCAPE CENTERS INC	CONCRETE MIX	261.60
345864	STILES TRUCK BODY INC	VEHICLE MODIFICATIONS	4,876.93
345868	ULLMANN, RODNEY	EXPENSE REIMBURSEMENT	71.75
345874	XEROX CORPORATION	COPIER LEASE/USAGE	276.82
345916	COUNTY ASPHALT	ASPHALT	1,709.87
345918	CWEA SFBS	RENEWAL FEES	786.00
345935	FASTENAL CO	SUPPLIES	14.81
345975	LOWES COMPANIES INC	LUMBER	244.83
345989	MORGANS HOME AND GARDEN	PEBBLES	270.00
345991	MT DIABLO LANDSCAPE CENTERS INC	CONCRETE MIX	244.13
345998	OLSEN, LOUIS	RENEWAL REIMBURSEMENT	77.00
346019	ROBERTS AND BRUNE CO	PIPE & FITTINGS	5,177.48
346034	TRENCH PLATE RENTAL CO INC	SHORING	78.23
919745	3M AOSAFETY EYEWARE	SAFETY GLASSES-HANBERG	190.29

Water Meter Reading

346039	VERIZON WIRELESS	DATA CHARGES	38.01
--------	------------------	--------------	-------

Public Buildings & Facilities

345792	BROWN AND CALDWELL INC	CONSULTANT SERVICES	23,781.21
345976	LOZANO SMITH LLP	LEGAL SERVICES	6,219.47

Warehouse & Central Stores

345874	XEROX CORPORATION	COPIER LEASE/USAGE	291.02
--------	-------------------	--------------------	--------

621 Sewer Fund

Sewer-Wastewater Supervision

345874	XEROX CORPORATION	COPIER LEASE/USAGE	276.82
--------	-------------------	--------------------	--------

Sewer-Wastewater Collection

345778	AJW CONSTRUCTION	VARIOUS ASPHALT REPAIRS	84,510.25
345782	ANTIOCH BUILDING MATERIALS	ASPHALT MATERIALS	1,841.76
345802	COUNTY ASPHALT	ASPHALT	641.19
345804	CWEA SFBS	CERTIFICATE RENEWAL	222.00
345816	INFRASTRUCTURE TECHNOLOGIES LLC	SOFTWARE SERVICE	1,500.00
345821	LENHART ALARM AND SECURITY	ALARM SERVICE	54.50
345823	MAIL STREAM	MAILING SERVICES	254.20
345829	OCT WATER QUALITY ACADEMY	WASTE WATER CLASS	450.00
345847	PUMP REPAIR SERVICE CO	PUMPS	2,654.86
345864	STILES TRUCK BODY INC	VEHICLE INSTALLATION	4,876.92
345868	ULLMANN, RODNEY	EXPENSE REIMBURSEMENT	71.75
345873	WECO INDUSTRIES INC	NOZZLE REPAIR	378.20
345916	COUNTY ASPHALT	ASPHALT	714.58
345935	FASTENAL CO	SUPPLIES	237.27

Prepared by: Georgina Meek
 Finance Accounting

7/3/2013

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

345975	LOWES COMPANIES INC	SUPPLIES	297.47
346010	QUESADA CHIROPRACTIC	DMV PHYSICAL	75.00
346039	VERIZON WIRELESS	DATA CHARGES	76.02
622 Sewer Facilities Expansion Fund			
Wastewater Collection			
346018	RMC WATER AND ENVIRONMENT	CONSULTANT SERVICES	32,836.84
631 Marina Fund			
Marina Administration			
345828	NAUTICAL SOFTWARE SOLUTION	GRAPHIC DESIGN SERVICE	150.00
345874	XEROX CORPORATION	COPIER LEASE	136.40
346014	REAL PROTECTION INC	ALARM SYSTEM TESTING	65.63
Marina Maintenance			
345775	ACE HARDWARE, ANTIOCH	SUPPLIES	68.34
919754	LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	1,355.14
641 Prewett Water Park Fund			
Rec - Prewett Admin			
919807	GRAINGER INC	SUPPLIES	148.35
Recreation Aquatics			
202792	HEYWARD, CARRIE	CLASS REFUND	38.00
202793	AHOLA, PAUL	CLASS REFUND	55.00
202794	DUCAN, MARGEUX	CLASS REFUND	48.00
345975	LOWES COMPANIES INC	SUPPLIES	44.86
345992	MUIR, ROXANNE	WATER AEROBIC INSTRUCTOR	70.00
Recreation Water Park			
202795	ORCHARD SUPPLY HARDWARE	SUPPLIES	3.57
202805	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	15.13
202822	CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	48.53
345796	COMMERCIAL POOL SYSTEMS INC	POOL COVERS	12,842.18
345818	KING DJ COMPANY	EVENT SERVICES	295.00
345874	XEROX CORPORATION	COPIER LEASE/USAGE	520.37
345886	BAY AREA PARENT - 637	ADVERTISING	306.00
345887	BAY CITIES PYROTECTOR	SPRINKLER INSPECTION	250.00
345901	COAST RADIO COMPANY INC	ADVERTISING	1,350.00
345904	COLE SUPPLY CO INC	SUPPLIES	223.17
345906	COMCAST	MONTHLY DMX SERVICE	53.33
345945	GARDA CL WEST INC	ARMORED CAR SERVICE	153.97
345967	LEACH, TAMARA L	EXPENSE REIMBURSEMENT	151.88
345972	LINCOLN EQUIPMENT INC	SIGNS	436.27
345975	LOWES COMPANIES INC	SUPPLIES	2,357.81
345996	OAKLEYS PEST CONTROL	PEST CONTROL SERVICE	380.00
346014	REAL PROTECTION INC	ALARM SYSTEM TESTING	196.88
919807	GRAINGER INC	SUPPLIES	725.21
Rec Prewett Concessions			
202796	FOODMAXX	SUPPLIES	31.51
345840	PEPSI COLA COMPANY	CONCESSION SUPPLIES	619.16
345899	CITY MECHANICAL	DIAGNOSTIC SERVICE	625.77

Prepared by: Georgina Meek
 Finance Accounting

7/3/2013

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 20 - JULY 2, 2013
 FUND/CHECK#

345902 COCA COLA BOTTLING CO	CONCESSION SUPPLIES	2,013.88
345956 ICEE COMPANY, THE	SUPPLIES	981.62
721 Employee Benefits Fund		
Non Departmental		
345777 AFLAC	PAYROLL DEDUCTIONS	7,785.14
345795 CLAYTON FITNESS CENTER	PAYROLL DEDUCTIONS	35.99
345797 CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	50.00
345798 CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	400.00
345806 DELTA PARK ATHLETIC CLUB	PAYROLL DEDUCTIONS	37.00
345807 DELTA VALLEY ATHLETIC CLUB	PAYROLL DEDUCTIONS	54.00
345815 IN SHAPE HEALTH CLUBS	PAYROLL DEDUCTIONS	1,100.00
345822 LINA	PAYROLL DEDUCTIONS	4,602.89
345826 MUNICIPAL POOLING AUTHORITY	PAYROLL DEDUCTIONS	2,476.41
345832 OPERATING ENGINEERS LOCAL NO 3	PAYROLL DEDUCTIONS	2,280.00
345833 OPERATING ENGINEERS LOCAL NO 3	PAYROLL DEDUCTIONS	1,230.94
345839 PARS	PAYROLL DEDUCTIONS	6,354.75
345841 PERS LONG TERM CARE	PAYROLL DEDUCTIONS	97.27
345845 PERS	PAYROLL DEDUCTIONS	285,227.88
345846 PUBLIC EMPLOYEES UNION LOCAL 1	PAYROLL DEDUCTIONS	2,112.17
345853 SOLAR SWIM AND GYM	PAYROLL DEDUCTIONS	27.00
345855 STANDARD LIFE INSURANCE	PAYROLL DEDUCTIONS	924.50
345856 STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	275.00
345859 STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	200.00
345860 STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	214.00
345862 STATE OF FLORIDA DISBURSE UNIT	PAYROLL DEDUCTIONS	150.00
345865 TEXAS CHILD SUPPORT DISBURSE UNIT	PAYROLL DEDUCTIONS	422.77
345866 RECIPIENT	PAYROLL DEDUCTIONS	112.15
345870 US DEPT OF EDUCATION	PAYROLL DEDUCTIONS	217.74
345875 XTREME FITNESS	PAYROLL DEDUCTIONS	104.00
346051 BLUE SHIELD LIFE	PAYROLL DEDUCTIONS	2,022.12
346052 DELTA DENTAL	PAYROLL DEDUCTIONS	26,510.21
346053 PERS	PAYROLL DEDUCTIONS	281,929.48
919747 ANTIOCH PD SWORN MGMT ASSOC	PAYROLL DEDUCTIONS	536.75
919748 APOA	PAYROLL DEDUCTIONS	11,731.67
919755 NATIONWIDE RETIREMENT SOLUTIONS	PAYROLL DEDUCTIONS	52,077.34
919757 VANTAGEPOINT TRANSFER AGENTS	PAYROLL DEDUCTIONS	1,334.13

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013**

Prepared by: Tina Wehrmeister, Community Development Director *TW*
Date: July 5, 2013
Subject: Adoption of an Ordinance Approving a Development Agreement between the City of Antioch and Davidon Homes for the Park Ridge Subdivision Project

RECOMMENDATION

It is recommended the City Council adopt the attached ordinance approving a development agreement between the City of Antioch and Davidon Homes for the Park Ridge Subdivision Project.

BACKGROUND INFORMATION

The attached ordinance was introduced by the Council on June 25, 2013. The Council made no changes to the ordinance at this meeting.

FINANCIAL IMPACT

There is no direct fiscal impact associated with the adoption of the proposed ordinance.

OPTIONS

The recommended action is consistent with the City Council's introduction of the ordinance on June 25, 2013.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
APPROVING A DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ANTIOCH AND DAVIDON HOMES**

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

Section 1. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, *et. seq.* of the Government Code, which authorizes the City of Antioch ("City") to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property in order to establish certainty in the development process.

Section 2. The Planning Commission conducted a duly noticed public hearing on June 5, 2013 at which it recommended to the City Council that the Development Agreement be approved. The City Council held a duly noticed public hearing on June 25, 2013 at which all interested persons were allowed to address the Council on the Development Agreement.

Section 3. The City Council finds that the Development Agreement is consistent with the City's General Plan as well as all provisions of the City's Zoning Ordinance and Municipal Code. The City Council finds that the Development Agreement implements General Plan objectives by providing housing opportunities and needed infrastructure, in particular design and construction of Laurel Road. The Development Agreement will not be detrimental to the health, safety and general welfare and will not adversely affect the orderly development of property or the preservation of property values. The City Council has considered the effect of the Development Agreement on the housing needs of the region in which the City is situated and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources by requiring an HOA to maintain certain improvements and formation of a revenue generating mechanism to fund Police Services.

Section 4. An addendum to the Future Urbanized Area #2 EIR was adopted for the Park Ridge Project. The City Council has concluded that there have been no substantial changes to the project through the Development Agreement and there are no new significant environmental effects or an increase in previously identified effects. In addition, there is no new information of substantial importance which was not known and could not have been known which shows new significant environmental effects. Therefore, no subsequent or supplemental environmental review is required under CEQA Guidelines section 15162.

Section 5. The Development Agreement included as Exhibit "A" is hereby approved, subject to minor and clarifying revisions approved by the City Manager and City Attorney, and the City Manager is authorized and directed to sign it on behalf of the City of Antioch.

Section 6. This Ordinance shall take effect thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in a newspaper of general circulation printed and published in the City of Antioch. The Development Agreement shall be recorded with the Contra Costa County Recorder's Office after this Ordinance becomes effective.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the 25th day of June, 2013, and passed and adopted at a regular meeting thereof, held on the 9th day of July, 2013.

AYES:

NOES:

ABSENT:

MAYOR OF THE CITY OF ANTIOCH

ATTEST:

CITY CLERK OF THE CITY OF ANTIOCH

EXHIBIT A

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Antioch
200 H Street
Antioch, CA 94509
Attention: City Clerk

(Space Above This Line Reserved For Recorder's Use)

DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ANTIOCH AND DAVIDON HOMES

THIS DEVELOPMENT AGREEMENT ("**Agreement**") by and between the City of Antioch, a municipal corporation ("**City**") and Davidon Homes, a California limited partnership ("**Davidon**") (each a "**Party**" and collectively the "**Parties**"), pursuant to the authority of Division 1, Chapter 4, Article 2.5, Sections 65864 et seq. of the Government Code (the "**Statute**") is entered into as of _____, (the "**Effective Date**") in the following factual context:

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California State Legislature enacted the Statute, which authorizes the City to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of such property.

B. Davidon is the owner of certain real property located in the City of Antioch, Contra Costa County more particularly described in Exhibit A (the "**Property**") which it plans to develop as a single-family residential subdivision, commonly known as the Park Ridge Subdivision Project, in accordance with the Ordinance and Resolutions described in section 2.2 below (the "**Project**").

C. On September 14, 2004, the City Council adopted Resolution No. 2004/18 approving 562 residential development allocations for the Property ("**RDA Resolution**").

D. On May 28, 1996, the City Council certified the Future Urban Area #2 East Lone Tree Specific Plan Environmental Impact Report ("**Environmental Impact Report**") and adopted a Statement of Overriding Considerations.

E. On March 9, 2010, the City Council adopted Resolutions 2010/20 and 2010/21 adopting an addendum to the Environmental Impact Report and a Final Planned Development, Vesting Tentative Map and Use Permit for the Project. The City Council

introduced Ordinance 2037-C-S, rezoning the Property, on March 9, 2010, and adopted it on March 23, 2010.

F. The City Council previously found that the Project is consistent with the City's General Plan and the East Lone Tree Specific Plan. This Agreement also is consistent with those Plans.

G. Absent this Agreement, the Vesting Tentative Map, approved by Resolution No. 2010/21, and related permits will expire on March 9, 2014, twenty-four months after approval of the Map plus an additional twenty-four months as set forth in Government Code Section 66452.23(a).

H. Davidon and the City desire to enter into this Agreement to satisfy condition 78 of the Conditions of Approval set forth in Resolution No. 2010/21 and to extend the term of the Vesting Tentative Map and related permits. In exchange for the covenants contained in this Agreement and the continued commitment of Davidon to provide the benefits described in the Project Approvals, when and if the Project proceeds, and in order to encourage the investment by it necessary to do so, the City is willing to enter into this Agreement to set forth the right of Davidon to complete the Project as provided in this Agreement.

I. Concurrently with the introduction of the Ordinance approving this Agreement, described below, the City Council adopted a Resolution determining that the Environmental Impact Report and Addendum satisfy the requirements of CEQA related to this Agreement.

J. On _____, 2013, at a duly noticed public hearing, the City Council adopted Ordinance No. _____ approving this Agreement, a copy of which is attached as Exhibit C.

AGREEMENT

In this factual context and intending to be legally bound, the Parties agree as follows:

ARTICLE 1 TERM AND APPLICABLE LAW

The term of this Agreement shall commence as of the Effective Date and continue to and including March 9, 2027. The expiration of the term of this Agreement shall not be interpreted to, and shall not affect, terminate or waive any additional rights that Davidon may have that exist independently of this Agreement and derive from common law vesting or other laws or regulations of the State or the City. The term of this Agreement, or any Project Approval, may be extended from time to time pursuant to Section 3.4, or Section 4.2.

ARTICLE 2
COVENANTS OF DAVIDON

Section 2.1 Obligations of Davidon Generally. Davidon shall have no obligation to proceed with, or complete the Project at any particular time or at all. However, if Davidon proceeds, it shall comply the Applicable Law, as defined below in Section 2.3.

Section 2.2 Project Approvals; Conditions of Approval. The City Council adopted the following Resolutions and Ordinance, which collectively are referred to as the “**Project Approvals**”:

Section 2.2.1 On March 9, 2010, the City Council adopted Resolution No. 2010/20, titled RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN ADDENDUM TO THE FUA #2 (EAST LONE TREE) SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT AND REAFFIRMING THE STATEMENT OF OVERRIDING CONSIDERATIONS. A copy of the Resolution is attached as Exhibit B-1.

Section 2.2.2 On March 9, 2010, the City Council adopted Resolution No. 2010/21, titled RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH APPROVING A FINAL PLANNED DEVELOPMENT, VESTING TENTATIVE MAP, AND A USE PERMIT FOR 525 SINGLE-FAMILY HOMES, APPROXIMATELY 25 ACRES OF PASSIVE OPEN SPACE, AND APPROXIMATELY 8.22 ACRES CONSISTING OF A NEIGHBORHOOD PARK FOR THE PARK RIDGE SUBDIVISION PROJECT. A copy of the Resolution is attached as Exhibit B-2. The approval of the Map was made subject to 134 conditions, including Standard Conditions, numbers 1 through 70, and Project Specific Conditions, numbers 71 through 134. The 134 conditions are set forth in the body of the Resolution and are collectively referred to herein as the “**Conditions of Approval**” and each may be referred to as a “**Condition of Approval**.” A number of the Conditions of Approvals are restated, addressed or further clarified in this Agreement.

Section 2.2.3 On March 9, 2010, the City Council introduced and on March 23, 2010, it adopted Ordinance No. 2037-C-S, titled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH TO REZONE APPROXIMATELY 169.7 ACRES, COMPRISING THE PARK RIDGE SUBDIVISION PROJECT (APNs: 053-072-016 AND -023), FROM SPECIFIC PLAN (“**SP**”) TO PLANNED DEVELOPMENT DISTRICT (“**PD**”). A copy of the Ordinance is attached as Exhibit B-3.

Section 2.3 Applicable Law. The rules, regulations, and official policies governing permitted uses of the Property, density and improvement requirements applicable to development of the Property shall be the ordinances, rules, regulations, and official policies in force on March 9, 2010 (collectively, the “**City Regulations**”), except as otherwise expressly provided in the Project Approvals or this Agreement. The law applicable to the Project shall be (a) the City Regulations, (b) the Project Approvals and (c) this Agreement (collectively, the “**Applicable Law**”). If there is a conflict between this Agreement and the City Regulations or Project Approvals, this Agreement shall control. If

there is a conflict between the Project Approvals and the City Regulations, the Project Approvals shall control. The Project Approvals do not include any design review approvals, which Davidon has not yet obtained, but which it must obtain pursuant to the design review guidelines in effect at the time of their application to the extent such guidelines are consistent with the Project Approvals.

Section 2.4 Fees. Davidon shall pay when due all generally applicable fees, as required by the Applicable Law, but at the rates and in the amounts applicable at the time of payment. Davidon shall pay project specific fees as required by the Conditions of Approval. *Generally applicable fees* are those fees of the City that were in effect on the Effective Date, and that were applicable to (a) all similar residential projects, or (b) all construction work similar in nature to work required by the Conditions of Approval. *Project specific fees* are fees imposed by the Conditions of Approval that are not generally applicable fees. In addition, Davidon shall pay processing fees and charges of every kind and nature imposed by City, including planning processing deposits, to cover the actual costs to City of processing applications for subsequent approvals or for monitoring compliance with and review subsequent submittals for any Project Approvals granted or issued, as such fees and charges are adjusted from time to time. The foregoing notwithstanding, no fees other than processing fees shall be due before approval of the final map, unless earlier payment is expressly required by the Project Approvals.

Section 2.5 Improvements. Davidon shall construct the public and private improvements required by, and more particularly described in the Conditions of Approval. Davidon shall perform the work in accordance with the standards and specifications established by Applicable Law. To the extent there are no such standards or specifications in the Applicable Law other than this Agreement, the work shall be performed in accordance with industry standards and in good and workmanlike manner, as approved by the City Engineer.

Section 2.6 Subdivision and Other Agreements; Multiple Final Maps. Davidon shall execute and perform its obligations as set forth in any Subdivision Improvement Agreements required or permitted by Applicable Law to obtain approval of final maps. Davidon may file multiple final maps in accordance with Section 3.4 below.

Section 2.7 Design Review. Davidon's design review applications and submittals shall be consistent with the design review guidelines in effect at the time of their application to the extent such guidelines are consistent with the Project Approvals. Davidon's designs shall continue to incorporate a level of quality craftsmanship consistent with other Davidon projects completed in similar regional markets.

Section 2.8 Subcontractor Labor Commitments. Davidon has committed to the hiring of Union contractors for the plumbing, electrical and HVAC construction trades on the Park Ridge Project, as documented in a letter from Davidon to Plumbers Local 159 dated March 11, 2010, and attached hereto as Exhibit D.

Section 2.9 Homeowners Association. As required by Conditions of Approval 72 and 74, prior to approval of the Final Map, Davidon shall establish a Homeowners Association (HOA) for the Project in conformance with the regulations set forth by the State Department of Real Estate. The HOA shall maintain all private common areas and

amenities, including storm water control facilities. The HOA shall also be responsible for the maintenance of parcels on the residential side fronting on Laurel Road, where Laurel Road is adjacent to the Project, and the residential side fronting on Country Hills Drive within the project. This maintenance responsibility shall include the area from the back of curb to the property line. Medians and landscaping on the non-residential side of the roads shall be maintained by a landscape and lighting district, of which Davidon will be a part. The CC&R's for the HOA shall be reviewed and approved in advance by the City Engineer and City Attorney.

Section 2.10 Design and Construction of Laurel Road. As required by Condition of Approval 88, Davidon shall design and construct Laurel Road, including infrastructure and traffic signalization, from the Project's northwestern boundary to the State Route 4 Bypass. The plans and specifications for this portion of Laurel Road shall be completed and approved by City prior to recordation of the final map including the 124th lot in the Project and construction shall commence prior to or immediately upon recordation of such final map. The City shall cooperate with Davidon to establish a financing mechanism or reimbursement agreement to provide for reimbursement to Davidon by developers adjacent to Laurel Road of their fair share of the costs of such improvements.

Section 2.11 Park and Trail Improvements.

Section 2.11.1 As required by Conditions of Approval 98 and 99, Davidon shall dedicate Parcel G, as shown on the Vesting Tentative Map, to City on the Final Map and shall design and construct an 8.22-acre park on Parcel G at no cost to City ("**Park**"). The design of the Park, including a parking lot and restrooms, shall be reviewed and approved by City Council, as recommended by the City's Park and Recreation Commission and Planning Commission. Parcel G shall be sheet-graded at a maximum of two percent slope. Upon its acceptance by the City, the Park shall be maintained by the City.

Section 2.11.2 Davidon shall design, acquire all environmental clearances, rights-of-way and easements at its sole cost in order to construct, and construct with material to be approved by the City Engineer, a trail from Pinnacle View Way through the Park and through the open space ending at Treeline Way and Laurel Road ("**Trail Improvements**"). The Park and Trail Improvements shall be completed prior to the issuance of the building permit for the 271st lot in the Project. Upon acceptance by the City, the Trail Improvements shall be maintained by City.

Section 2.12 Communities Facilities District. As required by Conditions of Approval 77 through 80, prior to recordation of the first final map for the Project and in accordance with the RDA Resolution, Davidon shall form and participate in a land-based financing mechanism (*i.e.*, a Communities Facilities District) for the construction of East Lone Tree Specific Plan infrastructure and other community benefit items identified by and at the discretion of the City Council. This shall include recordation of a CFD Boundary Map, list of approved facilities, development of a Special Tax Formula ("**Rate and Method of Apportionment – RMA**") and recordation of Notice of Special Tax Lien. The RMA shall be structured such that, up to the first 124 units constructed, the special tax shall be levied for

each home at a time no later than the Certificate of Occupancy (“CO”) for each unit and prior to sale. In accordance with the RMA, the special tax will be levied only on each unit at the time of CO; no undeveloped land tax will be levied prior to the issuance of the CO for the 124th unit. Upon issuance of a final map containing the 124th lot, the special tax will be levied upon each lot within said map, and any subsequent, final map as well as the undeveloped lands within the district boundary to support debt service on bonds to be sold after the issuance of the CO on the 124th unit. No bond sale will occur until the recordation of the 125th unit. Upon finalization of the CFD, the City may determine that Davidon’s contribution has exceeded that required for completion of East Lone Specific Plan infrastructure and/or other developers’ contributions have provided funding for this infrastructure. In this case, the excess funds from Davidon shall be available for application to other projects enhancing the economic development of Antioch. The use of any excess funds shall be at the direction of the City Council.

Section 2.12.1 The assessments payable by Davidon shall be \$15,000 per lot shown on a recorded final map of the Project and shall be non-reimbursable. The CFD shall include fair and reasonable assessments on the other properties in the East Lone Tree Focus Area, as determined by a study to be completed. The City shall sell bonds and collect assessments only as necessary to complete the infrastructure improvements.

Section 2.12.2 In addition to the assessments of \$15,000 per lot required by Section 2.12.1 above, Davidon shall bear the costs of the City’s formation of the CFD, including but not limited to any consultant costs, and shall provide funding through a deposit account. Notwithstanding anything to the contrary herein, the assessment levied on the other properties shall include a proportionate share of Davidon’s costs of formation, which when collected by the CFD shall be refunded to Davidon without interest.

Section 2.13 Police Services Funding. As required to be considered in this Agreement pursuant to Condition of Approval 78, the Project will establish or participate in, if one has already been established, a land based financing mechanism to fund police services reasonably related to the Project. The financing mechanism will be in the form of a Community Facilities District (“CFD”) or other means acceptable to the City in consultation with the Developer. The financing mechanism will be established prior to the issuance of a building permit for the first residential unit of the Project. Davidon shall bear the costs of the City’s formation of the CFD or annexation to the CFD if already created, including consultant costs. Notwithstanding anything to the contrary herein, if a newly formed CFD or annexation includes property in addition to the Property, the City may consider in its discretion that the assessment levied on the other properties shall include a proportionate share of the costs of formation or annexation, which when collected by the CFD shall be refunded to Davidon without interest. The requirements of this Section 2.13 shall be waived if the City imposes a special tax or other form of revenue generation on all City residents dedicated specifically for the purpose of funding police services.

ARTICLE 3
COVENANTS OF THE CITY

Section 3.1 Obligations of City Generally. The City shall act in good faith to accomplish the intent of this Agreement, to protect Davidon's vested rights provided by this Agreement, and to ensure this Agreement remains in full force and effect. City shall cooperate with Davidon so that it receives the benefits of and the rights vested by this Agreement, including prompt and timely action and assistance in (a) forming the Communities Facilities Districts, and (b) obtaining from other governmental entities necessary or desirable permits or other approvals for the Project.

Section 3.2 Vested Development Rights. The City confirms and grants to Davidon the vested right to develop the Property in accordance with the Project Approvals and this Agreement. This Agreement shall be enforceable as set forth in Section 9.2 below.

Section 3.3 Permitted Uses. The permitted uses of the Property; the density and intensity of use of the Property; the maximum height, bulk and size of buildings, except as such may be limited by any design review approvals yet to be obtained; and provisions for reservation or dedication of land for public purposes are as set forth in the Project Approvals, which City confirms and vests by this Agreement. City shall not require Davidon to reserve or dedicate land for public purposes except as expressly required by the Project Approvals.

Section 3.4 Life of Vesting Tentative Subdivision Map. By approval of this Agreement, City extends and vests the term of the Vesting Tentative Map approved by Resolution No. 2010/21 for the term of this Agreement (including any subsequent extensions). The term of this Agreement and of the Vesting Tentative Map shall be extended automatically by a time period equal to the sum of any periods of time during which a development moratorium, as defined in Section 66452.6(f) of the Subdivision Map Act (the "**Map Act**"), is in effect. The term of each Project Approval and any other permit issued by City in conjunction with the Vesting Tentative Map as provided in Section 66452.12 of the Map Act shall expire no sooner than (a) the Vesting Tentative Map or (b) the term otherwise applicable to the Project Approval or permit if this Agreement were not in effect, whichever occurs later. The City shall not require Davidon to enter into any subdivision or other agreement that is inconsistent with this Agreement or the Conditions of Approval or that requires more work than is required by them, provided however that the Parties agree and understand that Davidon will be required to enter into subdivision improvement agreements as set forth in Section 2.6 above. The City shall allow Davidon to file multiple final maps in accordance with Section 66456.1 of the Map Act.

Section 3.5 City's Reservations of Authority. Notwithstanding any other provision of this Agreement to the contrary, the following regulations and provisions shall apply to the development of the Property:

Section 3.5.1 Regulations regarding processing fees and charges, provided such procedures are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

Section 3.5.2 Regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided such procedures are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

Section 3.5.3 Regulations governing construction standards and specifications, including (a) City's building code, plumbing code, mechanical code, electrical code, fire code and grading code, (b) all uniform construction codes applicable in City at the time of building permit issuance, and (c) design and construction standards for road and storm drain facilities; provided any such regulation has been adopted and uniformly applied by City on a citywide basis and has not been adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

Section 3.5.4 New City ordinances and regulations that may be in conflict with this Agreement or the Project Approvals but that are necessary to protect persons or property from dangerous or hazardous conditions that create a threat to the public health or safety or create a physical risk, based on findings by the City Council identifying the dangerous or hazardous conditions requiring such changes in the law, why there are no feasible alternatives to the imposition of such changes, and how such changes would alleviate the dangerous or hazardous condition.

Section 3.5.5 Changes in laws, regulations, plans or policies that are specifically mandated and required by changes in state or federal laws or regulations that require such to apply to the Project.

Section 3.5.6 Notwithstanding anything to the contrary provided herein, as provided in the Statute at Section 65869.5: "In the event that state or federal law or regulations, enacted after [this Agreement] has been entered into, prevent or preclude compliance with one or more provisions of [this Agreement], such provisions of [this Agreement] shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations."

Section 3.5.7 Notwithstanding anything to the contrary provided herein, Davidon shall have the right to challenge in court any City ordinance, policy, regulation or standard that would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement.

ARTICLE 4 AMENDMENT

Section 4.1 Amendment to Approvals. To the extent permitted by state and federal law, any Project Approval (hereafter in this ARTICLE 4, an "Approval") may, from time to time, be amended or modified in the following manner:

Section 4.1.1 Administrative Project Amendments. Upon the written request of Davidon for an amendment or modification to an Approval, the Director of Community Development, or his/her designee (collectively "**Authorized Official**") shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is substantially consistent with Applicable Law. If the Authorized Official finds that the proposed amendment or modification is minor, substantially consistent with Applicable Law, and will result in no new significant environmental impacts, the amendment shall be determined to be an "**Administrative Project Amendment**" and the Authorized Official may, except to the extent otherwise required by law, approve the Administrative Project Amendment, following consultation with other relevant City staff, without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, non-substantial reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the design and location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Property diagram or Property legal description shall be treated as Administrative Project Amendments.

Section 4.1.2 Non-Administrative Amendments. Any request of Davidon for an amendment or modification to an Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

Section 4.1.3 Amendment Exemptions. Amendment of an Approval requested by Davidon shall not require an amendment to this Agreement. Instead, the amendment automatically shall be deemed to be incorporated into the Project and the Project Approvals and vested under this Agreement.

Section 4.2 Amendment of This Agreement. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties or their successors in interest, as follows:

Section 4.2.1 Administrative Amendments. The City Manager and City Attorney are authorized on behalf of the City to enter into any amendments to this Agreement other than amendments which substantially affect (i) the term of this Agreement (excluding extensions of time for performance of a particular act), (ii) permitted uses of the Property, (iii) provisions for the reservation or dedication of land, (iv) the density or intensity of use of the Property or the maximum height or size of proposed buildings, or (v) monetary payments by Davidon. Such amendments ("**Administrative**

Agreement Amendment”) shall, except to the extent otherwise required by law, become effective without notice or public hearing.

Section 4.2.2 Non-Administrative Amendments. Any request of Davidon for an amendment or modification to this Agreement which is determined not to be an Administrative Agreement Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

ARTICLE 5

ASSIGNMENT, TRANSFER AND MORTGAGEE PROTECTION

Section 5.1 Assignment of Interests, Rights and Obligations. Nothing herein limits the right of Davidon to freely alienate or transfer all or any portion of the Property. Davidon may transfer or assign all or any portion of its interests, rights or obligations under this Agreement or the Project Approvals, including any amendments thereto (a **“Transfer”**) to any third party who acquires an interest or estate in the Property or any portion thereof including, without limitation, purchasers or ground lessees of lots, parcels or improvements (a **“Transferee”**), subject to the requirements for City’s consent set forth in this ARTICLE 5.

Section 5.2 Transfer Agreements.

Section 5.2.1 Written Agreement. In connection with a Transfer by Davidon (other than a Transfer by Davidon to an Affiliated Party (as defined below), to a Mortgagee (as defined below in Section 5.4) or to a Home Purchaser (as defined below in Section 5.3)), Davidon and the Transferee shall enter into a written agreement (a **“Transfer Agreement”**), with City’s consent in writing to the Transfer, regarding the respective interests, rights and obligations of Davidon and the Transferee in and under the Agreement and the Project Approvals. Such Transfer Agreement may (i) release Davidon from obligations under the Agreement or the Project Approvals that pertain to that portion of the Project being transferred, as described in the Transfer Agreement, provided that the Transferee expressly assumes such obligations, (ii) transfer to the Transferee vested rights to improve and use that portion of the Project being transferred, and (iii) address any other matter deemed by Davidon to be necessary or appropriate in connection with the transfer or assignment. Davidon shall notify the City in writing that it plans to execute a Transfer Agreement at least 60 days in advance of the execution date and provide City with such information as may be required by City to demonstrate the Transferee’s qualifications and financial ability to complete the Project. City shall have 30 days from the date of such notice to review the information and provide a determination to Davidon. City may withhold its consent if the City reasonably determines that the Transferee is or has been a party to litigation filed against the City or if the Transferee lacks the financial ability to complete the Project. If City consents to the Transfer, Davidon shall be released from its obligations as provided in the Transfer Agreement. If City does not consent to the Transfer, City shall provide its reasons in writing and shall meet with Davidon in good faith to determine what additional information may be necessary for City to provide its

consent. An **"Affiliated Party"** is defined as any corporation, limited liability company, partnership or other entity which is controlling of, controlled by, or under common control with Davidon, and **"control,"** for purposes of this definition, means effective management and control of the other entity, subject only to major events requiring the consent or approval of the other owners of such entity.

Section 5.2.2 Binding. Any Transfer Agreement shall be binding on Davidon, the City and the Transferee, but shall not release Davidon absent express language in the Transfer Agreement. Upon recordation in the Official Records of Contra Costa County of any Transfer Agreement, Davidon shall be released from those obligations assumed by the Transferee therein, subject to the provisions of Section 5.2.1 above.

Section 5.3 Home Purchaser. The burdens, obligations and duties of Davidon under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor the City's consent shall be required in connection with, any single-family residence conveyed to a purchaser or leased for a period in excess of one year. The Transferee in such a transaction and its successors (**"Home Purchaser"**) shall be deemed to have no obligations under this Agreement.

Section 5.4 Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording of this Agreement, including the lien of any deed of trust or mortgage (**"Mortgage"**). The foregoing notwithstanding, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement (including but not limited to the City's remedies to terminate the rights of Davidon and its successors and assigns under this Agreement, to terminate this Agreement, and to seek other relief as provided in this Agreement) shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee (**"Mortgagee"**) who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

Section 5.4.1 Mortgagee Not Obligated. The provisions of Section 5.4 notwithstanding, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements other than those uses or improvements provided for or authorized by this Agreement, or otherwise under the Project Approvals.

Section 5.4.2 Notice of Default to Mortgagee. If the City receives a written notice from a Mortgagee or from Davidon requesting a copy of any notice of default given Davidon and specifying the address for notice, then the City shall deliver to the Mortgagee at the Mortgagee's cost, concurrently with delivery to Davidon, any notice with respect to any claim by the City that Davidon has committed an event of default. Each Mortgagee shall have the right during the same period available to Davidon to cure or

remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the City's notice. The City Manager is authorized on behalf of the City to grant to the Mortgagee an extension of time to cure or remedy, not to exceed an additional 60 days.

ARTICLE 6
COOPERATION IN THE EVENT OF LEGAL CHALLENGE, INDEMNITY

Davidon, as the real party in interest, shall defend, indemnify and hold harmless the City, with legal counsel reasonably acceptable to the City Attorney, in any action brought by a third party to challenge this Agreement, or any Project Approval, including the related environmental review. The Parties shall cooperate fully in the defense of any such action.

ARTICLE 7
DEFAULT; TERMINATION; ANNUAL REVIEW

Section 7.1 Default.

Section 7.1.1 Remedies In General. As part of the bargained for consideration for this Agreement, the Parties agree that any action or proceeding to cure, correct or remedy any default or to enforce any covenant or promise under this Agreement shall be limited solely and exclusively to those remedies expressly provided. The Parties agree that, following notice and expiration of any applicable cure periods and completion of the dispute resolution process set forth in ARTICLE 8 below, either Party may institute legal or equitable proceedings to cure, correct, or remedy any default, or to enforce any covenant or promise herein, enjoin any threatened or attempted violation, or enforce by specific performance, declaratory relief or writ of mandate the obligations and rights of the Parties. In no event shall either Party, or any of their officers, agents, representatives, officials, employees or insurers, be liable to the other Party for damages, whether actual, consequential, punitive or special, for any breach or violation of this Agreement. Any legal action to interpret or enforce the provisions of this Agreement shall be brought in the Superior Court for Contra Costa County, California.

Section 7.1.2 Cure Period. Subject to extensions of time by mutual consent in writing of the Parties, breach of, failure, or delay by either Party to perform any term or condition of this Agreement shall constitute a default. In the event of any alleged default of any term, condition, or obligation of this Agreement, the Party alleging such default shall give the defaulting Party notice in writing specifying the nature of the alleged default and the manner in which such default may be satisfactorily cured ("**Notice of Breach**"). The defaulting Party shall cure the default within 30 days following receipt of the Notice of Breach, provided, however, if the nature of the alleged default is non-monetary and such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to

completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no default shall exist and the noticing Party shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a default shall exist under this Agreement and the non-defaulting Party may exercise any of the remedies available.

Section 7.1.3 Procedure for Default by Davidon. If Davidon is alleged to be in default hereunder by City then after notice and expiration of the cure period specified above and the dispute resolution process set forth in ARTICLE 8 below, City may institute legal proceedings against Davidon pursuant to this Agreement, and/or give notice of intent to terminate or modify this Agreement to Davidon pursuant to California Government Code Section 65868. Following notice of intent to terminate or modify this Agreement as provided above, the matter shall be scheduled for consideration and review at a duly noticed and conducted public hearing in the manner set forth in Government Code Sections 65865, 65867 and 65868 by the City Council within 60 calendar days following the date of delivery of such notice (the “**Default Hearing**”). Davidon shall have the right to offer written and oral testimony prior to or at the time of said public hearing. If the City Council determines that a default has occurred and is continuing, and elects to terminate the Agreement, City shall give written notice of termination of the Agreement to Davidon by certified mail and the Agreement shall thereby be terminated 30 days thereafter; provided, however, that if Davidon files an action to challenge City’s termination of the Agreement within such 30-day period, then the Agreement shall remain in full force and effect until a trial court has affirmed City’s termination of the Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired). This Section shall not be interpreted to constitute a waiver of section 65865.1 of the Government Code, but merely to provide a procedure by which the Parties may take the actions set forth in Section 65865.1.

Section 7.1.4 Procedure for Default by City. If the City is alleged by Davidon to be in default under this Agreement, then after notice and expiration of the cure period and completion of the dispute resolution procedures below, Davidon may enforce the terms of this Agreement by an action at law or in equity, subject to the limitations set forth above.

Section 7.2 Excusable Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, or a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, enactment or imposition against the Project of any moratorium, or any time period for legal challenge of such moratorium by Davidon, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Litigation attacking the validity of this Agreement or any of the Project Approvals or implementing or subsequent approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than the City necessary for the development of the Project pursuant to this Agreement, or Davidon’s inability to obtain materials, power or public

facilities (such as water or sewer service) to the Project, shall be deemed to create an excusable delay as to Davidon. Upon the request of either Party, an extension of time for the performance of any obligation whose performance has been so prevented or delayed shall be memorialized in writing. The City Manager is authorized on behalf of the City to enter into such an extension. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon.

Section 7.3 Annual Review. Throughout the term of this Agreement, at least once every 12 months, Davidon shall provide City with a written report demonstrating its good-faith compliance with the terms of this Agreement (the "**Written Report**"). City's City Manager and City Attorney shall review the Written Report to determine whether Davidon is in good-faith compliance with the terms of the Agreement and, if they have concerns about Davidon's compliance, shall schedule a review before the City Council (the "**Periodic Review**"). At least 10 days prior to the Periodic Review, the City shall provide to Davidon a copy of any staff reports and documents to be used or relied upon in conducting the review (and, to the extent practical, related exhibits) concerning Davidon's performance. Davidon shall be permitted an opportunity to respond to the City's evaluation of Davidon's performance, either orally at a public hearing or in a written statement, at Davidon's election. If before the public hearing, such response shall be directed to the Community Development Director. At the conclusion of the Periodic Review, the City Council shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Davidon has complied in good faith with the terms and conditions of this Agreement. If the City Council finds and determines, based on substantial evidence, that Davidon has not complied with such terms and conditions, the City Council may initiate proceedings to terminate or modify this Agreement, in accordance with Government Code Section 65865.1, by giving notice of its intention to do so, in the manner set forth in Government Code Sections 65867 and 65868. If after receipt of the Written Report, the City does not (a) schedule a Periodic Review within two months, or (b) notify Davidon in writing of the City's determination after a Periodic Review, then it shall be conclusively presumed that Davidon has complied in good faith with the terms and conditions of this Agreement during the year covered under the Written Report.

Section 7.4 Notice of Compliance. Within 30 days following any written request which Davidon or a Mortgagee may make from time to time, the City shall execute and deliver to the requesting party (or to any other party identified by the requesting party) a written "**Notice of Compliance**", in recordable form, duly executed and acknowledged by the City, that certifies: (a) this Agreement is unmodified and in full force and effect, or if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of the modifications; (b) there are no current uncured defaults under this Agreement or specifying the dates and nature of any default; and (c) any other information reasonably requested by Davidon or the Mortgagee. The failure to deliver such a statement within such time shall constitute a conclusive presumption against the City that this Agreement is in full force and effect without modification except as may be represented by Davidon and that there are no uncured defaults in the performance of Davidon, except as may be represented by Davidon. Davidon shall have the right, in its sole discretion, to record the Notice of Compliance.

ARTICLE 8 DISPUTE RESOLUTION

Section 8.1 Dispute; Confidentiality. Any controversy or dispute arising out of or related to this Agreement, or the development of the Project (a “**Dispute**”), shall be subject to private negotiation among the Parties, and if then not resolved shall be subject to non-binding mediation followed by litigation, if necessary, as set forth below. Each Party agrees that any Dispute, and all matters concerning any Dispute, will be considered confidential and will not be disclosed to any third-party except (a) disclosures to a Party’s attorneys, accountants, and other consultants who assist the Party in the resolution of the Dispute, (b) as provided below with respect to the mediation, and (c) as otherwise required by law, including without limitation, the California Public Records Act.

Section 8.2 Private Negotiation. If a Dispute arises, the Parties agree to negotiate in good faith to resolve the Dispute. If the negotiations do not resolve the Dispute to the reasonable satisfaction of the Parties within 30 days from a written request for a negotiation, then the Dispute shall be submitted to mediation pursuant to Section 8.3.

Section 8.3 Mediation. Within 15 days following the written request to negotiate, either Party may initiate non-binding mediation (the “**Mediation**”), conducted by JAMS/Endispute, Inc. (“**JAMS**”) or any other agreed-upon mediator. Either Party may initiate the Mediation by written notice to the other Party. The mediator shall be a retired judge or other mediator, selected by mutual agreement of the Parties, and if the Parties cannot agree within 15 days after the Mediation notice, the mediator shall be selected through the procedures regularly followed by JAMS. The Mediation shall be held within 15 days after the Mediator is selected, or a longer period as the Parties and the mediator mutually decide. If the Dispute is not fully resolved by mutual agreement of the Parties within 15 days after completion of the Mediation, then either Party may commence an action in state or federal court. The Parties shall bear equally the cost of the mediator’s fees and expenses, but each Party shall pay its own attorneys’ and expert witness fees and any other associated costs.

Section 8.4 Injunction. Nothing in this ARTICLE 8 shall limit a Party’s right to seek an injunction or restraining order from a court of competent jurisdiction in circumstances where such relief is deemed necessary to preserve assets.

ARTICLE 9 MISCELLANEOUS

Section 9.1 Defined Terms; Citations. The capitalized terms used in this Agreement, unless the context obviously indicates otherwise, shall have the meaning given them in this Agreement. Except as otherwise expressly stated, all citations are to the Government Code of the State of California.

Section 9.2 Enforceability. As provided in Section 65865.4, this Agreement shall be enforceable by either Party notwithstanding any change enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or resolution or other rule, regulation or policy adopted by the City that changes, alters or amends the

ordinances, rules, regulations and policies included in the Applicable Law, except as this Agreement may be amended or canceled pursuant to Section 65868 or modified or suspended pursuant to Section 65869.5.

Section 9.3 Other Necessary Acts. Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals and this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges under this Agreement.

Section 9.4 Construction. Each reference in this Agreement to this Agreement or any of the Project Approvals shall be deemed to refer to this Agreement or the Project Approval, as it may be amended from time to time. This Agreement has been reviewed and revised by legal counsel for both the City and Davidon, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 9.5 Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon and benefit the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of, or interest in, the Property, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, as appropriate, runs with the Property and is for the benefit of and binding upon the owner, Davidon, and each successive owner of all or a portion of the Property, during its ownership of such property.

Section 9.6 Attorneys' Fees. If any legal action or other proceeding is commenced to enforce or interpret any provision of, or otherwise relating to, this Agreement, the losing party or parties shall pay the prevailing party's or parties' actual expenses incurred in the investigation of any claim leading to the proceeding, preparation for and participation in the proceeding, any appeal or other post-judgment motion, and any action to enforce or collect the judgment including without limitation contempt, garnishment, levy, discovery and bankruptcy. For this purpose "expenses" include, without limitation, court or other proceeding costs and experts' and attorneys' fees and their expenses. The phrase "prevailing party" shall mean the party which is determined in the proceeding to have prevailed or which prevails by dismissal, default or otherwise.

Section 9.7 No Agency, Joint Venture or Partnership. The City and Davidon disclaim the existence of any form of agency relationship, joint venture or partnership between the City and Davidon. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as creating any relationship other than a contractual relationship between the City and Davidon.

Section 9.8 No Third Party Beneficiary. This Agreement is made solely and specifically among and for the benefit of the Parties, and their respective successors and assigns subject to the express provisions relating to successors and assigns, and no other

party other than a Mortgagee will have any rights, interest or claims or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

Section 9.9 Notices. All notices, consents, requests, demands or other communications to or upon the respective Parties shall be in writing and shall be effective for all purposes: (A) upon receipt on any City business day before 5:00 PM local time and on the next City business day if received after 5:00 PM or on other than a City business day, including without limitation, in the case of (i) personal delivery, (ii) delivery by messenger, express or air courier or similar courier, or (iii) transmittal by electronically confirmed telecopy or facsimile, or (B) five days after being duly mailed certified mail, return receipt requested, postage prepaid, all addressed as follows:

If to City, to: City of Antioch
 Attention: City Manager
 200 H Street
 Antioch, CA 94509
 Telephone: (925) 779-7011
 Facsimile: (925) 779-7003

With a mandatory
copy to: City Attorney
 City of Antioch
 200 H Street
 Antioch, CA 94509
 Telephone: (925) 779-7015
 Facsimile: (925) 779-7003

If to Davidon, to: Davidon Homes
 Attention: Jeff Thayer
 1600 South Main Street, Suite 150
 Walnut Creek, CA 94596
 Telephone: (925) 945-8000
 Facsimile: (925) 256-0140

With a mandatory
copy to: Perkins Coie LLP
 Attention: Geoff Robinson
 Four Embarcadero Center
 San Francisco, CA 94111-4131
 Telephone: 415.344.7000
 Direct Telephone: 415.344.7050
 Facsimile: 415.344.7050

In this Agreement "City business days" means days that the Antioch City Hall is open for business and does not currently include Fridays, Saturdays, Sundays, and federal and state legal holidays. Either Party may change its address by written notice to the other on five business days' prior notice in the manner set forth above. Receipt of communication by facsimile shall be sufficiently evidenced by a machine-generated confirmation of transmission without notation of error. In the case of illegible or otherwise unreadable

facsimile transmissions, the receiving Party shall promptly notify the transmitting Party of any transmission problem and the transmitting Party shall promptly resend any affected pages.

Section 9.10 Entire Agreement and Exhibits. This Agreement constitutes in full, the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements of the Parties with respect to all or any part of the subject matter of this Agreement. No oral statements or prior written matter not specifically incorporated in this Agreement shall be of any force and effect. No amendment of, supplement to or waiver of any obligations under this Agreement will be enforceable or admissible unless set forth in a writing approved by the City and Davidon. The following exhibits are attached to this Agreement and incorporated for all purposes:

Exhibit A	Property Description
Exhibit B-1	Resolution 2010/20
Exhibit B-2	Resolution 2010/21
Exhibit B-3	Ordinance 2037 - C-S
Exhibit C	Ordinance approving this Agreement, described in Recital J
Exhibit D	Letter from Davidon to Plumbers Local 159 dated March 11, 2010

Section 9.11 Counterparts. This Agreement may be executed in any number of identical counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document. This Agreement may be executed by signatures transmitted by facsimile, adobe acrobat or other electronic image files and these signatures shall be valid, binding and admissible as though they were ink originals.

Section 9.12 Recordation of Development Agreement. Pursuant to Section 65868.5, no later than ten days after the City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of Contra Costa.

This Agreement has been entered into by and between Davidon and the City as of the Effective Date.

CITY:

City of Antioch, a municipal corporation

By: _____

City Manager

DAVIDON:

Davidon Homes, a California limited partnership

By: Davidon Corporation
its general partner

By: _____
Name: Jeff Thayer

Its: Vice President

APPROVED AS TO FORM:

By: _____
_____,
Special Counsel to City

APPROVED AS TO FORM:
Bingham McCutchen, LLP

By: _____

Attorneys for Davidon

ATTEST:

By: _____
_____,
City Clerk

EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Antioch, County of Contra Costa, State of California, described as follows:

PARCEL ONE:

PARCEL B, AS SHOWN ON PARCEL MAP MS-5-95, FILED DECEMBER 1, 1995, IN BOOK 168, OF PARCEL MAPS, PAGES 18, 19 AND 20, AND AS AMENDED BY PARCEL MAP MS-5-95, FILED NOVEMBER 7, 1996, IN BOOK 170, OF PARCEL MAPS, PAGES 12, 13 AND 14, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY.

EXCEPTING THEREFROM:

1. ALL OIL, GAS AND MINERAL RIGHTS BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT SHALL PRECLUDE ANY RIGHT OF SURFACE ENTRY FOR THE PURPOSE OF DRILLING, MINING OR EXTRACTION, AS RESERVED IN THE GRANT DEED EXECUTED BY ROLLING HILLS RANCH, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, RECORDED OCTOBER 1, 2002 AS INSTRUMENT NO. 2002-351658 OF OFFICIAL RECORDS.
2. ALL THOSE PORTIONS OF PARCEL B ABOVE CONVEYED TO THE CITY OF ANTIOCH BY GRANT DEEDS RECORDED MARCH 26, 1999 AS INSTRUMENT NOS. 1999-81479 AND 1999-81480 OF OFFICIAL RECORDS.
3. ALL THAT PORTION OF PARCEL B ABOVE CONVEYED TO THE CITY OF ANTIOCH, A MUNICIPAL CORPORATION BY GRANT DEED RECORDED JULY 21, 2004 AS INSTRUMENT NO. 2004-280542 OF OFFICIAL RECORDS.
4. ALL THAT PORTION CONVEYED TO THE STATE ROUTE 4 BYPASS AUTHORITY, RECORDED FEBRUARY 10, 2005 AS INSTRUMENT NO. 2005-46549 OF OFFICIAL RECORDS.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, UTILITIES AND CONSTRUCTION AND MAINTENANCE THEREOF TO BE APPURTENANT TO PARCEL ONE ABOVE AND ANY FIXTURE SUBDIVISIONS THEREOF, OVER, UNDER AND ACROSS THAT PORTION OF SAID PARCEL A SHOWN ON SAID MAP AS "60' ACCESS EASEMENT".

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT FOR ROADWAY APPURTENANT TO PARCEL ONE ABOVE AS CREATED BY THAT CERTAIN INDENTURE EXECUTED BY SOUTHERN PACIFIC TRANSPORTATION COMPANY, A CORPORATION, ET AL RECORDED AUGUST 3, 1991 IN BOOK 16783, OF OFFICIAL RECORDS, PAGE 216, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTH 1/2 OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 2 EAST, MOUNT DIABLO MERIDIAN, SITUATED IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, MORE SPECIFICALLY A PORTION OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE SAN PABLO AND TULARE RAILROAD NOW KNOWN AS THE SOUTHERN PACIFIC TRANSPORTATION COMPANY, RECORDED AUGUST 23, 1872 IN BOOK 23 OF DEEDS AT PAGE 518, RECORDS OF SAID COUNTY INCLUDED WITHIN A STRIP OF LAND 30.00 FEET IN WIDTH

THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL FOUR IN THE DEED TO RONALD E. NUNN RECORDED JUNE 30, 1982 IN BOOK 10834 OF OFFICIAL RECORDS AT PAGE 480, RECORDS OF SAID COUNTY, SAID CORNER BEING FURTHER DESCRIBED AS BEING LOCATED IN THE SOUTHWESTERLY LINE OF SAID SOUTHERN PACIFIC TRANSPORTATION COMPANY'S LAND AS DESCRIBED IN SAID DEED RECORDED IN BOOK 23 OF DEEDS AT PAGE 518; THENCE LEAVING SAID POINT OF COMMENCEMENT ALONG SAID SOUTHWESTERLY LINE NORTH 34 DEG.46 MIN. 46 SEC. WEST 1,967.34 FEET TO THE POINT OF BEGINNING OF THE CENTER LINE FOR THE HEREIN DESCRIBED STRIP OF LAND; THENCE LEAVING SAID POINT OF BEGINNING ACROSS SAID SOUTHERN PACIFIC TRANSPORTATION COMPANY'S LAND, NORTH 55 DEG. 13 MIN. 14 SEC. EAST 100.00 FEET TO A POINT IN THE NORTHEASTERLY LINE OF LAST SAID COMPANY'S LAND, THE NORTHEASTERLY TERMINUS OF THE HEREIN DESCRIBED STRIP OF LAND.

PARCEL FOUR:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL B (170 PM 12); THENCE ALONG THE EAST LINE OF SAID PARCEL NORTH 01 DEG. 12 MIN. 05 SEC. EAST 1432.40 FEET; THENCE LEAVING SAID EAST LINE SOUTH 89 DEG. 20 MIN. 55 SEC. EAST 389.53 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 2889.48 FEET, A RADIAL LINE TO THE BEGINNING OF SAID CURVE BEARS NORTH 63 DEG. 33 MIN. 34 SEC. EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 180.22 FEET THROUGH A CENTRAL ANGLE OF 03 DEG. 34 MIN. 25 SEC; THENCE SOUTH 08 DEG. 01 MIN. 27 SEC. WEST 22.49 FEET; THENCE SOUTH 21 DEG. 55 MIN. 45 SEC. EAST 55.61 FEET; THENCE SOUTH 51 DEG. 52 MIN. 56 SEC. EAST 22.49 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 2889.48 FEET, A RADIAL LINE TO THE BEGINNING OF SAID CURVE BEARS NORTH 69 DEG. 00 MIN. 32 SEC. EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 1205.86 FEET THROUGH A CENTRAL ANGLE OF 23 DEG. 54 MIN. 4 SEC. TO A POINT ON THE SOUTH LINE OF SAID SECTION 34 (TOWNSHIP 2 NORTH, RANGE 2 EAST, M.D.B.&M.); THENCE ALONG SAID SOUTH LINE NORTH 89 DEG. 30 MIN. 45 SEC. WEST 718.06 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCEL FOUR:

ALL OIL, GAS, GEOTHERMAL STEAM, CASINGHEAD GAS, ASPHALTUM AND OTHER HYDROCARBONS AND CHEMICAL GAS NOW OR HEREAFTER FOUND, SITUATED OR LOCATED IN ALL OR ANY PORTION OF THE LANDS DESCRIBED HEREIN LYING MORE THAN FIVE HUNDRED FEET (500?) BELOW THE SURFACE THEREOF, TOGETHER WITH THE RIGHT TO SLANT DRILL FOR AND REMOVE ALL OR ANY OF SAID GAS, OIL, CASINGHEAD GAS, ASPHALTUM AND OTHER HYDROCARBONS OR CHEMICAL GAS LYING BELOW A DEPTH OF MORE THAN FIVE HUNDRED FEET (500?) BELOW THE SURFACE THEREOF INCLUDING THE RIGHT TO GRANT LEASES FOR ALL OR ANY OF SAID PURPOSES, BUT WITHOUT ANY RIGHT WHATSOEVER TO ENTER UPON THE SURFACE OF SAID LANDS OR ANY PORTION THEREOF WITHIN FIVE HUNDRED FEET (500?) VERTICAL DISTANCE BELOW THE SURFACE THEREOF, AS RESERVED IN THE DEED FROM LAWRENCE FENOLIO TRUSTEE, ET AL RECORDED JANUARY 28, 1005 AS INSTRUMENT NO. 2005-31964 OF OFFICIAL RECORDS.

APN: 053-060-022-0 (Affects a portion of Parcel One)
053-060-023-8 (Affects a portion of Parcel One)
053-072-016-8 (Affects Parcel Four)

EXHIBIT B-1

RESOLUTION NO. 2010/20

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN ADDENDUM TO THE FUA #2 (EAST LONE TREE) SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT AND REAFFIRMING THE STATEMENT OF OVERRIDING CONSIDERATIONS

WHEREAS, the City Council of the City of Antioch did receive a request from Davidon Homes for approval of a rezone from Specific Plan (SP) to Planned Development (PD) to construct 525 single-family homes including associated infrastructure improvements, approximately 25 acres of passive open space, and approximately 8.22 acres for a neighborhood park. The project is generally located west of State Route 4 Bypass and Canada Valley Road, south of Laurel Road (**Z-09-02**) (**APNs: 053-072-016, 053-060-022 and -023**); and

WHEREAS, the City Council on May, 28, 1996, pursuant to the California Environmental Quality Act, the City of Antioch certified the Future Urban Area #2 (East Lone Tree Specific Plan) Environmental Impact Report and adopted a Statement of Overriding Considerations for the significant and unavoidable impact related to regional air quality because the benefits derived from the project would outweigh the impact;

WHEREAS, pursuant to the California Environmental Quality Act and City implementing procedures, an Addendum to the Future Urban Area #2 (East Lone Tree) Specific Plan Environmental Impact Report has been prepared for this project;

WHEREAS, measures specified in the Final Environmental Impact Report and Addendum will be implemented to mitigate any adverse environmental impacts from the project, with the exception of an impact to air quality which would be significant and unavoidable;

WHEREAS, the Planning Commission gave notice of public hearing as required by law; and

WHEREAS, on January 20, 2010, the Planning Commission held a public hearing on the matter, and received and considered evidence, both oral and documentary and recommended the City Council adopt the Addendum to the Future Urban Area #2 (East Lone Tree) Specific Plan EIR and reaffirm the Statement of Overriding Considerations;

WHEREAS, the City Council gave notice of public hearing as required by law; and

WHEREAS, on March 9, 2010, the City Council held a public hearing on the matter, and received and considered evidence, both oral and documentary; and

NOW THEREFORE BE IT RESOLVED that the City Council does hereby make the following findings for adoption of the Addendum to the Project Level Environmental Impact Report on the Future Urban Area #2 (East Lone Tree) Specific Plan:

FINDING: Based on the entire record before it, the City finds that there have not been substantial changes proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified significant effects.

EVIDENCE: The Park Ridge project is consistent with all elements of the adopted East Lone Tree Specific Plan, and would therefore not result in new or expanded impacts beyond those identified in the previously certified Specific Plan EIR or Addenda.

FINDING: Based on the entire record before it, the City finds no substantial changes with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

EVIDENCE: No substantial changes have occurred within the planning area, community or region which would lead to new or expanded significant project impacts. As documented in the Addendum's Technical Appendices and reviewed in Chapters 2 and 3, cumulative development within the planning area is no greater than anticipated under the Specific Plan project-level EIR. The project site now adjoins the completed State Route 4 Bypass to the east, and a substantially complete housing development to the south. Segment 1 of the State Route 4 Bypass provides additional capacity to relieve traffic volumes on local feeder streets to Highway 4. Consequently, development of the proposed project would occur in the context of additional existing development and local roadway improvements. The Addendum provides an updated description of current conditions and anticipated development over the next several years, in order to address the potential near-term impacts.

FINDING: Based on the entire record before it, the City finds no new information of substantial importance, which was not known and could not have known with the exercise of reasonable diligence at the time the FUA #2 (East Lone Tree) Specific Plan EIR was certified, that shows any of the following:

- a) The project will have one or more significant effects not discussed in the previous EIR.
- b) Significant effects previously examined will be substantially more severe than shown in the previous EIR.

RESOLUTION NO. 2010/20

March 9, 2010

Page 3

- c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.
- d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

EVIDENCE:

- a) The Park Ridge project does not present any new potentially significant effects not evaluated in the previous EIR.
- b) The analysis provided in the Addendum shows that the previously identified significant effects of the Specific Plan would not be accentuated through implementation of the proposed Park Ridge project.
- c) No changes in the feasibility of Specific Plan mitigation measures have been identified.
- d) Several supplemental mitigation measures are recommended to address the specific design, context and timing of the Park Ridge project. In addition, supplemental measures are also recommended to minimize the otherwise less-than-significant near-term effects of development contemplated in a maturing urban setting. Collectively, these measures are consistent with those adopted in the certified Specific Plan EIR. Additional specificity has been added with the recommended supplemental measures, while not resulting in any substantial changes to the post-mitigation project effects. Chapter 3 of the Addendum correlates all recommended supplemental mitigation measures to the original EIR measures, and discusses whether they apply to: 1) the current project context, 2) specific less-than-significant effects of the current project; or 3) both of the foregoing issues.

FINDING: Based on the entire record before it, the City finds that the development of the Park Ridge project will result in none of the conditions described in CEQA Guidelines Section 15162 therefore there is substantial evidence to support the City's determination that an Addendum to the project level FUA #2 (East Lone Tree) Specific Plan EIR is required in this case.

EVIDENCE: As noted above, there is substantial evidence to support the City's findings that: a) no substantial changes are proposed in the Park Ridge project that will require major revisions of the FUA #2 (East Lone Tree) Specific Plan EIR; b) there have been no substantial changes in circumstances relating to the project that require the

RESOLUTION NO. 2010/20

March 9, 2010

Page 4

preparation of a subsequent or supplemental EIR; and c) there is no new information available, which was not known and could not have been known with the exercise of reasonable diligence at the time the FUA #2 (East Lone Tree) Specific Plan EIR was certified as complete, that requires the preparation of a subsequent or supplemental EIR. Accordingly, there is substantial evidence to support the City's determination that an Addendum to the FUA #2 (East Lone Tree) Specific Plan is required in this case, pursuant to CEQA Guidelines Section 15164.

NOW THEREFORE BE IT FURTHER RESOLVED that the City Council hereby adopts the Addendum for the FUA #2 (East Lone Tree) Specific Plan Environmental Impact Report and re-affirms the Statement of Overriding Considerations that was originally adopted with the FUA #2 Specific Plan EIR by which the benefits derived from the project still outweigh the significant and unavoidable impacts related to regional air quality.

* * * * *

I **HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a regular meeting thereof held on the 9th day of March 2010 by the following vote:

AYES: Council Members Kalinowski, Moore, Parsons and Mayor Pro Tem Rocha

NOES: None

ABSENT: Mayor Davis


L. JOLENE MARTIN, City Clerk

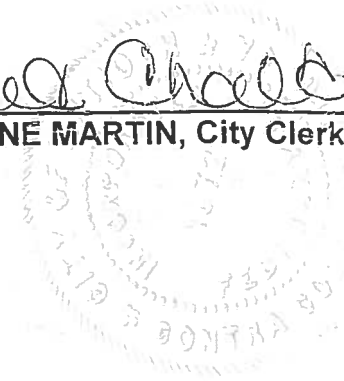


EXHIBIT B-2

RESOLUTION NO. 2010/21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH APPROVING A FINAL PLANNED DEVELOPMENT, VESTING TENTATIVE MAP, AND A USE PERMIT FOR 525 SINGLE-FAMILY HOMES, APPROXIMATELY 25 ACRES OF PASSIVE OPEN SPACE, AND APPROXIMATELY 8.22 ACRES CONSISTING OF A NEIGHBORHOOD PARK FOR THE PARK RIDGE SUBDIVISION PROJECT

WHEREAS, the City Council of the City of Antioch did receive a request from Davidon Homes for the approval of a Final Development Plan, Vesting Tentative Map, and Use Permit to construct 525 single-family homes including associated infrastructure improvements, approximately 25 acres of passive open space and approximately 8.22 acres for a neighborhood park. The project is generally located west of State Route 4 Bypass, east of Canada Valley Road and south of Laurel Road (PD-05-01, PW 674, UP-08-04) (APNs: 053-072-016, 053-060-022 and -023); and

WHEREAS, pursuant to the California Environmental Quality Act and City implementing procedures, an Addendum to the Future Urban Area #2 (East Lone Tree) Specific Plan Environmental Impact Report has been prepared for this project; and

WHEREAS, on January 20, 2010 the Planning Commission recommended the adoption of the Addendum to the Final Environmental Impact Report for Future Urban Area #2, and recommended approval of a rezone from "SP" Specific Plan to Planned Development District (PD), a Final Development Plan, Vesting Tentative Map, and Use Permit; and

WHEREAS, on March 9, 2010 the City Council introduced an ordinance rezoning the project site from Specific Plan (SP) to Planned Development District (PD-05-01); and

WHEREAS, this project is consistent with the City of Antioch General Plan and East Lone Tree Specific Plan does not create additional impacts that were not evaluated in the Future Urban Area #2 EIR and Addendum prepared for the project; and

WHEREAS, the City Council duly gave notice of public hearing as required by law; and

WHEREAS, on March 9, 2010, the City Council held a public hearing on the matter, and received and considered evidence, both oral and documentary.

NOW THEREFORE BE IT RESOLVED, that the City Council makes the following required findings for approval of a Final Development Plan:

FINDING 1: Each individual unit of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability, and the uses proposed will not be detrimental to present and potential surrounding uses but

instead will have a beneficial effect which could not be achieved under another zoning district.

EVIDENCE: The Project is located within an area designated for residential development in the General Plan and the East Lone Tree Specific Plan. The project is consistent with the policies of both the General Plan and East Lone Tree Specific Plan. Each unit within the subdivision can exist independently. The project site is primarily surrounded by existing, developing, and previously entitled residential lands therefore the project will not be detrimental to the surrounding uses, rather it will serve to extend and connect services and amenities such as parks, trails, roadways, and utilities. Furthermore, as part of the approvals, the project will provide needed infrastructure improvements on the east side of the Specific Plan area thereby helping to attract additional commercial and/or business park development which will serve the surrounding residents.

FINDING 2: The streets and thoroughfares proposed meet the standards of the City's Growth Management Program and adequate utility service can be supplied to all phases of the development.

EVIDENCE: The City commissioned Fehr and Peers to prepare a traffic study to estimate and evaluate the amount of traffic that may be generated by the Park Ridge project. A copy of the report is included in the Appendices to the FUA #2 (East Lone Tree) Specific Plan EIR Addendum. The report evaluated the most recent traffic data and projections for the project area and the region, and found that the project satisfies the standards of the City's Growth Management Program and meets current design criteria. Adequate utility service, including electricity, water, sewer service can be supplied to all phases of development by existing utility service providers.

FINDING 3: The commercial components of the Project are justified economically at the location proposed.

EVIDENCE: No commercial components are proposed.

FINDING 4: Any residential component will be in harmony with the character of the surrounding neighborhood and community and will result in densities no higher than that permitted by the General Plan.

EVIDENCE: The proposed residential subdivision will continue the general layout and character of the surrounding neighborhood. The Specific Plan is in conformance with the General Plan and the project does not have densities that exceed those outlined in the East Lone Tree Specific Plan. The proposed grading is achieving the main objective of the Specific Plan by providing contoured and natural slopes.

FINDING 5: Any industrial component conforms to applicable desirable standards and will constitute an efficient, well-organized development with adequate

provisions for railroad and/or truck access and necessary storage and will not adversely affect adjacent or surrounding development.

EVIDENCE: There are no industrial components to the Park Ridge project.

FINDING 6: Any deviation from the standard zoning requirements is warranted by the design and additional amenities incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted.

EVIDENCE: No deviations from the standard zoning requirements are warranted by the design and additional amenities incorporated in the final development plan which offers certain unusual redeeming features to compensate for any deviations that may be permitted.

FINDING 7: The area surrounding the Project can be planned and zoned in coordination and substantial compatibility with the proposed development.

EVIDENCE: The Park Ridge project is located within East Lone Tree Specific Plan. Development of this area has been the subject of careful planning since approximately 1989. The zoning designations for the area, including the zoning designations for the project site were carefully planned and coordinated as part of the adoption of the Specific Plan. The project is consistent with the land use designations and zoning of the General Plan and Specific Plan.

FINDING 8: The project conforms with the General Plan of the City.

EVIDENCE: The project is located in the East Lone Tree Specific Plan. The General Plan designates the site as Residential and Open Space within the East Lone Tree Focus Area. Therefore, the project conforms to the General Plan and Specific Plan.

BE IT FURTHER RESOLVED that the City Council does hereby make the following findings for approval of a Vesting Tentative Parcel Map:

FINDING 1: That the subdivision, design and improvements are consistent with the General Plan, as required by Section 66473.5 of the Subdivision Map Act and the City's Subdivision Regulations.

EVIDENCE: The subdivision proposed by the Vesting Tentative Map is consistent with the Antioch General Plan. The General Plan designates this parcel as Residential/Open Space within the East Lone Tree Focus Area. The Specific Plan designates the area covered by the Vesting Tentative Map as RL, RM, and O, which allows for low and medium low density residential and open space uses. The design and improvements are consistent by what is outlined in the Specific Plan. Therefore,

the subdivision proposed by the Vesting Tentative Map is consistent with the General Plan and the applicable Specific Plan.

FINDING 2: That the subdivision complies with the Housing Element as it relates to the regional needs and complies with Section 66412.3 of the Subdivision Map Act.

EVIDENCE: The Planning Commission has considered the potential effect of the subdivision proposed by the Vesting Tentative Map on the housing needs of the City and the region, and finds that the subdivision will promote the City's goal of achieving a greater balance between residential and employment-generating uses within the City because the residential portion of the East Lone Tree area is providing the necessary infrastructure to development the remaining commercial areas. The infrastructure will promote the City's goal of achieving a greater balance by providing incentive for commercial and employment generating uses to build in the East Lone Tree area. Furthermore it will fulfill the need of moderate income Regional Housing Needs Assessment and complies with Section 66412.3 of the Subdivision Map Act.

FINDING 3: That the subdivision proposed by the Vesting Tentative Map has, to the maximum extent feasible, considered and provided opportunities for future passive or natural heating or cooling of the structures within the subdivision, as required by Government Code §66473.1.

EVIDENCE: The subdivision design provides for future passive or natural heating or cooling opportunities to the extent feasible in light of the need to accommodate physical, infrastructure and resource constraints on the site, as well as CEQA mitigation measures and design features avoiding visual and other impacts. In particular, the preservation of a large, hilly, open space area over 25 acres in size central to the project, the incorporation of an 8.0 acre neighborhood park and the necessity to adhere to the general traffic circulation requirements of the East Lone Tree Specific Plan constrained the design alternatives for road and lot layouts. All house designs will incorporate energy efficient features for heating and air conditioning systems, high R-value insulation in walls and ceilings, low-energy appliances, insulated windows, tech shield roof sheathing and energy efficient lighting fixtures.

FINDING 4: That the subdivision proposed by the Tentative Map complies with the rules, regulations, standards, and criteria of the City's Subdivision Regulations.

EVIDENCE: The subdivision proposed by the Vesting Tentative Map complies with the rules, regulations, standards, and criteria of the City's Subdivision Regulations.

BE IT FURTHER RESOLVED that the City Council does hereby make the following findings for approval of a Use Permit:

FINDING 1: Granting the use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

EVIDENCE: The project will create a 525 lot residential subdivision. The project site is located in the FUA #2/East Lone Tree Specific Plan Area, and is designated for residential and open space uses. The development proposed by the project is consistent with the uses permitted under the General Plan, the Specific Plan, and the proposed zoning for the project site. The project will extend and connect services and amenities such as parks, trails, roadways, and utilities in the area. In addition, as a Residential Development Allocation benefit and condition of approval, the project will provide needed infrastructure improvements on the east side of the Specific Plan area thereby helping to attract additional commercial and/or business park development which will serve the surrounding residents.

FINDING 2: The uses proposed by the project are consistent with the uses permitted on the project site by the East Lone Tree Specific Plan.

EVIDENCE: The Specific Plan designates the area encompassing the project site as RL, RM, and O which allow low and medium low density residential and open space uses as proposed.

FINDING 3: The project site is adequate in size and shape to accommodate its proposed uses, and all yard spaces, walls, fences, parking, loading, landscaping, and other features required, without interfering with other uses in the neighborhood.

EVIDENCE: The project is designed to comply with the lot size and setback requirements of the East Lone Tree Specific Plan.

FINDING 4: The streets and highways that abut the project site are adequate in width and pavement type to carry the kind of traffic generated by proposed use.

EVIDENCE: The City commissioned Fehr and Peers to prepare a traffic study to estimate and evaluate the amount of traffic that may be generated by the Park Ridge project. The traffic study concluded that the road improvements either proposed by the developer required by the City and CEQA are adequate in width and pavement type to carry the kind of traffic that will be generated by the project.

FINDING 5: The granting of such use permit will not adversely affect the comprehensive General Plan.

EVIDENCE: The Park Ridge project is consistent with the General Plan designation for the project area, and will not adversely affect the comprehensive General Plan.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Antioch does hereby APPROVE of a Final Development Plan, Vesting Tentative Map, and a Use Permit (PD-05-01, PW 674, and UP-08-04) to construct 525 single-family homes including associated infrastructure improvements, approximately 25 acres of

passive open space, and approximately 8.22 acres for a neighborhood park, subject to the following conditions:

STANDARD CONDITIONS

1. The Tentative Map approval is subject to the time lines established in the State of California Subdivision Map Act.
2. The City of Antioch Municipal Code shall be complied with.
3. That conditions required by the City Council, which call for a modification or any change to the site plan submitted, be corrected to show those conditions and all standards and requirements of the City of Antioch prior to any submittal for a building permit. No building permit will be issued unless the site plan meets the requirements stipulated by the City Council and the standards of the City.
4. That design review approval is required prior to development of any phase of the subdivision.
5. That the lots and improvements within the development comply with the City of Antioch Municipal Code, unless a specific exception is granted thereto.
6. Prior to final inspection approval, the site must be in compliance with the conditions of approval.
7. That approval of this tentative map shall not constitute the approval of any improvements shown on the tentative map.
8. That all lot areas conform to the general lot areas proposed, and approved, on the tentative map.
9. That approval of this tentative map shall not be construed as a guarantee of future extension or re-approvals of this or similar maps, nor is it an indication of future availability of water or sewer facilities or permission to develop beyond the capacities of these facilities.
10. That any conversion of the homes to allow for a second unit be subject to a use permit for such a conversion, in conformance with the City's "Second Unit" provisions of the Zoning Ordinance.
11. Provisions for mail delivery in the subdivision area be worked out by staff and the developer prior to the approval of the final map. Developer shall install mail box facilities as required by the City Engineer.
12. That use of construction equipment be restricted to weekdays between the hours 8:00 A.M. and 5:00 P.M., or as approved in writing by the City Manager.

RESOLUTION NO. 2010/21

March 9, 2010

Page 7

13. All proposed improvements shall be constructed to City standards.
14. That standard dust control methods and designs be used to stabilize the dust generated by construction activities. The developer shall post dust control signage with a contact number of the developer, City staff, and the air quality control board.
15. That all required easements or rights-of-way for off tract improvements be obtained by the developer at no cost to the City of Antioch.
16. The developer shall obtain an encroachment permit for all work to be done within the public right-of-way.
17. Advance permission shall be obtained from any property or easement holders for any work done within such property or easements.
18. That all easements of record, which affect individual parcels within this project, be removed prior to or concurrently with the recordation of the final map.
19. That proposed street names be utilized in the development. If the developer wants to change any of the street names not included in Attachment "H" then the request will have to go back to the Planning Commission for approval.
20. The developer shall defend, indemnify, and hold harmless the City in any action brought by a third party to challenge the land use entitlement or environmental review.
21. That prior to the approval of the final subdivision map, the City Engineer shall determine if it is necessary to engage soils and structural engineers, as well as any other professionals, deemed necessary to review and verify the adequacy of the building plans submitted for this project. If deemed necessary by the City, this may be extended to include field inspections by such professionals to verify implementation of the plans. Costs for these services shall be borne by the developer.
22. That the project be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and Demolition Debris Recycling.
23. That the developer shall pay any acreage and utility connection fees which have been established by the City Council prior to the filing of the final map and as required by the Antioch Municipal Code.
24. The developer shall provide a "checklist" of universal design accessibility features to home buyers as required by Section 17959.6 of the Health and Safety Code.

RESOLUTION NO. 2010/21

March 9, 2010

Page 8

25. This approval supersedes any previous approvals that have been granted for the site.
26. No permits or approvals, whether discretionary or mandatory, shall be considered if the developer is not current on fees, reimbursement payments and other fees that are due.
27. That the developer shall pay traffic signal fees as adopted by the City Council.
28. That the Regional Traffic Impact Fee be paid, as well as all other applicable fees, including any future increase in the Regional Traffic Impact Fee.
29. Prior to filing of the first final map for recording, the developer shall pay all costs associated with having an engineer's report prepared and an election conducted to annex the property into the existing Landscape and Lighting District 10 and shall petition to annex the property into said district. The developer shall agree to accept a level of annual assessments sufficient to maintain improvements including but not limited to street lights, parks, drainage, and landscaping as identified in the Engineer's Report at no cost to the City.
30. That the developer shall install and maintain streetlights and landscaping within the project area at no cost to the City.
31. This project is subject to the current Community Park Fee and future Community Park Fees as established and levied by the City Council.
32. That the developer shall pay the Contra Costa County Fire Protection District Fire Development Fee in place at the time of permit issuance.
33. That all public street intersections shall meet the requirements of Caltrans Highway Design Manual for Intersection Design Standards (Topic 405), and private streets to the extent practicable, or as approved by the City Engineer.
34. That all public streets intersect at 90 degrees and private streets to the extent practicable, or as approved by the City Engineer.
35. That all driveways be perpendicular to the street centerline for a minimum distance of 20 feet behind the curb, or as approved by the City Engineer.
36. That all fencing adjacent to public areas (open space, right-of-way, etc.) be chain link, masonry, or other substantial material as approved by the City Engineer.
37. That all two-car garages be a minimum of 20 feet wide, clear inside dimensions.
38. That all road right-of-way be located 10 feet behind the face-of-curb.
39. That all driveways be a minimum of five feet from curb return.

RESOLUTION NO. 2010/21

March 9, 2010

Page 9

40. That the minimum concrete gutter flow slope shall be 0.75%.
41. That a minimum of 20 foot tangent shall extend beyond the return at intersections, or as approved by the City Engineer.
42. That all lot sidelines shall be perpendicular or radial to the fronting street centerline, or as approved by the City Engineer.
43. The required 50 foot sight distance triangles shall be maintained at all intersections and that no object greater than 3 feet in height shall be placed in that triangle. All fencing, landscaping, signage, and slopes shall also not restrict sight distance.
44. That center cul-de-sac parking areas be provided. This requirement may be waived if the developer can demonstrate the provision of adequate on street parking without the center parking area to the satisfaction of the City Engineer.
45. That all property lines shall be located at the top of slope.
46. That the developer submit a drainage study outlining what facilities are to be constructed and how they will function as a part of the Drainage District, and that the improvements to mitigate the increased downstream runoff be constructed as required by the County Flood Control District and the City Engineer.
47. That improvements and fees that are required by the Contra Costa County Flood Control District be implemented, as approved by the City Engineer.
48. That the developer shall provide adequate water pressure and volume to serve this development, as approved by the City Engineer. This will include a minimum residual pressure of 20 psi with all losses included at the highest point of water service and a minimum static pressure of 50 psi.
49. That fire hydrants be furnished and installed, of a type and at a location approved by the City Engineer.
50. That the roof drain collection system shall be connected to an underground drainage system and be discharged through curb drains. That the houses contain rain gutters and downspouts, with the downspouts and runoff of adjacent water to foundations being collected into an underground conduit, and be discharged, as approved by the City Engineer.
51. That all existing and proposed utilities be undergrounded (e.g. transformers and PMH boxes) and subsurface in accordance with the Antioch Municipal Code, except existing P.G.& E. towers, if any or as approved by the City Engineer.
52. That underground utilities be designed to flow approximately parallel to the centerline of the street, or as approved by the City Engineer.

RESOLUTION NO. 2010/21

March 9, 2010

Page 10

53. That all underground utilities be rerouted as required to run under public roadways or through public open parcels, or as approved by the City Engineer.
54. That all proposed drainage facilities, including open ditches, be constructed of Portland Concrete Cement.
55. That all sewage flow by gravity to the intersecting street sewer main or as approved by the City Engineer.
56. That the slopes, medians, and any open space areas be developed by the developer as required by the City Engineer and be maintained at no cost to the City.
57. A 10-foot wide tree planting easement shall be provided across the front of all single family lots and that one 15 gallon tree be located within such easement prior to building final. The City Engineer shall determine type and location of tree.
58. That the final grading plan for this development be signed by a California licensed geotechnical engineer and approved by the City Engineer.
59. That all elevations shown on the improvement plans be on the USGS 1929 sea level datum.
60. That the grading operation shall take place at a time, and in a manner, so as not to allow erosion and sedimentation. The slopes shall be landscaped and reseeded as soon as possible after the grading operation ceases. Erosion measures shall be implemented during all construction phases in accordance with an approved erosion and sedimentation control plan.
61. That all lots and slopes drain to approved drainage facilities as approved by the City Engineer.
62. That all grading be accomplished in a manner that precludes surface water drainage across any property line.
63. That all lots be graded to drain positively from the rear to the street or as approved by the City Engineer.
64. That all off-site grading is subject to the coordination and approval of the adjacent property owners, and the City Engineer.
65. That any sale of a portion (or portions) of this project to multiple developers include the necessary agreement and/or grading easements to assure that project-wide grading conforms to the approved map and conditions of this resolution.

RESOLUTION NO. 2010/21

March 9, 2010

Page 11

66. That energy conservation methods and designs be used in the planning and construction of these homes.
67. That water conservation measures, including low volume toilets, flow restrictors in showers and the use of drought tolerant landscaping be used.
68. That all weather access roads and water supply be provided prior to commencing any combustible construction, as required by the Fire Chief.
69. The following requirements of the federally mandated NPDES program (National Pollutant DISCHARGE Elimination System) shall be complied with as appropriate, or as required by the City Engineer:
 - a. Prior to issuance of permits for building, site improvements, or landscaping, the developer shall submit a permit application consistent with the developer's approved Stormwater Control Plan, and include drawings and specifications necessary for construction of site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants.
 - b. The Stormwater Control Plan shall be certified by a registered civil engineer, and by a registered architect or landscape architect as applicable. Professionals certifying the Stormwater Control Plan shall be registered in the State of California and submit verification of training, on design of treatment measures for water quality, not more than three years prior to the signature date by an organization with stormwater treatment measure design expertise (e.g., a university, American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association), and verify understanding of groundwater protection principles applicable to the project site (see Provision C.3.i of Regional Water Quality Control Board Order R2 2003 0022).
 - c. Prior to building permit final and issuance of a Certificate of Occupancy, the developer shall submit, for review and approval by the City, a final Stormwater BMP Operation and Maintenance Plan in accordance with City of Antioch guidelines. This O&M plan shall incorporate City comments on the draft O&M plan and any revisions resulting from changes made during construction.
 - d. Prior to building permit final and issuance of a Certificate of Occupancy, the developer shall execute and record any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership and/or long-term maintenance of stormwater treatment or hydrograph modification BMPs.

RESOLUTION NO. 2010/21

March 9, 2010

Page 12

- e. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner.
- f. Collect and convey all stormwater entering, and/or originating from, the site to an adequate downstream drainage facility. Submit hydrologic and hydraulic calculations with the Improvement Plans to Engineering Services for review and approval.
- g. Prior to issuance of the grading permit, submit proof of filing of a Notice of Intent (NOI) by providing the unique Waste Discharge Identification Number (WDID#) issued from the Regional Water Quality Control Board.
- h. Submit a copy of the Stormwater Pollution Prevention Plan (SWPPP) for review and approval by the Engineering Department prior to issuance of a building and/or grading permit. The general contractor and all subcontractors and suppliers of materials and equipment shall implement these BMP's. Construction site cleanup and control of construction debris shall also be addressed in this program. Failure to comply with the approved construction BMP may result in the issuance of correction notices, citations, or a project stop work order.
- i. Install appropriate clean water devices at all private storm drain locations immediately prior to entering the public storm drain system. Implement Best Management Practices (BMP's) at all times.
- j. Install on all catch basins "No Dumping, Drains to River" decal buttons.
- k. If sidewalks are pressure washed, debris shall be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged into the storm drain. If any cleaning agent or degreaser is used, wash water shall be collected and discharged to the sanitary sewer, subject to the approval of the sanitary sewer District.
- l. Include erosion control/storm water quality measures in the final grading plan that specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydroseeding, gravel bags, and siltation fences and are subject to review and approval of the City Engineer. If no grading plan is required, necessary erosion control/storm water quality measures shall be shown on the site plan submitted for an on-site permit, subject to review and approval of the City Engineer. The developer shall be responsible for ensuring that all contractors and subcontractors are aware of and implement such measures.
- m. Sweep or vacuum the parking lot(s) a minimum of once a month and prevent the accumulation of litter and debris on the site. Corners and hard to reach areas shall be swept manually.

- n. Ensure that the area surrounding the project such as the streets stay free and clear of construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way related to project construction. Areas that are exposed for extended periods shall be watered regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular basis. All trucks shall be covered.
 - o. Clean all on-site storm drain facilities a minimum of twice a year, once immediately prior to October 15 and once in January. Additional cleaning may be required if found necessary by City Inspectors and/or City Engineer.
70. The developer shall comply with the following conditions provided by the Contra Costa County Fire District:
- a. Access as shown on Sheet three of the vesting tentative map, dated 1/31/08, appears to comply with Fire District requirements. Access roadways shall not exceed 16% grade, shall have a minimum outside turning radius of 45 feet, and must be capable of supporting the imposed loads of fire apparatus, i.e., 37 tons. (503) CFC
 - b. The developer shall provide hydrants of the East Bay type. The number of hydrants and their locations will be determined by this office. (C103.1) CFC
 - c. The developer shall submit three copies of site improvement plans indicating proposed fire apparatus access for review and approval prior to construction. (501.3) CFC. This submittal may be used to locate the above-required hydrants.
 - d. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC. Gravel is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum subbase material capable of supporting the designated gross vehicle weight specified above.
 - e. The developer shall provide an adequate reliable water supply for fire protection with a minimum fire flow of 2000 GPM. Required flow shall be delivered from not more than two hydrants flowing simultaneously for the duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (508.1), (B105) CFC
 - f. The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development. (21351) CVC

- g. Premises identification shall be provided. Such numbers shall contrast with their background and be a minimum of four inches high with ½-inch stroke or larger as required to be readily visible from the street. (505.1) CFC, (501.2) CBC
- h. Flammable or combustible liquid storage tanks shall not be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
- i. The developer shall submit three copies of a 300-foot scale parcel map indicating approved fire hydrant locations, street names, and addresses to the Fire District for mapping purposes. These maps are required prior to Fire District signing for final improvement plans. (Mylar)

PROJECT SPECIFIC CONDITIONS

- 71. The developer shall comply with all mitigation measures identified in the FUA #2 (East Lone Tree) Specific Plan EIR and the supplemental mitigation measures identified in the Addendum to the FUA #2 (East Lone Tree) Specific Plan EIR.
- 72. The City shall review and approve the CC&Rs for the development prior to the recording of the first final map.
- 73. That each unit shall be required to store garbage cans outside of public view.
- 74. That the developer shall establish a Home Owners Association (HOA) for this project in conformance with the regulations set forth by the State Department of Real Estate. The HOA shall be responsible for maintaining all private common areas and amenities including storm water control facilities as well as be responsible for the maintenance of the parcels fronting Laurel Road and Country Hills Drive along the residential side, from back of curb to property line, excepting the 15' landscaping maintenance parcel (LMP) along Laurel Road, per the Specific Plan, as outlined in Exhibit A. The CC&Rs for the HOA shall be reviewed and approved in advance by the City Engineer and City Attorney.
- 75. That front yard landscaping shall utilize water saving techniques and plant materials.
- 76. That the developer shall provide dual pane windows, tech shield roof sheathing, re-circulating hot water systems, Class A fire resistant roof, prewired security alarm systems, and energy saver furnaces, air conditioner, and appliances as standard features on all homes.
- 77. The developer shall impose and contribute a non-reimbursable Community Facilities District assessment of \$15,000 per residential lot for construction of infrastructure identified by the East Lone Tree Financial Plan contingent upon the successful formation of the a CFD or other land based financing mechanism that

will provide for the construction of all such infrastructure with fair and reasonable assessments on the other properties in the East Lone Tree Focus Area. Fair and reasonable assessments have been determined by a study by EPS which has been completed.

78. The City and Davidon Homes shall enter into a Development Agreement (DA) prior to the recording of a final map. The DA shall further provide that Davidon has no obligation to construct additional off-site infrastructure for which there is not a legal nexus. The DA shall also confirm that bonds will be sold and CFD assessments will be payable only as necessary to complete the improvements. The DA shall consider the option for the HOA taking over the maintenance of lighting and landscaping duties and police services.
79. Prior to recording of the first final map for the project, the developer shall form and participate in a land based financing mechanism (Communities Facilities District) for the construction of East Lone Tree Specific Plan infrastructure and other community benefit items identified by and at the discretion of the City Council. This will include the recordation of a CFD Boundary Map, list of approved facilities, development of a Special Tax Formula (Rate and Method of Apportionment - RMA), and recordation of Notice of Special Tax Lien. The RMA shall be structured such that, up to the first 124 units constructed, the special tax shall be levied for each home at a time no later than the Certificate of Occupancy (CO) for each unit and prior to sale. In accordance with the RMA, the special tax will be levied only on each unit at the time of CO; no undeveloped land tax will be levied prior to the issuance of the CO for the 124th unit. Upon issuance of a final map containing the 124th lot, the special tax will be levied upon each lot within said, and any subsequent, final map as well as the undeveloped lands within the district boundary to support debt service on bonds to be sold after the issuance of the CO on the 124th unit. No bond sale will occur until the recordation of the 125th unit.
80. Upon finalization of the CFD, the City may determine that Davidon's contribution has exceeded that required for completion of East Lone Tree Specific Plan infrastructure. In this case, the excess funds shall be available for application to other projects enhancing the economic development of Antioch. The use of any excess funds shall be at the direction of the City Council.
81. That Davidon Homes shall continue to participate in the new AUSD CFD 2004-1.
82. That one street parking space per lot shall be located within close proximity to the unit served.
83. Prior to the recordation of the first final map, the developer shall restripe and provide signal modifications to the Lone Tree Way/Canada Valley Road intersection or shall enter into an agreement to reimburse the City for costs of the improvements. The improvements shall consist of the conversion of the

exclusive southbound Canada Valley Road through lane to a shared left/through lane with north/south split phasing signal modifications.

84. The developer shall be responsible for the design and commencement of construction of Country Hills Drive full street improvements and infrastructure from the northern terminus of the Sand Creek Ranch subdivision (southeast property line) north to Laurel Road upon to the issuance of the 271st building permit. This will include an 8' off-street bicycle path on the east side of the street and a 6' bicycle path on the west side of the street with sizing the facilities to accommodate future development to the north.
85. Country Hills Drive shall be designed to be consistent with the existing Country Hills Drive to the south in the Sand Creek Ranch subdivision with the exception of the street adjacent to the commercial development where it shall be an 82' right-of-way and 56' curb to curb with a 16' raised landscaped median. For portions of Country Hills Drive that have frontage benefitting other properties, the City will cooperate with the developer in establishing a reimbursement mechanism for improvements completed for the benefit of other properties.
86. The developer shall acquire and dedicate right-of-way and easements to the City of Antioch for Country Hills Drive at no cost to the City and to the satisfaction of the City Engineer.
87. Access rights on Laurel Road and Country Hills Drive shall be dedicated to the City of Antioch. No access to commercial developments shall be permitted off Laurel Road.
88. That the developer shall be responsible for the design and construction of Laurel Road, including infrastructure and traffic signalization, from the project's northwestern boundary to the State Route 4 Bypass. The signed plans for Laurel Road shall be completed prior to the recordation of the final map containing the 124th lot and construction shall commence prior to or upon the recordation of the 124th lot. The City will cooperate with the developer in establishing a financing mechanism or reimbursement agreement for the improvements so when other projects adjacent to Laurel Road develop they will be responsible to pay their fair share.
89. That the median island on Laurel Road shall include left turn pockets for both east and west bound traffic at all intersections. The length of storage and deceleration lanes shall be as approved by the City Engineer.
90. That the subdivider/developer shall design and construct a signalized intersection at Laurel Road and Country Hills Drive as approved by the City Engineer.
91. The developer shall design and construct a signalized intersection at Laurel Road and Treeline Way.

RESOLUTION NO. 2010/21

March 9, 2010

Page 17

92. The developer shall install a four-way stop intersection at Canada Valley Road and Vista Grande Drive/Pinnacle View.
93. That the subdivider/developer shall design and construct Laurel Road as a 4-lane arterial within a 104' right-of-way (80' curb-to-curb), with a 16' raised median, full street improvements, detached 6' sidewalks, and 15' wide landscape maintenance parcels (LMPs) on each side of the roadway with solid 7' high unit masonry walls at the residential edges of the LMPs, per the Specific Plan and as approved by the City Engineer.
94. All local streets shall be designed and constructed to a residential standard of 56' right-of-way and 36' curb to curb with 5' detached sidewalk as depicted in the East Lone Tree Specific Plan and as required by the City Engineer.
95. The developer shall install pop-outs and raised intersections as depicted on the Vesting Tentative Map and Preliminary and Final Development Plan, dated January 31, 2008 or as approved by the City Engineer.
96. All open space storm water shall be collected via V-ditches prior to being discharged into the City storm drain system.
97. That all facilities collecting or conveying storm water from open space parcels shall be maintained by a Home Owners Association, at no expense to the City.
98. The developer shall dedicate land to the City, design, and construct an 8.22-acre park (Parcel G) which shall be sheet graded at a maximum of a 2% slope. A trail, with the material to be approved by the City Engineer, shall be provided from Pinnacle View Way through the neighborhood park through the open space ending at Treeline Way and Laurel Road. All environmental clearances, right of ways and easements shall be acquired by the developer at no cost to the City. The park will be completed by the issuance of the 271st building permit.
99. The 8.22-acre local park design including the parking lot and restrooms shall be reviewed and approved by the Parks and Recreation Commission, Planning Commission, and City Council.
100. All main entries to the subdivision shall have a significant entry treatment including signage and landscaping, which shall be reviewed and approved as part of the design review process.
101. The architecture, sound walls, mailboxes, lighting, any accent paving, addressing, and landscaping for the entire project shall be subject to review and approval by the Planning Commission prior to application for building and/or grading permits for the project.

RESOLUTION NO. 2010/21

March 9, 2010

Page 18

102. That all homes shall be identified by a decorative addressing method easily visible from the roads within the project in order to aid emergency responders. This method shall be reviewed by the Antioch Police Department and the Planning Commission.
103. That no retaining walls shall be constructed in City right-of-way or other City maintained parcels unless approved by the City Engineer.
104. That all retaining walls shall be of masonry construction.
105. All retaining walls shall be reduced in height to the maximum extent practicable and that the walls meet the height requirements in the front yard setback as required by the City Engineer.
106. That all cul-de-sacs shall be designed according to city standards and include a parking island, unless a parking of 20' can be accommodated on the curb. The cul-de-sacs shall have an 8 foot monolithic sidewalk with a rolled curb.
107. That the CC&R's for this development shall prohibit on-street RV parking with the exception of active loading and unloading of RVs.
108. Twenty-five percent of the lots shall provide a 10' side yard in order to accommodate RV recreational vehicles.
109. The lots adjacent to Laurel Road shall have a minimum 20 ft. rear yard setback, as called for in the East Lone Tree Specific Plan.
110. All driveways shall be a minimum of 20' from the face of the garage to the property line.
111. The project shall adhere to the site, height, and density criteria per the East Lone Tree Specific Plan.
112. All public utilities shall be installed in streets avoiding between lot locations unless approved by the City Engineer.
113. The slope bank between Country Hills Drive and the Highway 4 Bypass shall be designed and constructed per the soils report recommendations, as approved by the City Engineer. This area shall be maintained by the Street Lighting and Landscape District at no cost to the City, as approved by the City Engineer.
114. That a system to maintain freeway slope landscaping be established at no expense to the city.
115. The developer shall make a good faith effort to obtain a lot line adjustment with the commercial parcel to the north of Parcel R resulting in the slope being located on the commercial parcel or reconfigure the lots and grading to not have a down slope. The developer shall obtain, or provide evidence of an effort to

RESOLUTION NO. 2010/z1

March 9, 2010

Page 19

work with the adjacent property owners to obtain, approval of a lot merger of the offsite triangular-shaped parcel located between Laurel Road/Country Hills Drive and Parcel R, to the satisfaction of the City Engineer.

116. The developer shall dedicate the 25.5 acres of open space (Parcel H) to the City of Antioch with the final map.
117. The developer shall submit written authorization to "access, enter, or grade" properties adjacent to the north and east of the project, prior to performing any work.
118. Parcels A, B, C, D, F, M, N, O and Q shall be clean water/detention basin/bio-cell & landscape parcels owned and maintained by the Home Owner's Association (HOA) at no cost to the City as outlined in Exhibit A.
119. Parcels E, I, J, K, L, P, R and S shall be landscape parcels owned and maintained by the Home Owner's Association (HOA) at no cost to the City as outlined in Exhibit A.
120. That the Home Owners Association shall provide for reimbursement of City maintenance of landscaped areas that are not maintained to an acceptable standard by the HOA.
121. That grading for slopes shall be contoured to provide as natural an appearance as possible as required by the City Engineer.
122. The developer shall construct at least a six (6) foot high sound wall or as high as determined by the acoustical analysis on the west side of Country Hills Drive and the east side of Canada Valley as depicted in the typical cross section in the East Lone Tree Specific Plan as approved by the City Engineer. The wall shall wrap around lot 300 onto Pinnacle View Way. The developer shall also construct at least a seven (7) foot high sound wall along Laurel Road, or as high as determined by the acoustical analysis. The design of the wall shall return to Planning Commission for review and approval.
123. The back to back or side to side grading transitions from lot to lot shall have a maximum slope of 2:1, and shall be accommodated entirely on the lower lot or as approved by the City Engineer.
124. That the landscaped setback from Laurel Road shall be a minimum of twenty feet wide from the right of way line or as approved by the Community Development Director.
125. That the developer shall install all infrastructure to serve the site. This may involve over-sizing the facilities to accommodate all future development in the East Lone Tree Specific Plan from the project through State Route 4 Bypass right of way to the connection points, along with any easements, per Flood Control's

RESOLUTION NO. 2010/21

March 9, 2010

Page 20

requirements and as approved by the City Engineer, at no cost to the City. Construction for some or all of the sewer mains and storm water system may be reimbursed. The infrastructure for access to the site (sewer, water, storm and surface improvements) shall be completed prior to issuance of building permits, unless concurrent construction is approved by the City Engineer and the Contra Costa County Fire Protection District.

126. That the developer shall comply with the Storm Water Treatment Plan dated April 28, 2008.
127. That the developer shall submit hydrology and hydraulic analysis with a storm water control plan to the City for review and approval and to Contra Costa County Flood Control for review at no cost to the City as directed by the City Engineer.
128. The developer shall vary the front setbacks to the maximum extent practicable as approved by Staff.
129. Prior to building permit final and issuance of a Certificate of Occupancy, the developer shall execute any agreements identified in the Storm Water Treatment Plan which pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMP's.
130. The developer shall reimburse the City's Water Fund for their fair share of costs borne by the Water Fund to construct a 16" water main over State Route 4 Bypass right of way prior to the issuance of building permits.
131. The developer shall participate in a future community/local park-in-lieu fee when it is created by the Council.
132. The developer shall realign Country Hills Drive to eliminate the remnant pieces of the adjacent properties (Deliza Ranch, LLC and Nunn Properties, 053-060-024 and 053-072-020) to the satisfaction of the City Engineer or shall landscape the remnant pieces which shall be maintained in perpetuity by the HOA or another entity approved by staff. The HOA or other approved entity shall enter into a maintenance agreement to maintain the remnant pieces at no cost to the City. The landscape plan shall be approved by staff.
133. The open space shall be named "Valeriano and Guiseppina Jacuzzi Knolls Open Space". The developer shall place two rock monuments at each trail entrance with a plaque memorializing the name. The location and design of the rock monuments and the plaque scripts shall be reviewed and approved by Staff.
134. Fencing shall be provided at open space parcel access points to prevent vehicular access.

* * * * *

I **HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a regular meeting thereof held on the 9th day of March 2010 by the following vote:

AYES: Council Members Kalinowski, Moore, Parsons and Mayor Pro Tem Rocha

NOES: None

ABSENT: Mayor Davis


L. JOLENE MARTIN, City Clerk

EXHIBIT B-3

ORDINANCE NO. 2037-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH TO REZONE APPROXIMATELY 169.7 ACRES, COMPRISING THE PARK RIDGE SUBDIVISION PROJECT (APNs: 053-072-016 and -023), FROM SPECIFIC PLAN (SP) TO PLANNED DEVELOPMENT DISTRICT (PD)

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

SECTION 1:

The City Council determined on March 23, 2010 that, pursuant to Section 15164 of the Guidelines of the California Environmental Quality Act, and after full consideration of the Addendum to the FUA #2 (East Lone Tree) Specific Plan Environmental Impact Report, and on the basis of the whole record before it, the Addendum for the Park Ridge subdivision should be adopted.

SECTION 2:

At its regular meeting of January 20, 2010, the Planning Commission recommended that the City Council adopt the Ordinance to rezone the subject property from Specific Plan (SP) to Planned Development District (PD) and approve the final development plan.

SECTION 3:

The real property described in Exhibit A, attached hereto, is hereby rezoned from Specific Plan (SP) to Planned Development (PD), and the zoning map is hereby amended accordingly. The Final Development Plan, with attachments consisting of various maps, written documents, and renderings of the proposed development along with all conditions imposed by the City of Antioch are hereby incorporated by reference and made a part of this zoning change. These documents are on file at the City of Antioch Community Development Department.

SECTION 4:

The permitted uses shall be those proposed: 525 single-family homes, passive open space, and a neighborhood park as shown on the plans dated January 31, 2008.

SECTION 5:

The City Council finds that the public necessity requires the proposed zone change that the subject property is suitable to the use permitted in the proposed zone change that said permitted use is not detrimental to the surrounding property, and that the proposed zone change is in conformance with the Antioch General Plan.

SECTION 6:

This Ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in a newspaper of general circulation printed and published in the City of Antioch.

* * * * *

I **HEREBY CERTIFY** that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the 9th day of March and passed and adopted at a regular meeting thereof, held on the 23rd day of March, by the following vote:

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

NOES: None

ABSENT: Council Member Kalinowski

s// James D. Davis
Mayor of the City of Antioch

ATTEST:

s// L. Jolene Martin
City Clerk of the City of Antioch

EXHIBIT A
LEGAL DESCRIPTION

Real property in the City of Antioch, County Contra Costa, State of California, described as follows:

PARCEL ONE:

PARCEL B, AS SHOWN ON PARCEL MAP MS-5-95, FILED DECEMBER 1, 1995, IN BOOK 168, OF PARCEL MAPS, PAGES 18, 19 AND 20, AND AS AMENDED BY PARCEL MAP MS-5-95, FILED NOVEMBER 7, 1996, IN BOOK 170, OF PARCEL MAPS, PAGES 12, 13 AND 14, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY.

EXCEPTING THEREFROM:

1. ALL OIL, GAS AND MINERAL RIGHTS BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT SHALL PRECLUDE ANY RIGHT OF SURFACE ENTRY FOR THE PURPOSE OF DRILLING, MINING OR EXTRACTION, AS RESERVED IN THE GRANT DEED EXECUTED BY ROLLING HILLS RANCH, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, RECORDED OCTOBER 1, 2002 AS INSTRUMENT NO. 2002-351658 OF OFFICIAL RECORDS.
2. ALL THOSE PORTIONS OF PARCEL B ABOVE CONVEYED TO THE CITY OF ANTIOCH BY GRANT DEEDS RECORDED MARCH 16, 1999 AS INSTRUMENT NOS. 1999-81479 AND 1999-81480 OF OFFICIAL RECORDS.
3. ALL THAT PORTION OF PARCEL B ABOVE CONVEYED TO THE CITY OF ANTIOCH, A MUNICIPAL CORPORATION BY GRANT DEED RECORDED JULY 21, 2004 AS INSTRUMENT NO. 2004-280542 OF OFFICIAL RECORDS.
4. ALL THAT PORTION CONVEYED TO THE STATE ROUTE 4 BYPASS AUTHORITY, RECORDED FEBRUARY 10, 2005 AS INSTRUMENT NO. 2005-46549 OF OFFICIAL RECORDS.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, UTILITIES AND CONSTRUCTION AND MAINTENANCE THEREOF TO BE APPURTENANT TO PARCEL ONE ABOVE AND ANY FIXTURE SUBDIVISIONS THEREOF, OVER, UNDER AND ACROSS THAT PORTION OF SAID PARCEL A SHOWN ON SAID MAP AS "60' ACCESS EASEMENT".

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT FOR ROADWAY APPURTENANT TO PARCEL ONE ABOVE AS CREATED BY THAT CERTAIN INDENTURE EXECUTED BY SOUTHERN PACIFIC TRANSPORTATION COMPANY, A CORPORATION, ET AL RECORDED AUGUST 3, 1991 IN BOOK 16783, OF OFFICIAL RECORDS, PAGE 216, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTH ½ OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 2 EAST, MOUNT DIABLO MERIDIAN, SITUATED IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, MORE SPECIFICALLY A PORTION OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE SAN PABLO AND TULARE RAILROAD NOW KNOWN AS THE SOUTHERN PACIFIC TRANSPORTATION COMPANY, RECORDED AUGUST 23, 1872 IN BOOK 23 OF DEEDS AT PAGE 518, RECORDS OF SAID COUNTY INCLUDED WITHIN A STRIP OF LAND 30.00 FEET IN WIDTH

THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL FOUR IN THE DEED TO RONALD E. NUNN RECORDED JUNE 30, 1982 IN BOOK 10834 OF OFFICIAL RECORDS AT PAGE 480, RECORDS OR SAID COUNTY, SAID CORNER BEING FURTHER DESCRIBED AS BEING LOCATED IN THE SOUTHWESTERLY LINE OF SAID SOUTHERN PACIFIC TRANSPORTATION COMPANY'S LAND AS DESCRIBED IN SAID DEED RECORDED IN BOOK 23 OF DEEDS AT PAGE 518; THENCE LEAVING SAID POINT OF COMMENCEMENT ALONG SAID SOUTHWESTERLY LINE NORTH 34 DEG. 46 MIN. 46 SEC. WEST 1,967.34 FEET TO THE POINT OF BEGINNING OF THE CENTER LINE FOR THE HEREIN DESCRIBED STRIP OF LAND; THENCE LEAVING SAID POINT OF BEGINNING OF THE CENTER LINE FOR THE HEREIN DESCRIBED STRIP OF LAND; THENCE LEAVING SAID POINT OF BEGINNING ACROSS SAID SOUTHERN PACIFIC TRANSPORTATION COMPANY'S LAND, NORTH 55 DEG. 13 MIN. 14 SEC. EAST 100.00 FEET TO A POINT IN THE NORTHEASTERLY LINE OF LAST SAID COMPANY'S LAND, THE NORTHEASTERLY TERMINUS OF THE HEREIN DESCRIBED STRIP OF LAND.

PARCEL FOUR:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL B (170 PM 12); THENCE ALONG THE EAST LINE OF SAID PARCEL NORTH 01 DEG. 12 MIN. 05 SEC. EAST 1432.40 FEET; THENCE LEAVING SAID EAST LINE SOUTH 89 DEG. 20 MIN. 55 SEC. EAST 389.53 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 2889.48 FEET, A RADIAL LINE TO THE BEGINNING OF SAID CURVE BEARS NORTH 63 DEG. 33 MIN. 34 SEC. EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 180.22 FEET THROUGH A CENTRAL ANGLE OF 03 DEG. 34 MIN. 25 SEC; THENCE SOUTH 08 DEG. 01 MIN. 27 SEC. WEST 22.49 FEET; THENCE SOUTH 21 DEG. 55 MIN. 45 SEC. EAST 55.61; THENCE SOUTH 51 DEG. 52 MIN. 56 SEC. EAST 22.49 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 2889.48 FEET, A RADIAL LINE TO THE BEGINNING OF SAID CURVE BEARS NORTH 69 DEG. 00 MIN. 32 SEC. EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 1205.86 FEET THROUGH A CENTRAL ANGLE OF 23 DEG. 54 MIN. 4 SEC. TO A POINT ON THE SOUTH LINE OF SAID SECTION 34 (TOWNSHIP 2 NORTH, RANGE 2 EAST, M.D.B.&M.); THENCE ALONG SAID SOUTH LINE NORTH 89 DEG. 30 MIN. 45 SEC. WEST 718.06 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCEL FOUR:

ALL OIL, GAS, GEOTHERMAL STEAM, CASING HEAD GAS, ASPHALTUM AND OTHER HYDROCARBONS AND CHEMICAL GAS NOW OR HEREAFTER FOUND, SITUATED OR LOCATED IN ALL OR ANY PORTION OF THE LANDS DESCRIBED HEREIN LYING MORE THAN FIVE HUNDRED FEET (500') BELOW THE SURFACE THEREOF, TOGETHER WITH THE RIGHT TO SLANT DRILL FOR AND REMOVE ALL OR ANY OF SAID GAS, OIL, CASINGHEAD GAS, ASPHALTUM AND OTHER HYDROCARBONS OR CHEMICAL GAS LYING BELOW A DEPTH OF MORE THAN FIVE HUNDRED FEET (500') BELOW THE SURFACE THEREOF INCLUDING THE RIGHT TO GRANT LEASES FOR ALL OR ANY OF SAID PURPOSES, BUT WITHOUT ANY RIGHT WHATSOEVER TO ENTER UPON THE SURFACE OF SAID LANDS OR ANY PORTION THEREOF WITHIN FIVE HUNDRED FEET (500') VERTICAL DISTANCE BELOW THE SURFACE THEREOF, AS RESERVED IN THE DEED FROM LAWRENCE FENOLIO TRUSTEE, ET AL RECORDED JANUARY 28, 2005 AS INSTRUMENT NO. 2005-31964 OF OFFICIAL RECORDS.

APN: 053-060-022-0 (Affects a portion of Parcel One)
053-060-023-8 (Affects a portion of Parcel One)
053-072-016-8 (Affects Parcel Four)

EXHIBIT C

Exhibit C

Final ordinance approving Development Agreement to be inserted.

EXHIBIT D
DAVIDON HOMESTM

March 11, 2010

Mr. Aram Hodess
Plumbers Local 159
1308 Roman Way
Martinez, CA 94553

Dear Aram,

Thank you for your public support for our 525 unit Park Ridge project at the Antioch City Council last night. We were pleased that the project was unanimously approved. It is always great to have outside support for our entitlement efforts.

In keeping with our prior agreement, I wish to confirm for you that Davidon Homes will hire union shops for the plumbing, electrical and HVAC trades. This is consistent with our company history and we have been pleased with the efforts of these subcontractors.

Thanks again,



Jeff Thayer
Vice President
Land Acquisition and Development

P.S. Here's hoping that 2010 will be seen as the turnaround year for this terrible time for the homebuilding industry.

**STAFF REPORT TO THE ANTIOCH CITY COUNCIL
FOR CONSIDERATION AT THE COUNCIL MEETING OF JULY 9, 2013**

Prepared by: Dawn Merchant, Finance Director
Reviewed by: Jim Jakel, City Manager
Date: June 25, 2013
Subject: **Authorize Response to Countywide Grand Jury Report:
“Assessing Fiscal Risk” (Report 1311)**

RECOMMENDATION

Approve and authorize the Mayor to sign the attached response to the Grand Jury report: “Assessing Fiscal Risk”.

BACKGROUND

Early in California’s history, the California Constitution established grand juries in each county. The California Penal Code includes provisions on the formation of grand juries and their powers and duties. With respect to public agencies, grand juries are authorized to “investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or systems of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit.” (Cal. Penal Code section 925a) Within 90 days after the grand jury submits a report regarding the operations of any public agency, the “governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body” (Cal. Penal Code section 933(c))

Antioch (as well as other public agencies in the County) received the attached Grand Jury report: “Assessing Fiscal Risk” (Attachment A). Cities are instructed to review and report on assessing fiscal risk. Accordingly, the attached draft response (Attachment B) is presented for the City Council’s consideration to transmit to the grand jury.

FISCAL IMPACT

Responding to the Grand Jury report took staff time. Additional staff time would be required to implement recommendation no. 3b or 3g as outlined in the response in Attachment B.

OPTIONS

No options are presented as state law requires the City Council to respond to Grand Jury reports. The City Council may propose alternative language to the response.

ATTACHMENTS

Attachment A: Countywide Grand Jury Report: "Assessing Fiscal Risk"

Attachment B: Antioch's response to Grand Jury Report: "Assessing Fiscal Risk"



June 4, 2013

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

Dear Mr. Jakel:

Attached is a copy of **Grand Jury Report No. 1311, "Assessing Fiscal Risk"** by the 2012-2013 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

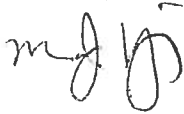
1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **SEPTEMBER 4, 2013**.

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,

A handwritten signature in black ink, appearing to read 'm. hamaji', with a horizontal line above the signature.

Marc Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury

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

**A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY**

725 Court Street
Martinez, California 94553

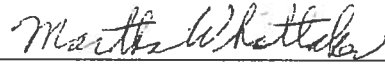
REPORT 1311

ASSESSING FISCAL RISK

Who is Minding the Store?

APPROVED BY THE GRAND JURY:

Date: 5/30/13


MARTHA WHITTAKER
GRAND JURY FOREPERSON- PRO TEM

ACCEPTED FOR FILING:

Date: 6/3/13


JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contact: Martha Whittaker
Foreperson Pro Tem
925-957-5638

Contra Costa County Grand Jury Report

REPORT 1311

ASSESSING FISCAL RISK

Who is Minding the Store?

TO: Contra Costa County, Cities, School Districts and other Special Districts in Contra Costa County, LAFCO (Local Agency Formation Commission)

SUMMARY

Contra Costa County (“County”), its cities, school districts and other special districts (collectively “County Organizations”) have an obligation to establish and maintain a proper system of fiscal controls (“Internal Controls”), including financial and physical oversight, in order to safeguard the public assets. Any financial loss or additional expenditure as a result of lack of oversight is never acceptable.

Internal Controls include but are not limited to: adequate segregation of duties, physical control over assets and records, proper financial reporting and independent checks/oversight on performance. These controls are important when it comes to grant administration. The County, cities and most school districts vie for state and federal grants which require separate reporting and performance according to grant terms. Proper controls are critical to ensuring that grant funds are expended as intended, program activities are carried out in accordance with the terms of the grant, and there is no required repayment to the grantor.

As part of the annual financial statement audit, independent auditors evaluate Internal Controls to the extent that they believe necessary to issue their audit opinion. In doing so, they will report to the organization any problems or findings identified with Internal Controls (including more serious problems which they characterize as “Material Weaknesses” and “Significant Deficiencies”) and instances of non-compliance with grant programs. The reaction of the governing body to any deficiencies in terms of Internal Control Material Weaknesses or Significant Deficiencies and grant non-compliance reported as part of the audit is significant. If the deficiencies are taken seriously and corrected quickly and an environment exists of not allowing repetitive findings, then a robust control environment is promoted. Where reaction is lax and accountability weak, the potential exists for further abuse. This is particularly important in the case of the County, cities and special districts which lack other independent, direct oversight (unlike the relationship of the County Office of Education to the school districts).

A review of auditor reports on Internal Controls and grant compliance from the County, selected cities, school districts and other special districts suggests that the control environment is far from optimum among County Organizations. The majority of County Organizations reviewed had problems with Internal Controls and/or grant compliance identified by the independent auditors, including Material Weaknesses and Significant Deficiencies. In a number of instances, these findings were recurring over multiple years. Furthermore, there is a significant difference among officials interviewed regarding the importance of establishing and maintaining a rigorous Internal Control environment and responding to/fixing findings raised by the independent auditors.

The Grand Jury considers Internal Controls an important element in establishing and maintaining integrity in financial reporting and safeguarding assets on behalf of the citizens of the County.

METHODOLOGY

In evaluating the Internal Control environment maintained by County Organizations, the following tasks were performed:

- Interviews with financial and management officials from selected County Organizations;
- Interviews with representatives from the California State Controller's Office ("SCO");
- Review of audited financial statements for selected County Organizations for the Fiscal Years ("FY") 2011 and 2012;
- Review of auditor communication letters for selected County Organizations related to their audits for the FY2008-FY2012 periods;
- Review of auditor "Management Letters" and/or "Reports on Internal Controls over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards" for selected County Organizations related to their audits for the FY2008-2012 periods;
- Review of auditor-prepared Single Audit Reports and/or "Independent Auditors' Report on Compliance with Requirements that could have a Direct and Material Effect on Each Major Program and on Internal Control over Compliance in Accordance with OMB Circular A-133" for selected County Organizations related to their audit for the FY2008-2012 periods;
- Preparation of a detailed control questionnaire and survey of selected County Organizations;
- Review of State Controller Office Audit report to assess the adequacy of the system of Internal Controls at both the City of Hercules and the Hercules Redevelopment Agency (SCO.ca.gov);
- Review of Contra Costa County internal audit reports and City of Richmond internal audit report – "Internal Audit of Library and Cultural Services Department" dated

February 2013;

- Review of selected outside grant audit reports provided by selected County Organizations;
- Review of requirements for preparation of the Single Audit report, as maintained by the California State Controller's Office (SCO.ca.gov); and,
- Review of selected Government Accounting Standards as promulgated by the Government Accounting Standards Board ("GASB").

BACKGROUND

There have been a number of high-profile financial problems involving local government entities documented in the media over the past several years. From a state perspective this includes The City of Bell in Southern California – where there are allegations of massive corruption, and the bankruptcy filings of Vallejo, Stockton and San Bernardino. In Contra Costa County, the State authorities have intervened in the cities of Richmond and Hercules and the West Contra Costa Unified School District. In certain of these instances, the underlying problems were a lack of financial resources, exacerbated by inadequate financial reporting. In other instances, the problems were caused by a lack of controls over the financial operations of the affected organization.

See Appendix 1 for a glossary of key terms used throughout this report.

Internal Controls

County Organizations have a responsibility to the citizens they serve to safeguard their organizations' assets and report the results of their operations. Internal Controls are the policies and procedures established by an organization to ensure reliable financial reporting, effective and efficient operations, compliance with applicable laws and regulations and the safeguarding of assets against theft and unauthorized use, acquisition, or disposal. A system of Internal Controls should encompass both the control environment and specific control activities.

The management style and the expectations of management, particularly their control policies, determine the control environment. An effective control environment helps to ensure that established policies and procedures are followed. The control environment includes independent oversight provided by a governing board (including audit committees); independent audit of the organization's finances; management's integrity, ethical values, and philosophy; a defined organizational structure with competent and trustworthy employees; and the assignment of authority and responsibility within the organization.

An effective control environment includes the following:

- **Adequate segregation of duties.**

This requires that different individuals be assigned responsibility for different elements of related activities, particularly those involving authorization, custody, or recordkeeping. For example, the same person who is responsible for an asset's recordkeeping should not be responsible for physical control of that asset. Having different individuals perform these functions creates a system of checks and balances.

- **Proper authorization of transactions and activities.**

This helps ensure that all of an organization's activities adhere to established guidelines unless variances are properly authorized by management.

- **Adequate documents and records which provide evidence that financial statements are accurate.**

- **Controls designed to ensure adequate recordkeeping.**

This includes the creation of invoices and other documents that are easy to use and sufficiently informative; the use of pre-numbered, consecutive documents, such as receipt logs; and the timely preparation of documents and financial reports including actual versus budgeted results.

- **Physical controls over assets and records.**

This helps protect an organization's assets. These control activities may include electronic or mechanical controls (such as a safe, employee ID cards, cash registers, and fireproof files) or computer-related controls dealing with system access privileges or established backup and recovery procedures.

- **Independent checks on performance.**

This includes checks which are carried out by employees who did not do the work being checked and will help ensure the accuracy and reliability of accounting information and the efficiency of operations. For example, a supervisor verifies the accuracy of an accounting clerk's account reconciliations. Internal auditors may also verify that the supervisor performed the required review.

In order to identify and establish effective controls, management must continually assess the risk, monitor control implementation, and modify controls as needed.

Annual Audit Internal Control Reporting

Each year, as part of the annual financial statement audit, the independent auditors evaluate those Internal Controls they feel are necessary for them to issue their audit opinion (this could range from a comprehensive review of controls to no review of controls). The auditors do not look at all Internal Controls (for example, the outside auditors for the City of Richmond did not report on any findings with regard to the library, while a separate internal audit found multiple issues and proposed 29 corrective recommendations). At the conclusion of their audit, the auditors are required to communicate with management as to certain key information involved with the audit (often referred to as “Required Communications”) and communicate any findings with regard to Internal Controls (often referred to as a “Management Letter”).

Since the outside auditors’ review is by its nature limited in scope, when the outside auditors describe an inadequate Internal Control environment, a more detailed or thorough review may be required to determine if even more serious or pervasive issues exist (which, if not corrected, could potentially lead to major financial reporting errors, fraud, or other fiscal problems in the future). In addition, for those organizations that received federal funds in excess of \$500,000, the auditors also issue a report on the organization’s compliance with the grants (often referred to as “Single Audit Report”).

The auditors’ control findings are typically categorized as “Material Weaknesses”, “Significant Deficiencies” and “Other Matters or Findings”. The professional literature provides the following definitions:

- “Material Weakness” is “a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis.”
- “Significant Deficiency” is “a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.”
- “Other Matters or Findings”, while not specifically defined, refers to any additional issues which the independent auditor wishes to communicate to the governing body of the organization.

Both Material Weaknesses and Significant Deficiencies are considered serious conditions by the outside auditors that warrant immediate attention and correction. An organization’s management is required to formally respond to these findings. An entity can receive a “clean” or unqualified opinion on its financial statements and still have problems with its Internal Controls.

Survey and Report Review Results

A detailed survey covering certain Internal Controls was sent by the Grand Jury to selected County Organizations. This survey focused on identifying the size of finance/accounting functions within the organizations, the adequacy of segregation of duties and what impact, if any, recent budgetary constraints may have had on the size of accounting and finance functions. The surveyed County Organizations were Contra Costa County; the cities of Richmond, Pinole, Antioch and Walnut Creek; the Acalanes Unified, West Contra Costa Unified, Mount Diablo Unified and Pittsburg Unified school districts; Pleasant Hill Recreation District; Contra Costa Water District and Kensington Police and Community Services District. A review of the survey responses and reports from the independent auditor for the five most recent fiscal years (2008-2012) identified the following items:

- Three organizations - City of Richmond, Richmond Housing Authority and West Contra Costa USD - received “qualified” audit opinions from the independent accountants in 2011. The qualifications with respect to the City of Richmond and Richmond Housing Authority relate to the Housing Authority’s ability to continue as a going concern due to its current dire financial position. The qualification on the 2011 West Contra Costa USD financial statements related to the improper exclusion in the financial statements of certain trust/agency activities. The West Contra Costa USD corrected the exclusion in 2012.
- In approximately 75% of the entities reviewed, there was communication from the auditors indicating that a significant number of audit adjustments (for example, approximately 120 separate adjustments in the case of Richmond for 2011) were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.
- A majority of the entities reviewed had at least one Internal Control issue noted as Material Weaknesses/Significant Deficiencies. The total number of control issues identified for the five-year period ranged from 1 (Contra Costa Water District and City of Antioch) to greater than 125 (City of Richmond). In many instances, the issues identified were recurring.
- A majority of the entities reviewed had at least one grant compliance finding over the past five fiscal years. The total number of findings ranged from 0 (Contra Costa Water District) to greater than 40 (City of Richmond). In many instances, the issues identified were recurring.

- In the smaller cities and special districts there is not a sufficient number of staff to achieve an adequate segregation of duties.

Contra Costa County has an internal audit group that currently formally reports to the County Auditor-Controller and informally to an "Audit Committee" that includes two County supervisors and representatives from the Auditor-Controller's Office. The internal audit group reviews the various operating County departments on a 2-5 year cyclical basis (more frequently where problems have been identified). The scope and plans for these audits are determined by the Auditor-Controller, with input from the Audit Committee. The professional literature indicates that the internal audit function should have direct reporting responsibility to the governing board of an organization.

Material Weaknesses/Significant Deficiencies

A more detailed view of the number of Material Weaknesses/Significant Deficiencies identified by the independent auditors for the County Organizations reviewed, including the recurring nature of some of the findings, is presented below in Table 1.

Table 1- Summary of Material Weaknesses/Significant Deficiencies -

Entity	Material Weaknesses/Significant Deficiencies by Fiscal Year					
	2012	2011	2010	2009	2008	Recurring
Contra Costa County	1	1	2	0	0	Yes
City of Richmond/Richmond Housing Authority	*	15	18	12	11	Yes
City of Antioch	0	1	0	0	0	No
City of Walnut Creek	0	0	0	0	0	No
City of Pinole	0	0	0	0	0	No
City of Hercules	(2)	(2)	(2)	(2)	(2)	
Pleasant Hill Recreation	0	0	0	0	0	No
Kensington Police (KPPCSD)	1(1)	0	0	0	0	Yes
Contra Costa Water Dist.	0	0	0	0	0	No
Acalanes USD	0	0	0	1	1	Yes
Mt. Diablo USD	2	2	1	3	1	Yes
West Contra Costa USD	1	2	0	0	0	Yes
Pittsburg USD	2	1	5	11	0	Yes

Legend / Notes –

* Reporting for 2012 not yet completed

- (1) KPPCSD has not completed a timely audit for either 2011 or 2012 due to the credit card charges allegations and investigations. Due to the inability to produce audited financial statements on a timely basis– there is deemed to be a Material Weakness.
- (2) City of Hercules/Hercules RDA – Information based on separate State Controller Office Audit Report of Controls for 2005-2010.

With respect to the school districts, there has been noted improvement in Internal Controls measured by a reduction in auditor findings in the last five years. The Contra Costa Office of Education has regular involvement with the various school districts to assist them in confronting their internal control issues. The County Office of Education has, at times, inserted monitors or consulting experts to assist the districts. The majority of the recent findings relate to identified inadequacies in the controls over cash receipts (most often student/parent donations or contributions) and timely recordkeeping/reconciliation in the area of “Associated Student Funds” – student clubs and organizations for which the school districts have oversight and accounting responsibility.

A number of the organizations reviewed had recurring findings of Material Weaknesses/Significant Deficiencies. The repetition of significant findings from year to year could call into question a management’s or governing board’s commitment to the control environment. Additional background on certain of the information reviewed is as follows:

- **Kensington Police Protection and Community Services District –**

In 2010, the independent auditor identified as an internal control weakness the issue of unsubstantiated credit card purchases. Subsequently, there were allegations of improper credit-card spending. . The District had to incur approximately \$25,000 in costs related to an additional independent, forensic audit of the spending allegations as a result of the lack of functioning of internal controls.

- **The City of Hercules (including the Hercules Redevelopment Agency) -**

An audit by The State Controller’s Office found “control deficiencies were serious and pervasive – in effect, non-existent. In addition, the City Council did not appear to exercise any oversight over the City’s operations.” (SCO Audit Report). The audit (which covered the period 2005-2010) indicates that there were millions of dollars of questionable spending and property transfers by the RDA, misuse of city-issued credit cards, improper budgeting and a lack of competitive bidding on public contracts.

- **The City of Richmond -**

Significant issues were identified in regard to library operations, including inadequate controls over purchases, improper credit card use, significant shrinkage or theft of library materials, unauthorized purchases, lack of control over cash receipts and inadequate controls over fines/billings for lost items. These items could aggregate as much as \$450,000 in losses (2013 City of Richmond Library Internal Audit Report).

- **The City of Richmond/Richmond Housing Authority -**

There are an excessive number of issues noted from an overall perspective. While many of the issues deal with the accuracy and timeliness of financial reporting, there are many which document losses (or potential losses) due to inadequate controls, including: unauthorized city credit card usage, significant levels of uncollectible employee/other loans (which aggregate to approximately \$1 million over the period reviewed), and significant disallowed grant/program costs requiring the city to fund activities initially to be covered under grants (several million dollars).

- **Contra Costa County –**

The Contra Costa County Auditor-Controller department is currently operating at approximately 6-9 headcount below its budgeted headcount level, primarily due to a high level of unplanned retirements (which did not leave time for adequate succession planning) and employee turnover. Additionally, as longer-term employees have retired/left, they have been replaced by less-experienced personnel with an attendant loss of cumulative institutional knowledge.

Internal Audit Reports for the past four years prepared by Contra Costa County internal audit staff identify a number of different internal control issues at the various County operating departments. The majority of issues relate to proper safeguarding of assets and controls associated with ensuring the integrity of financial reporting. The issues at various County departments include:

- A lack of compliance with County credit card guidelines, including personal use, charges for non-permitted items, exceeding transaction authority limits, and missing approvals (primarily for travel) and documentation. According to the internal audit reports there have been instances where the non-compliance resulted in unreimbursed losses.
- Instances where there was a lack of segregation of duties at the operating department level.
- Controls over cash receipts in terms of depositing funds on a timely basis and maintaining adequate control logs over all receipts.
- Concerns with respect to petty cash funds and the timely reconciliation of these funds.
- Controls over various “trust funds” and the timely reconciliation and correction of identified reconciling items, processing disbursement/refunds of such funds and the necessity for proper tax reporting related to certain of these funds.
- Results of periodic inventory observations by the internal audit staff that show both overages and shortages (including items such as medical supplies/pharmacy inventories, fuel inventories, and various supplies).
- Failure to properly and fully reconcile various accounts, many of which show differences between the general ledger system and the related subsidiary systems. This included the

timely resolution (and correction where necessary) of differences identified when reconciliations were performed, rather than just carrying these differences forward. These differences could result in undetected errors or losses and/or inaccurate financial reporting.

- Failure to properly use asset tags to safeguard County equipment and properly certify equipment inventories at fiscal year-ends.

In the case of the County, cities and independent special districts, responsibility for remedy and oversight of findings with respect to Internal Controls lies with management and the related governing board. There is no additional on-going oversight over the County, cities and independent special districts by a supervising entity, similar to the role played by the Contra Costa Office of Education with regard to school districts. According to representatives from the California State Controller’s Office, that organization may intervene in extreme situations including those where state funds are required to be provided as part of a temporary solution to a crisis situation.

In the smaller cities and special districts (such as Kensington Police Protection and Community Services District, Pleasant Hill Recreation District and the City of Pinole) there is not sufficient staff to achieve an adequate segregation of duties. In instances such as these, the professional literature describes the need for additional “compensating controls” – typically a person(s) independent of the day-to-day processes who can exercise a meaningful level of supervisory oversight (including check signatory control for large expenditures). This supervisory oversight could include someone from the related governing board.

Single Audit/Grant Findings

A summary of the Single Audit Report Findings – which focuses on compliance with Federal and State grants, is presented below in Table 2.

Table 2 – Single Audit Report (Grant) Findings (FY2008-2012) -

Entity	Single Audit Report (Grant Findings) Total Grant Issues Identified by Fiscal Year					
	2012	2011	2010	2009	2008	Recurring
Contra Costa County	6	5	3	0	2	Yes
City of Richmond/Richmond Housing Authority	*(1)	12	9	7	11	Yes
City of Antioch	1	0	3	0	0	No
City of Walnut Creek	0	0	0	0	0	No
City of Pinole	0	N/A	0	1	N/A	No
Pleasant Hill Recreation	N/A	N/A	N/A	N/A	N/A	N/A

Entity	Single Audit Report (Grant Findings) Total Grant Issues Identified by Fiscal Year					
Kensington Police (KPPCSD)	N/A	N/A	N/A	N/A	N/A	N/A
Contra Costa Water Dist.	0	0	0	0	0	N/A
Acalanes USD	0	1	0	1	0	Yes
Mt. Diablo USD	1	3	3	2	5	Yes
West Contra Costa USD	0	1	2	1	3	Yes
Pittsburg USD	0	2	2	3	4	Yes

Legend / Notes –

* Reporting for FY12 not yet complete

N/A – Not applicable

- (1) An employee in the City of Richmond has identified issues with a Library Grant, including allegations of improper accounting and this has been acknowledged by the City per media reports. This is not included in the totals for this year. A separate internal audit of the library function revealed multiple Internal Control weaknesses and 29 corrective recommendations.

Single Audit Report Findings represent identified instances of non-compliance with a grant or award. While the report does not necessarily cover all grants and awards – it does cover those the auditor believes are most significant. The impact of non-compliance instances on grants typically ranges from required remediation to repayment of disallowed grant funds. This could potentially involve the loss of the grant or impact the ability to receive future grants. There were a number of instances where costs charged to grants were disallowed and had to be repaid or entities were not able to identify grant disallowances or required repayments. Specific examples include:

- The City of Richmond 2011 Single Audit Report identified multiple instances aggregating in excess of \$200,000 where repayment of grant funds was required. Additionally information suggests that there are Richmond Library grant funds in excess of \$50,000 which were improperly charged to a grant. Many of these instances related to control problems that were identified for multiple, consecutive years by the independent auditors.
- The 2011 financial statement audit report for the Richmond Housing Authority states that “the allowance for HUD disallowed costs was increased to \$2.4 million” and this was one of the reasons for the auditors questioning the ability of this entity to continue as a going concern or financially-viable entity.
- Contra Costa County was unable to identify the level of disallowed grant or program costs for the past two years.

Single Audit Reports are submitted to the California State Controller's Office which notifies the relevant state agency involved in the grant of any issues raised and it is the individual agency's responsibility to resolve the findings with the grant recipient. Granting agencies may also perform their own audits of grant activity and compliance.

Significant differences exist between County Organizations in the level of importance placed on the various auditor findings in regard to Internal Controls and grant compliance and the control environment considered as a whole. The views ranged from "not important at all" to significant importance coupled with immediate efforts to ensure the findings were corrected and were not recurring.

FINDINGS

1. Several of the entities reviewed showed Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls each year as reported by the external auditors.
2. In several instances, the Material Weaknesses, Significant Deficiencies and other deficiencies were repeated from one year to the next by the external auditors without being remedied.
3. Weaknesses in Internal Controls could ultimately result in financial losses, loss of public confidence (reputational risk), inaccurate or faulty financial reporting and decision-making based on incomplete or inaccurate information.
4. Several of the entities reviewed showed issues (including Material Weaknesses/Significant Deficiencies) with respect to compliance with grants which they have been awarded.
5. Unresolved problems with grants could potentially result in the loss of future grants and required repayment of expended grant funds. Where repayment of grant funds is required, unrelated general fund resources are being used. This can result in a loss of public confidence (reputational risk).
6. There is a significant difference among County Organizations as to the level of importance placed on the control and grant compliance findings of the outside auditors and need to remedy, on a timely basis, the issues noted.
7. Many of the entities reviewed had communications from the auditors indicating that a significant number of audit adjustments were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.
8. Based on the entities reviewed, the County Board of Supervisors, the City Councils, and the governing boards in the case of school districts and special districts, are not providing adequate oversight over the entities that they govern to ensure that Material Weaknesses, Significant Deficiencies and other deficiencies in regard to Internal Controls and outside grant compliance are being remedied in a timely manner. Most County Organizations do not have an Audit Committee, independent of the organization's financial management, which is chartered to provide financial oversight.

9. A recurring finding by the independent auditors with respect to school districts related to the need for improved controls over “Associated Student Body Funds” – the various student clubs and organizations for which the districts have financial oversight and accounting responsibility. The improved control recommendations involved controls over cash receipts, timely accounting and reconciliation of funds held by the organizations and controls over disbursements. Continued and significant problems in this area could result in both losses and negative publicity (reputational risk).

RECOMMENDATIONS

The Grand Jury recommends that:

1. Financial management of the County, all cities, all school districts and all special districts remedy within 12 months the Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls reported by the external auditors.
2. County Organizations maintain or add audit report results to appropriate financial managements’ performance goals to ensure that such individuals are held accountable for promptly remedying deficiencies identified in audit reports, and consider the legality of maintaining or adding such performance goals on audit reports to financial managements’ evaluations.
3. The County Organizations improve direct financial oversight and assessment of the control environment including:
 - a. The Board of Supervisors more actively provide oversight in the case of the County and appoint a formal Audit Committee from among their members to ensure that Internal Control and grant compliance deficiencies are promptly remedied and there are sufficient direct and detailed discussions between the Board and the outside auditors.
 - b. The City Councils more actively provide oversight by appointing an Audit Committee from among their members as well as an ad hoc citizens’ committee to ensure that Internal Control deficiencies are promptly remedied.
 - c. The governing boards of school districts appoint a formal Audit Committee from among their members and provide direct oversight to district operating and financial management to ensure that Internal Control deficiencies are promptly remedied.
 - d. The governing boards of special districts appoint a formal Audit Committee from among their members and provide direct oversight to district operating and financial management to ensure that Internal Control deficiencies are promptly remedied. In instances where the size of the entity precludes an adequate segregation of duties, governing board members need to consider direct involvement in key financial processes.
 - e. The Superintendent of the County Office of Education continue to provide oversight over governing boards of school districts and continue to use the power of this office to compel remediation of Internal Control deficiencies.
 - f. LAFCO (Local Agency Formation Commission) encourage governing boards of special districts to promptly remedy Internal Control deficiencies that are identified.
 - g. The Board of Supervisors have the County internal audit staff report directly to the Board of Supervisors rather than the Auditor Controller. The governing boards of

other County Organizations have the internal audit groups of other County Organizations maintain their independence and not report to financial management but instead to the City Council in the case of cities and the governing boards in the case of school districts and special districts.

REQUIRED RESPONSES

Each County Organization needs to respond only in regards to its own practices.

	Findings	Recommendations
Contra Costa County Board of Supervisors	1-8	1,2,3a,3g
City of Antioch	1-8	1,2,3b,3g
City of Brentwood	1-8	1,2,3b,3g
City of Clayton	1-8	1,2,3b,3g
City of Concord	1-8	1,2,3b,3g
Town of Danville	1-8	1,2,3b,3g
City of El Cerrito	1-8	1,2,3b,3g
City of Hercules	1-8	1,2,3b,3g
City of Lafayette	1-8	1,2,3b,3g
City of Martinez	1-8	1,2,3b,3g
Town of Moraga	1-8	1,2,3b,3g
City of Oakley	1-8	1,2,3b,3g
City of Orinda	1-8	1,2,3b,3g
City of Pinole	1-8	1,2,3b,3g
City of Pittsburg	1-8	1,2,3b,3g
City of Pleasant Hill	1-8	1,2,3b,3g
City of Richmond	1-8	1,2,3b,3g
City of San Pablo	1-8	1,2,3b,3g
City of San Ramon	1-8	1,2,3b,3g
City of Walnut Creek	1-8	1,2,3b,3g

	Findings	Recommendations
Acalanes Union High School District	1-9	1,2,3c,3g
Antioch Unified School District	1-9	1,2,3c,3g
Brentwood Union School District	1-9	1,2,3c,3g
Byron Unified School District	1-9	1,2,3c,3g
Canyon School District	1-9	1,2,3c,3g
Contra Costa Community College District	1-9	1,2,3c,3g
John Swett Unified School District	1-9	1,2,3c,3g
Knightsen Elementary School District	1-9	1,2,3c,3g
Lafayette School District	1-9	1,2,3c,3g
Liberty Union High School District	1-9	1,2,3c,3g
Martinez Unified School District	1-9	1,2,3c,3g
Moraga School District	1-9	1,2,3c,3g
Mount Diablo Unified School District	1-9	1,2,3c,3g
Oakley Union Elementary School District	1-9	1,2,3c,3g
Orinda Union School District	1-9	1,2,3c,3g
Pittsburg Unified School District	1-9	1,2,3c,3g
San Ramon Valley Unified School District	1-9	1,2,3c,3g
Walnut Creek School District	1-9	1,2,3c,3g
West Contra Costa Unified School District	1-9	1,2,3c,3g
Contra Costa County Office of Education	1-9	1,2,3e
Local Agency Formation Commission (LAFCO)	1-8	1,2,3f
Kensington Police Protection and Community Services District	1-8	1,2,3d,3g
Pleasant Hill Recreation and Park District	1-8	1,2,3d,3g
Contra Costa Water District	1-8	1,2,3d,3g

Appendix 1 – Glossary of Key Terms

Audit Committee – An operating committee of an organization’s governing board charged with oversight of the organization’s audit and control functions.

Management Letter- The required communication of the independent auditor and those charged with governance of an organization in regards to deficiencies identified during the audit in the system of internal controls. In the Public Sector, these are also commonly referred to as “Reports on Internal Controls over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements performed in Accordance with Government Auditing Standards.”

Material Weakness -A deficiency or a combination of deficiencies, in internal controls such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis.

Required Communications – The independent auditor is required to formally communicate with those charged with governance in relation to an audit of financial statements. This typically involves a governing board and any audit committee established by such governing board. The communication typically includes the auditor’s responsibilities under generally accepted auditing standards, an overview of the planned scope and timing of the audit and significant findings from the audit.

Significant Deficiency - A deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Single Audit Report – All non-federal government entities that expend \$500,000 or more of Federal awards or grants are required to obtain an annual audit in accordance with the Single Audit Act and rules set forth by the Office of Management and Budget (OMB). This audit, typically done in conjunction with the annual financial statement audit, focuses primarily on grant/award compliance. This report is often titled “Independent Auditors’ Report on Compliance with Requirements that could have a Direct And Material Effect on Each Major Program an on Internal Control over Compliance in Accordance with OMB CircularA-133.”

System of Internal Accounting Controls or Internal Controls – The policies and procedures established by an organization designed to ensure reliable financial reporting, effective and efficient operations, compliance with applicable laws and regulations and the safeguarding of assets against theft and unauthorized use, acquisition, or disposal. A System of Internal Accounting Controls should encompass both the control environment and specific control activities.

July 9, 2013

The Honorable John Laettner
Presiding Judge of the Contra Costa Superior Court
A.F. Bray Court House, Department 25
1020 Ward Street, Martinez CA 94553

Dear Judge Laettner:

On behalf of the Antioch City Council, this letter responds to Contra Costa County Grand Jury Report: "Assessing Fiscal Risk" (Report 1311). The City Council authorized this response at its meeting on July 9, 2013.

We appreciate the time and effort that the Grand Jury spent considering these matters. As the Report states, cities, school districts and other special districts have an obligation to establish and maintain a proper system of fiscal controls. We absolutely agree with this and feel that even with an average staffing reduction of 40% here in Antioch, we have established adequate internal controls over financial reporting and safeguarding of assets.

Pursuant to California Penal Code section 933.05, the City will respond to each finding and to each recommendation individually.

Findings

1. Several of the entities reviewed showed Material Weaknesses, Significant Deficiencies, and other deficiencies in Internal Controls each year as reported by the external auditors.

Based on the information provided by the Grand Jury report, the City agrees with the finding.

2. In several instances, the Material Weaknesses, Significant Deficiencies and other deficiencies were repeated from one year to the next by the external auditors without being remedied.

We believe this finding should read "as reported by the external auditors" as the auditors are not the ones repeating the deficiencies or responsible for remedying them, the agencies are. If our assumption is correct, then based on the information provided by the Grand Jury report, the City agrees with the finding, but again relying on the information in the Grand Jury report as the City has done no independent analysis of the issue.

3. Weaknesses in Internal Controls could ultimately result in financial losses, loss of public confidence (reputational risk), inaccurate or faulty financial reporting and decision making based on incomplete or inaccurate information.

Depending on the nature, severity, frequency and materiality of the weaknesses, the City agrees with the finding.

4. Several of the entities reviewed showed issues (including Material Weaknesses/Significant Deficiencies) with respect to compliance with grants which they have been awarded.

Based on the information provided by the Grand Jury report, the City agrees with the finding.

5. Unresolved problems with grants could potentially result in the loss of future grants and required repayment of expended grant funds. Where repayment of grant funds is required, unrelated general fund resources are being used. This can result in a loss of public confidence (reputational risk).

The City agrees with the finding.

6. There is a significant difference among County Organizations as to the level of importance placed on the control and grant compliance findings of the outside auditors and need to remedy, on a timely basis, the issues noted.

The City partially agrees with the finding of the Grand Jury, given that it does not have the resources to conduct its own review of what controls and grant compliance procedures other jurisdictions are, or are not, following, and no empirical data was provided in the Grand Jury report to demonstrate the level of importance each organization places grant compliance.

7. Many of the entities reviewed had communications from the auditors indicating that a significant number of audit adjustments were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.

Based on the information provided by the Grand Jury report, the City agrees with the finding.

Recommendations

1. Financial management of the County, all cities, all school districts and all special districts remedy within 12 months the Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls reported by the external auditors.

This recommendation has been implemented. All findings noted for the City of Antioch were Significant Deficiencies which were corrected upon communication by the external auditors and the findings have not re-occurred.

3b. The City Councils more actively provide oversight by appointing an Audit Committee from among their members as well as an ad hoc citizens' committee to ensure that Internal Control deficiencies are promptly remedied.

This recommendation will not be implemented. All findings noted for the City of Antioch were Significant Deficiencies, not Material Weaknesses, which were corrected upon communication by the external auditors and the findings have not re-occurred. The City of Antioch has established effective internal controls to ensure all deficiencies are promptly remedied. The entire City Council will continue to receive audit reports, which are publicly presented at a Council meeting and put on the City's website for citizens to review.

3g. The Board of Supervisors have the County internal audit staff report directly to the Board of Supervisors rather than the Auditor Controller. The governing boards of other County Organizations have the internal audit groups of other County Organizations maintain their independence and not report to financial management but instead to the City Council in the case of cities and the governing boards in the case of school districts and special districts.

This recommendation will not be implemented. The City of Antioch does not have the financial or staff resources to establish an internal audit group. However, the City does have established internal control procedures we feel adequately safeguard assets and financial reporting. These controls are reviewed annually by the Finance Department as well as our outside auditors. Any findings by the outside auditors, as noted in the Grand Jury report, have been communicated with the City Council and promptly remedied.

Sincerely,

Wade Harper
Mayor, City of Antioch

Cc: Marc Hamaji, Contra Costa County Grand Jury Foreperson, 725 Court Street, Martinez, CA 94553

Mayor and City Council
Jim Jakel, City Manager
Lynn Tracy Nerland, City Attorney
Dawn Merchant, Finance Director

**STAFF REPORT TO THE ANTIOCH CITY COUNCIL
FOR CONSIDERATION AT THE COUNCIL MEETING OF JULY 9, 2013**

Prepared by: Phil Hoffmeister, Administrative Analyst *PH*
Approved by: Ron Bernal, Public Works Director/City Engineer *ROB*
Date: June 27, 2013
Subject: Authorize Response to Grand Jury Report No. 1305 "Getting to Clean Water in Contra Costa County – What's the Plan and Where's the Money?"

RECOMMENDATION

Approve and authorize the Mayor to sign the attached responses to the Grand Jury Report No. 1305: "Getting to Clean Water in Contra Costa County – What's the Plan and Where's the Money?"

BACKGROUND INFORMATION

In November 1990, the United States Environmental Protection Agency (USEPA) published final stormwater rules implementing the 1987 Federal Clean Water Act (CWA) amendments, which established a framework for regulating municipal stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) permit program. The rules prohibit the discharge of pollutants in stormwater unless the discharge is in compliance with a NPDES permit. More significantly, the permit rules, or mandates, come with no funding.

In 1991, the Contra Costa Clean Water Program (CCCWP) was formed which consists of Contra Costa County, its 19 incorporated cities/towns, and the Contra Costa County Flood Control and Water Conservation District (District), collectively referred to as "Permittees." The Permittees jointly established the CCCWP through a Program Agreement, and received joint municipal NPDES permits from the San Francisco Bay and Central Valley Regional Water Quality Control Boards (Water Boards). The municipal NPDES permits are reissued approximately every five years.

The Permittees are mandated to implement stormwater pollution prevention and control programs designed to reduce or eliminate the discharge of pollutants into and from municipal separate storm sewers (MS4s). Permittees conduct many of these mandated activities collectively (referred to as "Group Activities"). Costs for Group Activities are shared among the Permittees in accordance with a cost payment agreement between the District and each individual Permittee. The CCCWP is not itself a legal entity. The District provides staffing to the CCCWP and serves as the fiduciary agent and legal entity of the CCCWP. The roles and responsibilities of the CCCWP and Permittees are

outlined in the Program Agreement, which was last updated and adopted by all Permittees in June 2010. In accordance with the Program Agreement, each City/Town/County/District Manager designates one representative to participate on a Management Committee, which is the CCCWP's decision-making body.

In June 2013, all Permittees, including the City, received the attached Grand Jury report: "Getting to Clean Water in Contra Costa County – What's the Plan and Where's the Money?" (Attachment "A"). The report presents findings and recommendations that apply mostly to Group Activities; however, all Permittees have been required to respond and, where applicable, Staff has included City-specific responses. The report also recognized there is a crisis in funding stormwater mandates; however, it provided no solutions to the situation. Accordingly, the attached response (Attachment "B") is presented for Council's consideration to transmit to the presiding judge.

FISCAL IMPACT

Responding to the Grand Jury report used staff time. Fiscal impacts of implementing any recommendations in the report are not available at this time since most are future tasks. The Grand Jury recognized that there is a crisis in funding stormwater mandates but provided no solutions.

OPTIONS

No options are presented as State law requires the City Council to respond to the Grand Jury reports. The City Council may propose alternative language to those responses.

ATTACHMENTS

- A: Grand Jury Report No. 1305: "Getting to Clean Water in Contra Costa County – What's the Plan and Where's the Money?"
- B: City of Antioch Response to Grand Jury Report No. 1305: "Getting to Clean Water in Contra Costa County – What's the Plan and Where's the Money?"

ATTACHMENT "A"

Grand Jury

Contra
Costa
County

725 Court Street
P.O. Box 431
Martinez, CA 94553-0091



May 29, 2013

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

Dear Mr. Jakel:

Attached is a copy of **Grand Jury Report No. 1305, "Getting To Clean Water In Contra Costa County"** by the 2012-2013 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **AUGUST 29, 2013.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,



Marc Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury

**A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

Report 1305

**GETTING TO CLEAN WATER IN
CONTRA COSTA COUNTY**

What's the Plan and Where's the Money?

APPROVED BY THE GRAND JURY:

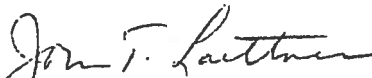
Date: 5/21/2013



MARTHA WHITTAKER
GRAND JURY FOREPERSON-PRO TEM

ACCEPTED FOR FILING:

Date: 5/29/13



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1305

GETTING TO CLEAN WATER IN CONTRA COSTA COUNTY

What's the Plan and Where's the Money?

TO: Cities and Towns of Contra Costa County; Contra Costa County Board of Supervisors; Contra Costa Flood and Water Conservation District (collectively "Permittees"), and the Contra Costa Clean Water Program

SUMMARY

The Contra Costa Clean Water Program (CCCWP) is characterized by an inability among the stakeholder organizations to reach agreement regarding exactly what they are trying to accomplish, in what manner, in what period of time, and the consequences of failing to do so. Stakeholders include CCCWP management and Permittees, empowered regulatory bodies, and interested activist community groups. They have different opinions and perspectives of what is important, what should or should not be prioritized, what is urgent, what quantifiable indicators should be used to gauge progress and compliance and what is the real exposure for non-compliance. The result is a stream of public communication and comment that is, at best, contradictory and, at worst, misleading. As a starting point, there needs to be constructive dialogue between each of the Permittees and the appropriate regulatory authorities.

The failure of Proposition 218, the 2012 Community Clean Water Initiative, to receive voter approval was a serious setback for the program. The ballot initiative was intended to, at least partially and for a short period of time, address the imbalance between the current and projected future costs for planned clean water activities that far exceeded available funds. Now the Permittees must determine alternative funding sources.

It is projected that by 2015, with no changes in the current permit requirements, a funding gap of several million dollars will exist. This shortfall could significantly grow if new permit requirements are incrementally more onerous than current requirements, as expected. This funding gap, if not resolved, may result in an inability to conduct critical activities needed to meet permit standards. It may also place some Permittees in a condition of non-compliance, with consequent exposure to fines, other monetary damages and enforcement actions.

As the challenge of finding additional funding is addressed, it is an appropriate time for the Permittees to make an effort to better define and understand their paths forward and develop more detailed plans, timelines, and desired outcomes. These re-evaluations should, at least,

include:

- a) negotiation of more realistic, better-defined compliance terms that take into account differences in participant characteristics;
- b) implementation of more efficient and effective operating practices of the Contra Costa Clean Water Program; and,
- c) identification of ways to make the impacted communities more aware of the importance of the program and the challenges ahead.

METHODOLOGY

In evaluating the stormwater pollution control activities as instituted in Contra Costa County by the Permittees, the following tasks were performed:

- Interviews with selected city managers and selected county officials
- Interviews with CCCWP staff, selected Permittee representatives to the CCCWP (collectively "program personnel") and regulatory personnel
- Interview with a representative from an environmental Non-Governmental Organization (NGO)
- Review of the stormwater permits applicable in Contra Costa County
- Review of individual Permittee stormwater program budgets
- Review of CCCWP publications and operating data
- Review of Permittee Annual Reports for the most recent year
- Attendance at CCCWP Management Committee Meetings and review of minutes for those meetings and others not attended
- Review of Environmental Protection Agency (EPA) and California State Water Board literature with regard to stormwater programs and requirements
- Review of information prepared (and in some cases sent to voters) as part of the 2012 Community Clean Water Initiative, including a number of different outside consultant reports
- Review of public media articles involving the local storm water program and recent ballot initiative
- Review of informational websites including California Stormwater Quality Association (casqa.org), Bay Area Stormwater Management Agencies Association (basmaa.org) and Contra Costa Clean Water Program (cccleanwater.org)

BACKGROUND

The Federal Clean Water Act (as amended from time to time) established the National Pollutant Discharge Elimination System (NPDES) Permit Program to control water pollution. The program regulates point sources that discharge pollutants into the waterways of the United States. The Permit Program is administered by the individual states - in California, by the State Water Board and a series of Regional Water Quality Control Boards (RWQCB). The various water boards are responsible for issuing NPDES permits governing discharges into specific watersheds and determining and enforcing compliance with the individual permit requirements.

One requirement of amendments to the Clean Water Act in 1987 was that many municipalities were obligated to obtain NPDES permits for discharges of urban runoff from their storm sewer systems into local watersheds. Accordingly, the 19 incorporated cities/towns of Contra Costa County, along with the Contra Costa County Flood Control District and the unincorporated areas of Contra Costa County (collectively the "Permittees"), were required to obtain these NPDES permits. The Permittees are covered by one of two applicable permits as shown in the following table:

San Francisco Permit (Discharge into San Francisco Bay)		Central Valley Permit (Discharge into Delta)
Clayton	Pittsburg	Antioch
Concord	Pleasant Hill	Brentwood
El Cerrito	Richmond	Oakley
Hercules	San Pablo	
Lafayette	San Ramon	
Martinez	Walnut Creek	
Orinda	Moraga	
Pinole	Danville	

The Contra Costa Flood Control and Water Conservation District and Contra Costa County are parties to both permits. For purposes of the discussion in this report, no distinction is made between the two permits.

These parties to the two permits -- the Permittees -- are individually responsible for complying with the requirements of their respective permits. The activities typically include street sweeping, storm drain maintenance and cleaning, litter control, creek cleanup programs, construction site and business inspection and control, and public outreach.

In Contra Costa County, in 1991 the Permittees formed the Contra Costa Clean Water Program (CCCWP) to coordinate certain centralized services or group activities such as training and monitoring programs, and public outreach. The CCCWP also serves as the point organization for the Permittees' interface with the Regional Water Quality Control Boards and is expected to continue to do so in the upcoming permit renegotiations. CCCWP is run by a "management committee" comprised of representatives of each of the Permittees. Each of the Permittees and the CCCWP file an Annual Report detailing their compliance with the permit. Reviews of these reports indicate that, for the most recent period, no instances of non-compliance were reported.

However, in December, 2012, Contra Costa County received a "Notice of Violation" with regard to its stormwater program identifying 9 different violations and 30 required actions. Moreover, in January, 2013, several of the Permittees received "Notices of Deficiency" related to a review by the Water Board of certain sections of the 2012 Annual Reports. County personnel interviewed acknowledged that, the most recent Annual Report notwithstanding, the County is not in compliance under the permits. Additionally, a number of the cities interviewed suggested that they were either on the verge of non-compliance, if not already noncompliant.

Generally, the cities and county fund their storm water permit activities via a Stormwater Utility Assessment (SUA) levied on property owners (exceptions are Brentwood and Richmond which use alternative sources including general fund revenues). CCCWP is funded by the participating cities out of the assessment revenue collected.

According to a report to the CCCWP from SCI Consulting Group, since the implementation of the SUA, "inflation and ever-expanding permit mandates have progressively increased the cost of NPDES permit implementation and drainage system maintenance. All municipalities now charge the maximum authorized by the SUA."

From a budgetary perspective, over the past two fiscal years the majority of cities are spending more than they collect in assessment revenue. Municipalities are absorbing shortfalls using non-storm water funds, general fund resources or prior years' reserves. Several city managers indicate that, to the extent general fund monies are required for this purpose; there will be an impact on their city's ability to provide other services.

The regulatory authorities are aware of and sympathetic to the fiscal challenges faced by cities with respect to the program, but have a somewhat different view as to why the cities face the challenges they do. The regulatory personnel indicate that when the SUA structure was enacted, many of the cities immediately shifted the funding of certain program-eligible activities (such as street sweeping and other elements of public works) out of their general funds to be funded out of the new stormwater assessments. While this may have been beneficial to the cities in the short term, in the long run it removed funds which should have been available for the long-term growth and development of the stormwater program, which all understood would necessarily grow increasingly more complex and rigorous over time.

Some city managers and program personnel indicate that, while still in compliance, they are not necessarily doing everything they need to do to ensure continued future compliance due to funding limitations. In a report by SCI Consulting Group commissioned by the CCCWP, consultants stated "Because of current fiscal difficulties, most municipalities are deferring some required maintenance on infrastructure. Some permit-mandated activities, such as staff training, routine surveillance and inspections and outreach are also being minimized. While these budget balancing reductions will not necessarily compromise permit compliance in the short term, in the long term, they could erode local program effectiveness."

The current permits have introduced additional requirements including expanded storm water monitoring and increased trash control. It is expected that the renegotiated permits will have additional significant implementation requirements. For example, cities now have a requirement that 40% of all trash be removed from the storm water discharge by mid-2014. This rises to 70% by 2017 and 100% by 2022. The State Water Board has rejected the short-term plan submitted by CCCWP for meeting these requirements.

The exact timing of negotiations and program requirements of the new permits are not fully known at this time. Discussion with program personnel and observation of select CCCWP management committee meetings indicate that there is some disagreement as to what Permittees view as reasonable requirements. However, the Permittees also believe that, individually, they have very limited ability to influence the permit process.

The regulators believe that they must balance the requirements of the legal mandates (including Federal Clean Water Act requirements and California state requirements), the desires of outside advocacy groups (primarily environmental groups such as San Francisco Baykeeper, Natural Resource Defense Council, etc.) and the Permittees. Regulators feel the permits are sufficiently flexible to account for size differentials and, to the extent possible, take into account individual circumstances.

The overall structure of the Clean Water Program, with the resulting multiple layers of bureaucracy between the regulatory authorities and the individual Permittees may be a key contributing factor to the dramatically different perspectives of what needs to be done, how it should be done, and what happens if it is not done. Discussions with representatives of many stakeholder organizations revealed a lack of alignment on these issues. In particular, while regulators indicate that the underlying rules are flexible and enforcement activity is subjective, Permittees indicate they are forced to “interpret” the message and this makes formulation of their stormwater program plans and activities difficult. This is especially true during a time of scarcity of financial resources, and a need to make hard choices between competing demands for those resources.

To address the current and expected future fiscal shortfalls, the municipalities and CCCWP sponsored a county-wide Proposition 218 compliant ballot initiative to increase funding by approximately \$8.7 million per year. According to program personnel, this additional funding level was based on “what the public would accept”; however, consultants to CCCWP estimated future costs to be well in excess of those requested via the ballot measure. The ballot measure failed. In its Annual Report the CCCWP described the results as follows:

“The defeat of the 2012 Community Clean Water Initiative represents a setback for Permittees’ clean water programs in Contra Costa County. Permittees have exhausted their reserves. Many are now relying on other municipal revenues, such as their general funds, to implement MRP (Municipal Regional Permit) compliance. At the same time, reductions in general fund revenues due to significant losses in property and sales tax revenues has resulted in reductions in staffing, salaries and benefits, and community services and programs. Local elected officials are faced with agonizing and unpopular public policy decisions on how to use and allocate their limited resources and revenues to continue to provide critical services (e.g. public safety, road maintenance, public facilities operation and maintenance, natural resource protection).”

Some city managers have referred to the current storm water situation as an “unfunded mandate”. They indicate that specific solutions to the potential funding problems have not been determined. At least one city, El Cerrito, has held some limited public discussion on the issue and has begun to explore potential funding options including a city-specific bond measure. In its 2012 Annual Report, the CCCWP indicates that it does not believe any additional county-wide funding measures would be successful at this time.

Interviews with some city managers and program personnel indicate that, given the fiscal issues

they face, the level of deferred program activities, and both currently known and expected more rigorous future program requirements, the majority of cities in the county will be in non-compliance with the NPDES permits over the next 2-5 years. The impact of non-compliance is not clear at this point. There is a wide range of potential outcomes. In a report prepared as part of the ballot initiative effort, consultants to the CCCWP indicate the following:

“Non-compliance with Permit Requirements exposes the Permittees to fines from the RWQCB as well as to potential third-party lawsuits. All Permittees must demonstrate full compliance or be subject to regulatory actions including:

- Administrative Civil Liability - \$10,000 per day of violation and/or \$10.00 per gallon of discharge
- Cease and Desist Orders for either public or private development projects
- Third-Party lawsuits alleging non-compliance and recommending regulatory actions be taken against the entity until violations have been corrected or negative impacts eliminated.”

One regulatory agency made it clear that, while these statements might reflect the “letter of the law”, they in no way reflect the “spirit of the law” or any intention on the part of that regulatory agency to implement fines of any kind in the near term on Permittees making reasonable efforts to achieve compliance. An interview conducted with a member of a prominent environmental group echoed this position that they do not intend to put undue financial burden or bring third-party lawsuits against Permittees as long as they can demonstrate that concerted and continuous efforts are being made to fulfill the mandates of the permit. The environmentalist clearly stated that while they have in the past and will continue to rigorously monitor various Permittee compliance activities in the future, their approach remains realistic and mindful of the financial and personnel constraints of those Permittees.

Some city managers and program personnel acknowledge the potential for significant monetary fines or other regulatory actions. It is possible that the Regional Water Quality Control Boards will recognize the severity of the fiscal situation and enter into a consent-decree type arrangement which, while not changing the discharge requirements, will allow more time to reach those levels as long as continuous progress can be demonstrated by each Permittee and will not impose onerous fines or penalties.

Observation of discussions at the CCCWP Management Committee meetings and a review of their meeting minutes reflect that they have not developed substantive solutions to the fiscal issues facing the group. The CCCWP Annual Report describes actions which they are currently taking to ameliorate the situation as, “specific actions identified include, but are not limited to:

- Review and analyze alternative CCCWP organizational structures, staffing and consultant support levels, and tasks;
- Review other potential sources of revenue (e.g. increased fees) to fund mandated compliance activities;
- Engage local elected officials, municipal managers, businesses, citizens and other stakeholders in development of effective water quality attainment strategies;

- Identify prioritized actions to reduce the discharge of trash and other pollutants of concern to local creeks, the Delta and bay; and,
- Seek flexibility requirements to allow individual Permittees to focus their limited resources to address local water quality priority problems.”

It is not clear from interviews with program personnel or city managers that these actions have resulted in any significant or concrete changes which go to solve the current set of problems or at least partially ameliorate the current set of problems facing the Permittees.

Attendance at CCCWP Management Committee meetings, as well as a review of the group’s minutes and discussions with city managers and program personnel indicate that there are concerns with how the organization is operating and whether it is really in a position to provide or contribute significantly to resolving the current fiscal situation. City managers in particular believe that the 2012 ballot initiative was mishandled in the way it was conducted, and the public was not educated as to its necessity. Some individual city participants question whether they might be better off trying to resolve their issues independently rather than as a combined group. Discussions with program personnel and a review of the history of local watershed permitting, as contained in the current NPDES permits, show that the regulatory authorities have fostered the creation of larger groups of participants in Contra Costa County that share standard agreements. Doing so removes the necessity of negotiating a series of unique agreements with individual municipalities. This is also true outside of Contra Costa County.

The San Francisco Bay permit expires in 2014 and the Central Valley Permit expires in 2015. Both will require renegotiation of new pollution standards and required activities. It is not clear how successfully the CCCWP (including its various committees) has undertaken the efforts to actively communicate issues and problems in order to influence the structure and requirements of the next permits, including dialogue to understand the possibility and ramifications of potential non-compliance and the regulatory bodies’ likely responses.

While some Permittees have made excellent efforts to educate their constituents as to the nature and magnitude of the problems they face, most have not. Interviews with program personnel indicate that little or no discussion with citizens of either the current or the expected longer-term fiscal issues faced by the stormwater programs have occurred.

FINDINGS

1. In the most recent Annual Reports, Permittees reported compliance with their permits; however, Contra Costa County recently received a “Notice of Violation” with regard to its stormwater program.
2. Many Permittees are currently spending more than the total amounts collected from fees/taxes/assessments etc., designated for stormwater management purposes; any funding shortfalls are covered via supplements from the general fund.
3. Despite the current levels of money being spent on the stormwater control initiatives, many Permittees do not think they are doing as much as necessary to position themselves to meet future compliance requirements.

4. The requirements for compliance are expected to become increasingly demanding and the process of negotiating the terms and conditions of the next permit are unclear.
5. Permittees disagree on what reasonable/practical program requirements should entail.
6. All Permittees are forecasting that the lack of funds needed to undertake the critical activities to reach compliance levels will result in the majority of them being non-compliant in 2-5 years.
7. The CCCWP seems to be doing a reasonable job in terms of its role for centralized activities such as public education, outreach, training and monitoring.
8. As an intermediary between the Permittees and the regulatory bodies, the CCCWP appears to be failing because there is a significant difference between the expectations and views of the regulators and the Permittees. There are dramatically different perspectives of what needs to be done, how it should be done and what happens if it is not done.
9. It is unclear what the impact of non-compliance status will be for a Permittee.
10. The potential future risk associated with funding deficits and non-compliance is not being accurately communicated to citizens by the Permittees.
11. Following failure of the 2012 Community Clean Water Initiative, cities do not appear to have formulated realistic alternative plans.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The permit negotiation process be clarified with roles, negotiating strategies, and negotiation objectives defined.
2. The CCCWP immediately begin to implement more direct communications between the individual Permittees and the regulatory authorities to eliminate the confusion that currently exists between the two parties as to program requirements, solutions for meeting long-term permit compliance and development of mutually agreed-upon plans for the path forward.
3. Permittees immediately quantify a range of future expenditure requirements associated with a range of negotiation outcomes and develop funding plans.
4. Permittees consider identifying funds to disclose to the public "the issues" surrounding the lack of funding to fulfill their NPDES permit requirements, including a discussion of potential, but realistic, impacts of non-compliance.
5. The CCCWP consider immediately beginning to re-align its activities and operating costs with; (a) probable outcomes from the negotiation of the next permit's compliance requirements; (b) projected available funding; and (c) constituent needs.

6. Before any Permittee makes any effort to approach its citizens with another request for additional funding, all stakeholders reach consensus on a plan for the path forward that includes articulations of reasonable objectives, ways to measure those objectives and reasonable timelines for accomplishment of those objectives.

REQUIRED RESPONSES

	Findings	Recommendations
City of Antioch	1 - 11	1 - 6
City of Brentwood	1 - 11	1 - 6
City of Clayton	1 - 11	1 - 6
City of Concord	1 - 11	1 - 6
Town of Danville	1 - 11	1 - 6
City of El Cerrito	1 - 11	1 - 6
City of Hercules	1 - 11	1 - 6
City of Lafayette	1 - 11	1 - 6
City of Martinez	1 - 11	1 - 6
Town of Moraga	1 - 11	1 - 6
City of Oakley	1 - 11	1 - 6
City of Orinda	1 - 11	1 - 6
City of Pinole	1 - 11	1 - 6
City of Pittsburg	1 - 11	1 - 6
City of Pleasant Hill	1 - 11	1 - 6
City of Richmond	1 - 11	1 - 6
City of San Pablo	1 - 11	1 - 6
City of San Ramon	1 - 11	1 - 6
City of Walnut Creek	1 - 11	1 - 6
Contra Costa County Board of Supervisors	1 - 11	1 - 6
Contra Costa Flood and Water Conservation District	1 - 11	1 - 6
Contra Costa Clean Water Program	1 - 11	1 - 6

ATTACHMENT "B"

August 29, 2013

Via US Mail and Email: clope2@contracosta.courts.ca.gov

Marc Hamaji, Foreperson
Contra Costa County Civil Grand Jury
725 Court Street
P.O. Box 431
Martinez, CA 94553

**SUBJECT: CITY OF ANTIOCH RESPONSE TO GRAND JURY REPORT NO. 1305,
"GETTING TO CLEAN WATER IN CONTRA COSTA COUNTY – WHAT'S
THE PLAN AND WHERE'S THE MONEY?"**

Dear Jury Foreperson Hamaji:

In accordance with your request and Section 933.05(a) of the California Penal Code, the City of Antioch (City) is submitting responses to Findings 1-11 and Recommendations 1-6 in the subject Grand Jury Report.

BACKGROUND

The Contra Costa Clean Water Program (CCCWP) consists of Contra Costa County, its 19 incorporated cities/towns, and the Contra Costa County Flood Control and Water Conservation District (District), hereinafter referred to collectively as "Permittees."

In November 1990, the United States Environmental Protection Agency (USEPA) published final stormwater rules implementing the 1987 Federal Clean Water Act (CWA) amendments, which established a framework for regulating municipal stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) permit program. The rules prohibit the discharge of pollutants in stormwater unless the discharge is in compliance with a NPDES permit. In response, the Permittees jointly established the CCCWP in 1991 through a Program Agreement, and applied for, and were subsequently issued, joint municipal NPDES permits issued by the San Francisco Bay and Central Valley Regional Water Quality Control Boards (Water Boards). The municipal NPDES permits are reissued approximately every five years.

The permits mandate Permittees to implement stormwater pollution prevention and control programs designed to reduce or eliminate the discharge of pollutants into and from municipal separate storm sewers (MS4s). Permittees conduct many of these mandated activities collectively (referred to as "Group Activities"). Costs for Group Activities are shared among the Permittees in accordance with a cost payment agreement between the District and each individual Permittee. The CCCWP is not itself a legal entity. The District provides staffing to the CCCWP and serves as the fiduciary agent and legal entity of the CCCWP. The roles and responsibilities of the CCCWP and Permittees are outlined in the Program Agreement, which was last updated and adopted by all Permittees in June 2010. In accordance with the Program Agreement, each City/Town/County/District manager designates one representative to

participate on a Management Committee, which is the CCCWP's decision-making body. The following responses are provided on behalf of the CCCWP.

CCCWP'S RESPONSES TO GRAND JURY FINDINGS 1-11

GRAND JURY FINDING #1

"In the most recent Annual Reports, Permittees reported compliance with their permits; however, Contra Costa County recently received a "Notice of Violation" with regard to its stormwater program."

RESPONSE: Agree. However, it is the City's understanding that the violation is for a specific element/provision within the unincorporated County's storm water program, not with the City, and was not a violation of overall compliance of all Permittees or the CCCWP.

GRAND JURY FINDING #2

"Many Permittees are currently spending more than the total amounts collected from fees/taxes/assessments etc., designated for stormwater management purposes; any funding shortfalls are covered via supplements from the general fund."

RESPONSE: Agree. Some municipalities supplement their stormwater programs with funding from sources other than, or in addition to, the general fund. The City currently does not supplement its stormwater program with contributions from its General Fund or other sources. With dedicated funding estimated to run out within 2 – 3 years and given the City's already strained General Fund, it is difficult to determine where additional funding will come from to maintain compliance activities.

GRAND JURY FINDING #3

"Despite the current levels of money being spent on the stormwater control initiatives, many Permittees do not think they are doing as much as necessary to position themselves to meet future compliance requirements."

RESPONSE: Agree. The 9th Circuit Court of Appeal decision in NRDC v. County of LA (9th Cir., July 13, 2011, No. 10-56017) determined that a municipality is strictly liable for violations of its NPDES permit if its discharges cause or contribute to an exceedance of a water quality standard in receiving waters. This decision potentially places every municipal stormwater discharger in the State of California in immediate non-compliance with their NPDES permit if monitoring data show an exceedance, and exposed to considerable liability, including fines and costly remediation. Permittees, regulators and watershed stakeholders agree compliance with strict numeric water quality standards will require substantial public investment for the redesign and retrofit to existing municipal separate storm sewer systems (MS4s). Currently, stormwater treatment and flow control measures are required on many new and redevelopment projects. Pilot studies and projects are being conducted under current municipal NPDES permits to evaluate the costs and benefits of implementing facilities that treat runoff from existing developed areas. Current dedicated funding is insufficient to meet existing and future water quality compliance requirements. Municipalities require Federal and State assistance to identify capital funding and new revenue sources necessary for

constructing, operating and maintaining stormwater drainage infrastructure improvements.

GRAND JURY FINDING #4

"The requirements for compliance are expected to become increasingly demanding and the process of negotiating the terms and conditions of the next permit are unclear."

RESPONSE: Agree. Water Board staff determines the process for negotiating the terms and conditions of the next permit in accordance with State law and policy. Through the Bay Area Stormwater Management Agencies Association (BASMAA), CCCWP Permittees have joined with other Bay Area municipalities that are also Permittees under the Municipal Regional Stormwater Permit (MRP) to participate in discussions with Water Board staff regarding the terms and conditions of the next permit.

GRAND JURY FINDING #5

"Permittees disagree on what reasonable/practical program requirements should entail."

RESPONSE: Agree. Each municipality has different water-quality issues that must be addressed, different pollutant sources, different drainage system characteristics, different availability of funds, and different priorities for use of funds. Each municipality has its own decision-making body. Despite these differences, Permittees, through the CCCWP's Management Committee, continue to maintain consensus regarding permit negotiating positions and successfully identify, develop and implement group permit compliance activities.

GRAND JURY FINDING #6

"All Permittees are forecasting that the lack of funds needed to undertake the critical activities to reach compliance levels will result in the majority of them being non-compliant in 2-5 years."

RESPONSE: Agree. Given the City's \$13M decrease in its annual General Fund since 2007 and critical public safety needs, it is difficult to determine from where the additional funding will come.

GRAND JURY FINDING #7

"The CCCWP seems to be doing a reasonable job in terms of its role for centralized activities such as public education, outreach, training and monitoring."

RESPONSE: Agree.

GRAND JURY FINDING #8

"As an intermediary between the Permittees and the regulatory bodies, the CCCWP appears to be failing because there is a significant difference between the expectations and views of the regulators and the Permittees. There are dramatically different perspectives of what needs to be done, how it should be done and what happens if it is not done."

RESPONSE: Disagree. There are significant differences between the expectations and views of the regulators and those of the Permittees; however, this is characteristic of the regulatory process.

GRAND JURY FINDING #9

"It is unclear what the impact of non-compliance status will be for a Permittee."

RESPONSE: Agree. Note that the Clean Water Act provides that any U.S. citizen may file a citizen suit against any person who has allegedly violated an effluent limitation regulation. Citizen enforcers are entitled to measures sufficient to ensure compliance, the imposition of civil penalties of up to \$27,500 per violation per day, and costs of litigation, including reasonable attorney's fees. Thus, the Permittees face regulatory actions and private lawsuits in the event of even relatively minor noncompliance. These private lawsuits brought by aggressive plaintiffs' attorneys are a reality. This double level of enforcement is unnecessary and costly and needs to be remedied by Federal and State legislators.

GRAND JURY FINDING #10

"The potential future risk associated with funding deficits and non-compliance is not being accurately communicated to citizens by the Permittees."

RESPONSE: Disagree. The CCCWP has consistently communicated that funding deficits for stormwater pollution prevention and control, and non-compliance with current and future permits, may result in significant fines and/or third-party lawsuits. However, if local, State, and Federal legislators and agencies don't appreciate these serious issues, then better communication on all ends is needed.

GRAND JURY FINDING #11

"Following the failure of the 2012 Community Clean Water Initiative, cities do not appear to have formulated realistic alternative plans."

RESPONSE: Agree. Following the failure of the funding initiative, many Permittees are still in the process of evaluating options and alternative plans. Most or all of the available options, including redirecting monies from their General Funds, have significant negative consequences.

CCCWP'S RESPONSES TO GRAND JURY RECOMMENDATIONS 1-6

GRAND JURY RECOMMENDATION #1:

"The permit negotiation process be clarified with roles, negotiating strategies, and negotiation objectives defined."

RESPONSE: This recommendation is being implemented in cooperation with BASMAA and Water Board staff.

GRAND JURY RECOMMENDATION #2:

"The CCCWP immediately begin to implement more direct communications between the individual Permittees and the regulatory authorities to eliminate the confusion that currently exists between the two parties as to program requirements, solutions for meeting long-term permit compliance and development of mutually agreed-upon plans for the path forward."

RESPONSE: This recommendation is being implemented in cooperation with BASMAA and Water Board staff. Specifically, BASMAA and Water Board staffs have agreed to a permit negotiation process that includes Permittee representatives. In addition, Permittee representatives and Water Board staff continue to attend regularly scheduled discussions of permit issues in BASMAA committees.

GRAND JURY RECOMMENDATION #3:

"Permittees immediately quantify a range of future expenditure requirements associated with a range of negotiation outcomes and develop funding plans."

RESPONSE: Future expenditure requirements were estimated as part of the Engineer's Report for the 2012 Community Clean Water Initiative. Funding plans are being developed (see response to Finding #11).

GRAND JURY RECOMMENDATION #4:

"Permittees consider identifying funds to disclose to the public "the issues" surrounding the lack of funding to fulfill their NPDES permit requirements, including a discussion of potential, but realistic, impacts of non-compliance."

RESPONSE: CCCWP will consider preparing a "fact sheet" addressing these issues, which would be posted on the CCCWP's website. State and Federal legislators also need to be aware of the permitting and funding issues and work with all stakeholders to address impacts of noncompliance with the laws they draft. If the issue is not the laws, but how the regulating agencies are expanding those laws, then the administrations of the Governor and President need to be held accountable.

GRAND JURY RECOMMENDATION #5:

"The CCCWP consider immediately beginning to re-align its activities and operating costs with; (a) probable outcomes from the negotiation of the next permit's compliance requirements; (b) projected available funding; and (c) constituent needs.

RESPONSE: CCCWP activities are: (a) aligned to facilitate the Permittees' compliance with permit requirements, including foresight of potential future permit requirements; (b) implemented efficiently with the available budget, and (c) responsive to the direction of the CCCWP's Management Committee, which is comprised of Permittee representatives.

GRAND JURY RECOMMENDATION #6:

"Before any Permittee makes any effort to approach its citizens with another request for additional funding, all stakeholders reach consensus on a plan for the path forward that includes articulations of reasonable objectives, ways to measure those objectives and reasonable timelines for accomplishment of those objectives."

RESPONSE: It is not within the Permittees' power or authority to ensure that the objectives, timelines, or provisions of their NPDES permit are reasonable. Tests of reasonableness, if used, are applied by the Water Board pursuant to the applicable provisions of the California Water Code. Again, State and Federal legislators need to be conscious of the funding issues facing Permittees in obtaining compliance with the Provisions they set, especially given these are all unfunded mandates, while remaining cognizant of the ability to get voters to accept additional revenue measures.



The City thanks the Contra Costa County Grand Jury for the opportunity to respond to its concerns. Please feel free to contact Phil Hoffmeister, NPDES Compliance Manager at (925) 779-6169 should you need additional information.

Sincerely,

Wade Harper, Mayor
City of Antioch

cc: Tom Dalziel, CCCWP Manager
Rinta Perkins, CCCWP Management Committee Chair

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013**

PREPARED BY: Tim Coley, Acting Water Distribution Superintendent 
APPROVED BY: Ron Bernal, Public Works Director/City Engineer 
DATE: July 3, 2013
SUBJECT: Approve Amendment No. 4 to the Consultant Services Agreement for Monitoring Wells Closure Support with Nichols Consulting Engineers, Chtd., (P.W. 143-P, 514-4 and 516-A)

RECOMMENDATION

It is recommended that Council approve Amendment No. 4 to the Consultant Services Agreement with Nichols Consulting Engineers, Chtd. for continued support with the closure of two underground storage tanks on "A" Street and the City Municipal Services Center.

BACKGROUND

Over the past three years, City staff and Nichols Consulting Engineers, Chtd. (Nichols) have been engaged with the Regional Water Quality Control Board (RWQCB) in an effort to close three underground storage tank (UST) sites. These facilities included the "A" Street Extension site, located at the intersection of "A" and West Second Streets, the City Municipal Services Center (Corp Yard) site located at 1201 West Fourth Street and the Prospects Way site, located at the intersection of West Second and "J" Streets. Previous work has included monitoring the surrounding soil and water at each site for any possible contamination, reporting monitoring results to the RWQCB and following up with any additional recommendations provided by the RWQCB. The City received approval from the RWQCB in August 2012 to close the wells at Prospects Way. All wells at this site have since been destructed. Both the "A" street site and the Corp Yard site continue to require monitoring at the request of RWQCB. Testing has provided good results and with the support of the RWQCB, we expect to be able to close these sites within the next twelve months.

Nichols is a reputable firm, offering extensive experience with this type of work and has an established relationship with the RWQCB. Staff is recommending a fourth amendment to Nichols' Consultant Services Agreement to include continuing project management and support services for the monitoring well closure program over the next fiscal year at a cost not to exceed \$72,779.96.

FISCAL IMPACTS

The 2013-14 Capital Improvement Budget includes \$40,000 from the Water Enterprise Fund and \$40,000 from the Sewer Fund. Approval of this amendment will increase the total contract amount to \$217,238.46. The City has received over \$268,000 since the project began and has submitted a request for an additional \$122,000 in reimbursements through October 2012, from the State's Petroleum Underground Storage Tank Cleanup Fund. Staff will continue to pursue these funds, as they are available with the balance of the project costs funded by the Water and Sewer Funds.

OPTIONS

None

ATTACHMENTS

A: Amendment No. 4 to the Consultant Services Agreement

TC:lm

ATTACHMENT "A"

AMENDMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES

THIS AMENDMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES is entered into this 10th day of July 2013, by and between the CITY OF ANTIOCH, a municipal corporation ("CITY") and NICHOLS CONSULTING ENGINEERS, CHTD. ("CONSULTANT").

RECITALS

WHEREAS, on November 15, 2010, CITY and CONSULTANT entered into an Agreement for Professional Consulting Services; and

WHEREAS, the parties have agreed to modify the services and compensation of that Agreement;

NOW, THEREFORE, THE PARTIES DO MUTALLY AGREE AS FOLLOWS:

1. **SERVICES**. Section 1 of the Agreement, "Services" is amended to include the following provision:

The term of the contract is extended until June 30, 2016.

2. **COMPENSATION**. Section 2 of the Agreement, "Compensation" is amended to include the following provisions:

CITY hereby agrees to Pay Consultant an additional sum not to exceed **\$72,779.96** (Seventy-two thousand, seven hundred, seventy-nine dollars and ninety-six cents), notwithstanding any contrary indications that may be contained in the Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement.

Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the attached Exhibit "A".

All other terms and conditions of the Agreement dated November 15, 2010 shall remain in full force and effect.

CITY OF ANTIOCH

NICHOLS CONSULTING ENGINEERS, CHTD.

By: _____
Jim Jakel, City Manager

By: _____
Gregory L. Fasiano, Principal

APPROVED AS TO FORM:

By: _____
Lynn Tracy Nerland, City Attorney

EXHIBIT "A"



NICHOLS CONSULTING ENGINEERS, Chtd.
Engineering and Environmental Services

8795 Folsom Blvd., Suite 250 • Sacramento, CA 95826 • 916.388.5655 • FAX 916.388.5676

February 27, 2013
A212.18.35

Mr. Tim Coley
Water Treatment Supervisor
P.O. Box 5007
Antioch, California 94531-5007

DRAFT
Change Order Request
Corporation Yard and A Street Extension UST Sites
Antioch, California

Dear Mr. Coley:

INTRODUCTION

As requested, Nichols Consulting Engineers Chtd. (NCE) is pleased to present to the City of Antioch (herein referred to as the City) this change order request to perform additional environmental activities at two leaking underground storage tank (LUST) sites identified on the State Water Resources Control Board's (SWRCB's) Geotracker website as the City's Corporation Yard, located at 1201 West 4th Street, and the A Street Extension site, located on A Street. The time period covered by this proposal extends from July 1, 2013, to June 30, 2014. The purpose of the additional work is to provide the California Regional Water Quality Control Board (RWQCB) the information requested and/or which could potentially be requested by the RWQCB to continue their case closure evaluation of each site.

SCOPE OF WORK

Task 1 – City's Corporation Yard Status

On January 24, 2013, NCE submitted on behalf of the City a report (herein identified as the Report) to the RWQCB, summarizing the results of the soil and groundwater investigation that was performed by NCE in November and December 2012 in the vicinity of the former waste oil underground storage tank (UST). The purpose of the investigation was to collect additional soil and groundwater samples in the vicinity of the former UST to further assess if a release of an unauthorized substance (i.e., waste [used] motor oil) related to that UST had occurred. This work was performed under Amendment No. 3 of the Consulting Services Agreement dated November 15, 2010, between the City of Antioch and NCE.

Based on the information noted in the Report, as well as the historical data from the previous investigations (i.e., soil, groundwater and soil vapor) conducted at this site, NCE recommended no further action at this site and requested regulatory case closure. Based on this information, it appears the most likely future scenario regarding the regulatory case status for this site will be for the RWQCB to approve the site for low-risk closure.



Accordingly, NCE assumes the next scope of work that will most likely be requested by the RWQCB will be to abandon the existing groundwater monitoring wells at that site in accordance with all the state and local (Contra Costa Environmental Health Division [CCEHD]) guidelines. Currently, there are two monitoring wells (MW-1 and MW-2) and one extraction well (EW-1) at the site.

Below is a summary of the scope of work to be performed to abandon the three wells at the site (Subtasks 1 through 3). Additionally, because there is a potential that the RWQCB may request that additional investigation work be conducted at this site, NCE has included a subtask (Subtask 4) to cover that work as well.

Subtask 1 – Pre-Field Activities

Prior to performing the field work, NCE will do the following:

- Identify subcontractors to perform the work;
- Obtain the necessary well destruction permits from the Contra Costa County Division of Environmental Health (CCEHD) and schedule the associated site inspection with the CCEHD inspector;
- Secure contracts with subcontractors;
- Update the Site Health and Safety Plan (HASp); and
- Mark clearly each well location and notify Underground Service Alert (USA) North in advance of the work.

Subtask 2 – Well Abandonment Activities

The well abandonment activities will be performed by a California licensed well driller. The wells will be abandoned by drilling out each boring to the total depth of the original boring using hollow-stem augers. Drill rods or a guide auger will be used to guide the augers down the casing to ensure that the entire casing and annular materials will be removed. Once drilled out, each boring will be filled with Portland Type I/II cement through a tremie pipe. Following drilling, each well vault will be removed and the resulting small excavation will be patched to match the existing grade.

The wastes generated during the well abandonment activities will be stored temporarily in 55-gallon drums pending transportation to an approved waste disposal facility. After the wastes have been profiled, they will be transported to the approved disposal facility.

Subtask 3 – Prepare Well Abandonment Details Report

At the conclusion of the well abandonment activities, NCE will submit a report to the RWQCB, documenting the work that was performed during the well abandonment activities. Preparation of the report will include one preliminary draft and one final draft. The preliminary draft will be prepared and submitted to City personnel for review and comment.



As appropriate, comments will be incorporated into the final draft prior to submittal to the RWQCB.

Subtask 4 – Additional Field Investigation Activities

We have included this subtask in the event the RWQCB requests that additional investigation work be performed at the Site. As noted above, based on the results of the most recent soil and groundwater investigation, as well as the results from the previous environmental investigations, it does not appear likely the RWQCB will request that additional investigation work be performed at the Site. As requested by the City as a contingency, this task includes field efforts (soil and groundwater sampling) up to \$9,994.73.

Task 2 – A Street Extension Status

On January 31, 2013, NCE submitted a Report on behalf of the City, summarizing the well installation and quarterly groundwater and surface water sampling conducted at this site during the fourth quarter of 2012. The purpose of the well installation and additional sampling activities was to further assess whether residual hydrocarbons from this site are impacting the nearby San Joaquin River.

As proposed in NCE's RWQCB-approved work plan dated August 2, 2012 (herein identified as the Work Plan), three additional quarterly sampling events are scheduled to evaluate the consistency of the data. The second, third and fourth quarterly events are scheduled to be conducted in March, June and September 2013, respectively. The second and third quarterly events will be performed per the Amendment No. 3 Agreement described above. The fourth quarterly event will be conducted during the term of this change order request, which is from July 1, 2013, through June 30, 2014.

After the final sampling round, if there are no temporal trends that would suggest a potential for future risk, a finding of "no further action" for the site will be requested in a final report, which will be described in more detail in Subsection 7.1.1. Similar to Corporation Yard, if the RWQCB approves the site for low risk closure, the next scope of work that will most likely be requested by the RWQCB will be to abandon the existing groundwater monitoring wells at this site (i.e., wells MW-1 through MW-4).

Based on the information noted above, the scope of work summarized below describes the scope of work for the fourth quarterly surface and groundwater monitoring event (Subtasks 1 through 3) and the well abandonment activities (Subtasks 4 through 6). Additionally, a subtask (Subtask 7) similar to that for the Corporation Yard has been included in the event the RWQCB requests that additional environmental investigation work be performed at this site.

Subtask 1 - Project Management

Activities under this subtask consist of the coordination of staff, and meetings and telephone conversations with RWQCB and other project personnel; and routine invoicing and budget tracking efforts.



Subtask 2 – Groundwater and Surface Water Monitoring

The fourth quarterly groundwater and surface water monitoring events will consist of monitoring and sampling groundwater monitoring wells MW-1 through MW-4 and collecting surface water samples from the San Joaquin River, respectively, in accordance with the Work Plan.

Subtask 3 – Data Evaluation and Reporting

After the fourth sampling round, a report will be prepared to present the findings and evaluate the results. Additionally, as noted above, after this round, if there were no temporal trends that would suggest a potential for future risk, a finding of "no further action" for the site will be requested in this final report.

Preparation of the reports will include one preliminary draft and one final draft. The preliminary draft will be prepared and submitted to City personnel for review and comment. As appropriate, comments will be incorporated into the final draft prior to submittal to the RWQCB.

Subtask 4 – Pre-Field Activities

The pre-field activities for the well abandonment activities will be similar to those described for the Corporation Yard with the following additions:

- An encroachment permit will be obtained from the City to abandon the wells located in the City's right-of-way. Based on discussions with City personnel, we understand there will be no fees associated with procuring the encroachment permit fees.
- We have assumed traffic control will be required during the well abandonment activities.

Subtask 5 – Well Abandonment Activities

The well abandonment activities will be similar to those described for the Corporation Yard with the exception that instead of storing the drums that contain the wastes generated during the well abandonment activities at the site, the drums will be stored instead at the City's Corporation Yard.

Subtask 6 – Prepare Well Abandonment Details Report

A report similar to the one described for the Corporation Yard will also be prepared and submitted to the RWQCB at the conclusion of the well abandonment activities.

Subtask 7 – Additional Field Investigation Activities

We have included this subtask in the event the RWQCB requests that additional investigation work be performed at the Site. As noted above, based on the results of the most recent soil and groundwater investigation, as well as the results from the previous environmental investigations, it does not appear likely the RWQCB will request that



additional investigation work be performed at the Site. As requested by the City as a contingency, this task includes field efforts (soil and groundwater sampling) up to \$9,994.73.

FEE AND SCHEDULE

Based on the scope of work describes above, NCE anticipates the following:

- Well abandonment activities at both sites can be completed in one 10-hour day.
- Each groundwater and surface water sampling event at the A Street Extension can be completed in one 8-hours day. Additionally, laboratory analyses will be completed on a standard turnaround time (TAT). NCE assumes water generated during the groundwater sampling activities can be released into the on-site sewer system.
- Three weeks will be required to complete each report at the conclusion of each work event and/or following receipt of laboratory results. Following receipt of comments from the City, each report can be completed within five days.

Provided below are two tables showing a breakdown of the estimated costs to conduct the work at the City's Corporation Yard and A Street Extension, respectively. A breakdown of the estimated costs is also provided in the attachment.

Corporation Yard		
Subtasks		Estimated Cost
1.1	Corp Yard – Pre Field Activities	\$3,961.50
1.2	Corp Yard – Destroy Wells	\$11,235.50
1.3	Corp Yard – Report Preparation	\$2,855.50
1.4	Corp Yard – Additional Investigation	\$9,994.73
Total Estimated Costs for Task 6		\$28,047.23

A Street Extension		
Subtasks		Estimated Cost
2.1	A Street – Project Management	\$7,864.50
2.2	A Street – GW and SW Sampling	\$3,099.00
2.3	A Street – Data Evaluation and Reporting	\$3,433.00
2.4	A Street – Pre Field Activities	\$4,375.50
2.5	A Street – Destroy Wells	\$13,110.50
2.6	A Street – Report Preparation	\$2,855.50
2.7	A Street – Additional Investigation	\$9,994.73
Total Estimated Costs for Task 7		\$44,732.73
Total Estimated Costs for Tasks 6 and 7		\$72,779.96

We understand that the City will provide NCE with a Work Authorization and City Agreement as our formal authorization to proceed.



We appreciate the opportunity to present this proposal to the City. If you have any questions, please do not hesitate to call.

Sincerely,
NICHOLS CONSULTING ENGINEERS, Chtd.

Brett A. Bardsley
Senior Geologist

Gregory L. Fasiano, PG, CEM
Principal

Attachment: Client Price Breakdown

CLIENT PRICE BREAKDOWN

ALL TASKS

Project Name: nitoch UST Environmental Investigation

Project Number: 0

TASK	Labor Hours	Labor \$	In-House Recoverables	ODCs	Subcontractor Cost	Travel	FEE	Total
Task 1 / 1 - Corp Yard - Pre Field Activities	21.00	2,590.00	129.50	1,242.00	0.00	0.00	0.00	3,961.50
Task 1 / 2 - Corp Yard - Destroy Wells	20.00	2,410.00	200.50	115.00	8,510.00	0.00	0.00	11,235.50
Task 1 / 3 - Corp Yard - Rpt Prep	20.00	2,610.00	130.50	115.00	0.00	0.00	0.00	2,855.50
Task 1 / 4 - Corp Yard - Additional Investigation	8.10	1,304.50	65.23	0.00	8,625.00	0.00	0.00	9,994.73
Task 2 / 1 - A Street - Project Management	56.00	7,490.00	374.50	0.00	0.00	0.00	0.00	7,864.50
Task 2 / 2 - A Street - GW and SW Sampling	14.00	1,780.00	169.00	1,150.00	0.00	0.00	0.00	3,099.00
Task 2 / 3 - A Street - Data Eval and Rpt Prep	26.00	3,160.00	158.00	115.00	0.00	0.00	0.00	3,433.00
Task 2 / 4 - A Street - Pre Field Activities	21.00	2,590.00	129.50	1,656.00	0.00	0.00	0.00	4,375.50
Task 2 / 5 - A Street - Destroy Wells	20.00	2,410.00	120.50	115.00	10,465.00	0.00	0.00	13,110.50
Task 2 / 6 - A Street - Rpt Prep	20.00	2,610.00	130.50	115.00	0.00	0.00	0.00	2,855.50
Task 2 / 7 - A Street - Additional Investigation	8.10	1,304.50	65.23	0.00	8,625.00	0.00	0.00	9,994.73
Task / -	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Task / -	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Task / -	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1 -	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL	234.20	30,259.00	1,672.96	4,623.00	36,225.00	0.00	0.00	72,779.96

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013**

PREPARED BY: Ahmed Abu-Aly, Associate Engineer *AA*
APPROVED BY: Ron Bernal, Public Works Director/City Engineer *RB*
DATE: July 2, 2013
SUBJECT: Resolution of Local Support and Authorizing the Filing of a Grant Application to MTC for Federal Funding for the Ninth Street Roadway Improvements, (P.W. 687)

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds for the Ninth Street Roadway Improvements and amend the FY 14/15 CIP budget by \$647,000 from Measure "J" funds to bring the City's local matching funds for this project to the amount of \$927,000.

BACKGROUND INFORMATION

Staff is recommending the City submit an application for federal funding for the Ninth Street roadway improvements from "A" Street to "H" Street. The project will include reconstructing the roadway pavement section at the intersections, grind and overlay the existing pavement, install new handicap ramps that meet ADA standards, replace damaged sidewalks, curb and gutter, and install new drain inlets.

The Metropolitan Transportation Commission (MTC) requested that the project sponsor submit a council resolution supporting and approving the application for federal funding for this project.

The current engineer's estimate for the project is \$1,600,000. The federal grant for this project is in the amount of \$673,000. Staff requests amending the FY 14/15 CIP budget for this project by \$647,000 from Measure "J" funds to bring the City's local matching funds for this project to the amount of \$927,000.

FINANCIAL IMPACT

The City is expected to receive \$673,000 of federal funding for this project. The City's contribution for the local matching funds of \$927,000 will be funded through the Measure "J" Fund.

OPTIONS

None

ATTACHMENTS

None

AA:lm

7-9-13

RESOLUTION NO. 2013/**
RESOLUTION OF LOCAL SUPPORT
AND AUTHORIZING THE FILING OF A GRANT APPLICATION
TO MTC FOR REGIONAL DISCRETIONARY [FEDERAL] FUNDING FOR THE
NINTH STREET ROADWAY IMPROVEMENTS
(P.W. 687)

Authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds and stating the assurance to complete the project

WHEREAS, City of Antioch (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$673,000 in funding assigned to MTC for programming discretion, including but not limited to federal funding administered by the Federal Highway Administration (FHWA), such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding and/or Transportation Alternatives (TA) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Ninth Street Roadway Improvements Project (herein referred to as PROJECT) for the One Bay Area Grant (OBAG) funding program (herein referred to as PROGRAM); and

WHEREAS, the Moving Ahead for Progress in the 21st Century Act (Public Law 112-141, July 6, 2012) and any extensions or successor legislation for continued funding (collectively, MAP 21) authorize various federal funding programs including, but not limited to the Surface Transportation Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives Program (TA) (23 U.S.C. § 213); and

WHEREAS, state statutes, including California Streets and Highways Code 182.6 and 182.7 provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to MAP-21, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal funds for a project shall submit an application first with the appropriate MPO for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of federal funds; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

1. the commitment of any required matching funds; and
2. that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and

3. that the project will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
4. the assurance of the sponsor to complete the project as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
5. that the project will comply with all project-specific requirements as set forth in the PROGRAM; and

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under MAP-21 for continued funding; and be it further

RESOLVED that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide any required matching funds; and
2. APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation projects, and has assigned, and will maintain a single point of contact for all FHWA-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans and FHWA on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA-funded transportation projects implemented by APPLICANT; and
4. PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and
5. APPLICANT and the PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM;

RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's federal TIP.

THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, that the Public Works Director or his designee is hereby authorized and directed to sign the Application for federal funding for the Ninth Street Roadway Improvement Project in the City of Antioch, a true copy of which is on file in the Office of the City Clerk.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted and passed by the City of Antioch, California, at a regular meeting thereof held on the 9th day of July, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN, City Clerk

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013**

PREPARED BY: Ahmed Abu-Aly, Associate Engineer *AA*
APPROVED BY: Ron Bernal, Public Works Director/City Engineer *RB*
DATE: July 2, 2013
SUBJECT: Resolution of Local Support and Authorizing the Filing of a Grant Application to MTC for Federal Funding for the Sidewalk, Handicap Ramps and Pedestrian Improvements at Various Locations Project, (P.W. 409-3)

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds for the Sidewalk, Handicap Ramps and Pedestrian Improvements at Various Locations Project, and amend the FY 13/14 CIP budget to include this new project for a total budget of \$520,000, \$330,000 funded through the federal grant and \$190,000 from Measure "J" funds for the City's local matching funds for this project.

BACKGROUND INFORMATION

Staff is recommending the City submit an application for federal funding for sidewalk, handicap ramps and pedestrian improvements at various locations. The project will construct new crosswalks, and new handicap ramps at various locations along Cavallo Road/Garrow Drive from Wilbur Avenue to Davison Drive. This route provides pedestrian access to three schools: Kimball, Bidwell and Belshaw Elementary Schools.

The project will also include removing the existing sidewalks, parking strip and landscaping along Drake Street from "A" to "G" Street and installing new, wider sidewalks that meet current ADA standards.

The Metropolitan Transportation Commission (MTC) requested that the project sponsor submit a council resolution supporting and approving the application for federal funding for this project.

The current engineer's estimate for the project is \$520,000. The federal grant for this project is in the amount of \$330,000 and the local match is in the amount of \$190,000. Staff requests amending the FY 13/14 CIP budget to include this new project for a total budget of \$520,000; \$330,000 funded through the federal grant and \$190,000 from Measure "J" funds for the City's local matching funds for this project

FINANCIAL IMPACT

The City is expected to receive \$330,000 of federal funding for this project. The City's contribution for the local matching funds of \$190,000 will be funded through Measure "J" Funds.

OPTIONS

None

ATTACHMENTS

None

AA:lm

7-9-13

RESOLUTION NO. 2013/**
RESOLUTION OF LOCAL SUPPORT
AND AUTHORIZING THE FILING OF A GRANT APPLICATION
TO MTC FOR REGIONAL DISCRETIONARY [FEDERAL] FUNDING FOR THE
SIDEWALK, HANDICAP RAMPS AND PEDESTRIAN IMPROVEMENTS AT VARIOUS
LOCATIONS PROJECT
(P.W. 409-3)

Authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds and stating the assurance to complete the project

WHEREAS, City of Antioch (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$330,000 in funding assigned to MTC for programming discretion, including but not limited to federal funding administered by the Federal Highway Administration (FHWA) such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding and/or Transportation Alternatives (TA) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Sidewalk, Handicap Ramps and Pedestrian Improvements at Various Locations (herein referred to as PROJECT) for the Regional Safe Route to School Program (herein referred to as PROGRAM); and

WHEREAS, the Moving Ahead for Progress in the 21st Century Act (Public Law 112-141, July 6, 2012) and any extensions or successor legislation for continued funding (collectively, MAP 21) authorize various federal funding programs including, but not limited to the Surface Transportation Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives Program (TA) (23 U.S.C. § 213); and

WHEREAS, state statutes, including California Streets and Highways Code 182.6 and 182.7 provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to MAP-21, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal funds for a project shall submit an application first with the appropriate MPO for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of federal funds; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

1. the commitment of any required matching funds; and
2. that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and

3. that the project will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
4. the assurance of the sponsor to complete the project as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
5. that the project will comply with all project-specific requirements as set forth in the PROGRAM; and

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under MAP-21 for continued funding; and be it further

RESOLVED that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide any required matching funds; and
2. APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation projects, and has assigned, and will maintain a single point of contact for all FHWA-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans and FHWA on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA-funded transportation projects implemented by APPLICANT; and
4. PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and
5. APPLICANT and the PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM;

RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's federal TIP.

THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, that the Public Works Director or his designee is hereby authorized and directed to sign the Application for federal funding for the Sidewalk, Handicap Ramps and Pedestrian Improvements at Various Locations in the City of Antioch, a true copy of which is on file in the Office of the City Clerk.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted and passed by the City of Antioch, California, at a regular meeting thereof held on the 9th day of July, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN, City Clerk

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013**

Prepared by: Victor Camiglia, Consultant for the City of Antioch 

Date: July 2, 2013

Subject: Z-13-03 - The City of Antioch is requesting approval of the rezoning for the Northeast Antioch Area. There are three subareas considered for rezoning, which are all located within unincorporated Contra Costa County, consisting of approximately 678 acres. The zoning for Area 1 (470 acres) is being proposed as Heavy Industrial and Open Space, Area 2a as Urban Waterfront, (94 acres), and Area 2b (103 acres) as a Study zone. The three subareas are located generally south of the Sacramento County line along the San Joaquin River in the vicinity of Wilbur Avenue, west of the City of Oakley, north and east of the boundaries of the City of Antioch. The Planning Commission recommended to the City Council approval of the rezoning by a 6-0 vote with one member absent. Also for consideration by the City Council will be the Annexation and Tax Revenue Allocation Agreement between the City of Antioch and the County for the Northeast Antioch Annexation and Agreement between the City of Antioch and the County for the Funding and Construction of Infrastructure Improvements Serving Annexation Area 2B. A Mitigated Negative Declaration is also being considered for adoption.

RECOMMENDATION

Staff recommends that the City Council open the public hearing, and continue to the Adjourned Regular City Council Meeting, located at the Public Works Building Training Room, 1201 West Fourth Street, Antioch, CA, 94509 of Tuesday July 30th, 2013 the items relating to the Northeast Antioch Annexation, including adoption of the Mitigated Negative Declaration, the Rezoning of Annexation Areas 1, 2A, and 2B, the Tax Exchange Agreement, and the Infrastructure Funding Agreement.

Subsequent to the notice of the City Council hearing being submitted to the newspaper, it became apparent that additional time was going to be needed to resolve an issue that had recently been raised concerning the future coordination of the post annexation permitting process within Annexation Area 1. To avoid the possibility of the City Council taking action on wording that would not be supported by the County Board of Supervisors in an Agreement ultimately requiring County authorization, City staff is recommending that City Council continue these annexation related items to the July 30, 2013 City Council Adjourned Regular Meeting.

FISCAL IMPACTS

The recommended three week continuance will not have a net negative fiscal impact on the City, as it will not significantly impact the projected completion date of the annexation. However, further delays beyond the recommended continuance date have the potential to delay the City's receipt of new tax revenue the annexation is expected to provide the City.

OPTIONS

The City Council has no other viable option beyond the recommended continuance, as the City and the County need to be in agreement on language that both parties are ultimately expected to adopt.

ATTACHMENTS

None.

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013**

Prepared by: Philip Hoffmeister, Administrative Analyst *PH*
Approved by: Ron Bernal, Public Works Director/City Engineer *RIB*
Date: July 1, 2013
Subject: Public Hearing to Confirm Assessments for the Landscape Maintenance Districts 1, 2A, 4, 5, 9, and 10 for Fiscal Year 2013/2014 (PW 500)

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution ordering improvements and levying annual assessments for Landscape Maintenance Districts 1, 2A, 4, 5, 9, and 10 for Fiscal Year 2013/2014.

BACKGROUND INFORMATION

At its May 14th, 2013 meeting, Council accepted the Fiscal Year 2013-14 (FY 13-14) Revised Consolidated Street Light and Landscape Maintenance District (SLLMD) Engineer's Report and set July 9, 2013 as the date for the public hearing for the Ordering of Improvements and Levy of Assessments for Landscape Maintenance Districts for FY 13-14. This year's recommended Engineer's Report continues with Council's previous direction by utilizing an estimated fund balance of \$1,154,201 to reduce the General Fund contribution, where possible, and by applying assessments first to Administration costs, followed by Local Landscaping; then Arterial Medians; and finally Parks.

Note that under enabling legislation (Landscape and Lighting Act of 1972), there is no requirement to show a General Fund contribution in the Engineer's Report. The inclusion of General Fund contributions was requested by Council in FY 2000-01 and has continued. A discussion on how to apply or even the use of General Fund contributions is not an element Council needs to consider in ratifying this report and approving the attached resolution for the levy of assessments in order to meet the Contra Costa County Auditor's Office submittal deadline of August 10, 2013.

OPTIONS

No options are provided for this item.

FINANCIAL IMPACT

Adoption of the engineers report provides Lighting and Landscape District assessments totaling approximately \$2,038,407 for lighting and landscape maintenance in defined areas of the City. Failure to adopt some or all of the report would result in the loss of significant funding for that maintenance.

ATTACHMENTS

- A: Revised Consolidated Engineer's Report (as approved May 14, 2013)
- B: Street Light and Landscape Maintenance District Boundary Map

RESOLUTION NO. 2013/**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ORDERING IMPROVEMENTS AND LEVYING ANNUAL ASSESSMENTS FOR LANDSCAPE MAINTENANCE DISTRICTS FOR THE 2013/2014 FISCAL YEAR (PW 500)

BE IT RESOLVED by the City Council of the City of Antioch as follows:

1. On February 26th, 2013 the City Council directed the Engineer to prepare a consolidated report for the various landscape maintenance districts as specified in the report. The improvements are generally described as follows: maintaining and servicing public landscaping including roadside and medians on arterial, collector and local streets, cul-de-sacs, landscaped trails and open space, and maintaining and servicing weed abatement for publicly-owned open space parcels.
2. On May 14th, 2013 the Council adopted Resolution 2013/22, approving the consolidated report prepared by the Engineer and setting a public hearing thereon. Notice of the meeting and hearing were given as required by law.
3. At the time and place for which notice was given, the City Council conducted a public hearing, and gave every interested person an opportunity to make oral statements or to submit written protests regarding the proceedings.
4. The City Council considered all staff reports, oral statements, engineer reports and written protests and comments that were submitted.
5. The City Council confirms the report and diagram and assessments contained in the Engineer's Report.
6. The City Council finds that no majority protest was made as to any zone to receive an assessment.
7. The City Council finds that the Engineer, in the report, has fairly and properly apportioned the cost of improvements of each parcel of land in the assessment districts and zones in proportion to the estimated special benefits to be received by each parcel, respectively, from the improvements, and that the proportionate special benefit derived by each identified parcel has been determined in relationship to the entirety of the capital or maintenance cost of the public improvements or services being provided. The City Council hereby confirms and levies, as modified, each individual assessment as stated in the report.

RESOLUTION NO. 2013/**
July 9, 2013
Page 2

* * * * *

I HEREBY CERTIFY that the foregoing resolution was adopted by the City Council of the City of Antioch at a regular meeting thereof held on the 9th day of July, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

ATTACHMENT "A"



CITY OF ANTIOCH
CONTRA COSTA COUNTY, CALIFORNIA

REVISED
CONSOLIDATED ENGINEER'S REPORT
FOR THE
CITY OF ANTIOCH
STREET LIGHT AND LANDSCAPE MAINTENANCE
DISTRICT NUMBERS 1, 2A, 4, 5, 9, AND 10
AND THE
LEVY OF THE ANNUAL ASSESSMENT
FOR THE 2013/14 FISCAL YEAR

City of Antioch


As approved by Council on
May 14th, 2013

Prepared by
City of Antioch
City Engineer
Rowland E. Bernal Jr., P.E.
Philip Hoffmeister, Administrative Analyst

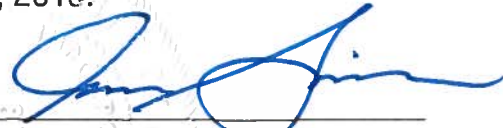
STREET LIGHT AND LANDSCAPE MAINTENANCE DISTRICT
NUMBERS 1, 2A, 4, 5, 9, AND 10
(Pursuant to the Landscaping and Lighting Act of 1972 and Proposition 218)

The undersigned respectfully submits the enclosed Engineer's Report as directed by the City Council.

Dated 5/8/13

By Rowland E. Bernal
Rowland E. Bernal, P.E.
License Expires 12/31/13


I HEREBY CERTIFY that the enclosed Engineer's Report, together with Assessment and Assessment Diagram thereto attached, was filed with me on the 8th day of MAY, 2013.


Arne Simonsen, City Clerk
City of Antioch
Contra Costa County, California

I HEREBY CERTIFY that the enclosed Engineer's Report, together with Assessment and Assessment Diagram thereto attached, was approved and confirmed by the City Council of the City of Antioch, California on the ____ day of _____, 2013.

Arne Simonsen, City Clerk
City of Antioch
Contra Costa County, California

I HEREBY CERTIFY that the enclosed Engineer's Report, together with Assessment and Assessment Diagram thereto attached, was filed with the County Auditor of the County of Contra Costa, California on the ____ day of _____, 2013.

Arne Simonsen, City Clerk
City of Antioch
Contra Costa County, California

By _____

Date _____

TABLE OF CONTENTS

I.	<u>INTRODUCTION</u>	1
	A. <u>Preamble</u>	1
	B. <u>Enabling Legislation</u>	2
	C. <u>Revised Consolidated Engineer's Report</u>	2
II.	<u>ASSESSMENT DIAGRAM</u>	3
	A. <u>Assessment Districts</u>	3
	B. <u>Zone Boundaries</u>	3
III.	<u>DESCRIPTION OF IMPROVEMENTS</u>	4
IV.	<u>COST ESTIMATES</u>	5
V.	<u>ASSESSMENT METHODS</u>	41
VI.	<u>SUMMARY OF ASSESSMENTS</u>	41
VII.	<u>ASSESSMENT ROLL</u>	41

I. INTRODUCTION

A. Preamble

In March 2001, Council considered a "reorganized" Street Light and Landscape Maintenance District (SLLMD) that would have created a single citywide District, subdivided into multiple benefit zones. In accordance with Proposition 218, ballots were sent to property owners for their approval/disapproval of that reorganized district. The result of that election was a majority "No" vote defeating the proposal. At its meeting on June 26, 2001, Council voted to approve the "Existing Light and Landscape Maintenance District", and that assessments could be levied only up to the "base assessments" for each parcel as recorded in Fiscal Year (FY) 2000-2001, (Resolution 2001/63). Since June 2001, new districts and zones have been formed that established a base rate plus an inflationary adjustment equal to the San Francisco Consumer Price Index (CPI) increase for the preceding twelve-month period.

As indicated in previous Engineer's Reports, most districts and zones did not collect sufficient assessments to finance estimated maintenance costs. Shortfalls were covered by contributions by the City General Fund. In FY 2003-04 Staff presented Council options for increasing assessments to their maximum base rates to reduce those shortfalls. In June 2003, Council decided to increase assessments to their respective maximum base assessments over a 3-year period. The final increment was approved by Council for FY 2005-06; however, some shortfalls remain. Those shortfalls continue to shown as paid by a contribution from the General Fund.

On April 13, 2013, an Engineer's Report for Fiscal Year 2013-14 was submitted and approved by Council; however, estimated end of fiscal year 2012-13 fund balances have been updated since that meeting and shortfalls were identified. Those shortfalls require an increase in assessments where applicable. Any increase in assessment requires a 45-day public noticing period and since the increases were not presented in the originally submitted report, this Revised Engineer's Report must be submitted for approval and new public hearing date set.

This Revised Annual Consolidated Street Light and Landscape Maintenance Districts Engineer's Report continues with Council direction and presents maintenance costs for the existing lighting and landscaping districts and zones and assessments.

B. Enabling Legislation

Prior to November 1996, the City of Antioch Street Light and Landscape Maintenance Districts were governed only by the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500, and following) which allows a municipality or other local public agency to establish a special assessment district to raise funds for installing, maintaining and servicing public lighting, landscaping, park and recreational facilities. The revenue to pay for these improvements came from special assessments levied on the land benefiting from the improvements. The local legislative body set the assessment each year after receiving an Engineer's Report and holding a public hearing. The assessments were collected as a separately stated item on the county tax bill.

During that period, the City Council took five basic steps to levy the assessment:

- Adopt a Resolution Directing Filing of Annual Engineer's Report
- Preliminarily Approve the Engineer's Report
- Adopt a Resolution of Intention to Order Improvements
- Conduct a Public Hearing
- Adopt a Resolution Confirming the Diagram and Assessment and Levying the Annual Assessment.

A certified copy of the Engineer's Report and a computer data tape containing the assessment roll were then submitted to the Contra Costa County Auditor for collection of the approved assessments.

With the passage of Proposition 218 in November of 1996, additional actions were required to impose new, or increase existing, assessments. Proposition 218 also exempted "Any assessment imposed pursuant to a petition signed by persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed." For the City of Antioch, the City Attorney has determined that the base amount of assessment that was in effect at the time a new development petitioned for annexation into the district is excluded from the provisions of Proposition 218.

C. Revised Consolidated Engineer's Report

This Revised Consolidated Engineer's Report recommends an assessment for parcels within each of the six Districts in the City of Antioch that are subject to an assessment, up to the base amount. The recommended assessments are based on estimates of the benefits to be received by each assessable parcel for District landscaping and recreational improvements. The benefit estimates are used to apportion costs to each assessable parcel, up to the maximum amount each parcel may be assessed without exceeding the base amount.

The 1972 Act does not specify a method or formula for apportioning costs. The assessment may be apportioned by any formula or method that fairly distributes the costs among all assessable lots or parcels.

This report summarizes the proposed assessment methods and the resulting assessments recommended. The report includes the following:

- Assessment Diagram
- Description of Improvements
- Estimate of Operation and Maintenance costs for FY 2013/2014
- Description of Assessment Methodology
- Summary of Recommended Assessments
- Assessment Roll

II. ASSESSMENT DIAGRAM

A. Assessment Districts

This Revised Consolidated Engineer's Report covers each of the six Street Lighting and Landscape Maintenance Districts within the City of Antioch. Collectively, these six Districts encompass the entire area of the City that benefits from the improvements to be maintained. The Number and common name of each District is listed below:

**TABLE 1
DISTRICT NUMBERS AND COMMON NAMES**

District Number	Common Name
1	Hillcrest Avenue
2A	Antioch or City-wide
4	Downtown
5	Almondridge
9	Lone Tree Way
10	East Lone Tree Way

District boundaries are depicted on the Assessment Diagram on file with the City of Antioch. The Assessment Diagram shows District boundaries, benefit zone boundaries, and City streets. For a description of lines and dimensions of each lot or parcel within the District, the reader is referred to the Assessor's parcel maps on file at the County Assessor's office. The Assessor's parcel maps are incorporated by reference into the Assessment Diagram. The Assessor's parcel number is adopted as the distinctive designation of each lot or parcel.

B. Zone Boundaries

The Districts are subdivided into one or more benefit zones. These benefit zones indicate areas within which parcels of similar use receive approximately equivalent benefits from District improvements. The dividing lines between benefit zones coincide with major arterial streets or other major facilities (i.e. canal, freeway). Refer to the Assessment Diagram for a description of the zone boundaries.

III. DESCRIPTION OF IMPROVEMENTS

This Section describes the public improvements to be installed, operated, serviced and maintained by the District.

District improvements are generally described as operating, servicing, maintaining, repairing and replacing the following: public landscaping, including improvements for standard City of Antioch cul-de-sacs; public medians, rights-of-way and park sites; weed abatement for publicly owned open space parcels.

PARKS: The cost of contract maintenance and/or City work for maintenance of the neighborhood and community parks listed in Table 2. Park improvements to be maintained include, but are not limited to, tot lots, picnic facilities, landscaping and lighting, and the cost of utilities serving the park.

LOCAL LANDSCAPING: Includes the costs of pruning, irrigation, maintenance planting, debris removal and clean up along the City's trails, cul-de-sac bulbs, and local and collector streets. It also includes both contract and City work associated with weed abatement and the maintenance of firebreaks. Localized landscaping improvements including planters, trees in the public right-of-way, sound walls and entry signs are also maintained under this class of improvement.

MAJOR MEDIAN AND ROADSIDE LANDSCAPING: Includes the costs of pruning, irrigation, maintenance planting, debris removal and clean up along the City's arterial roadway system. Roadways included in this system are A Street, Buchanan Road, Contra Loma Boulevard, Dallas Ranch Road, Davison Drive, Deer Valley Road, Delta Fair Boulevard, East Eighteenth Street, Hillcrest Avenue, James Donlon Boulevard, L Street, Laurel Avenue, Lone Tree Way, Prewett Ranch Road, Somersville Road, West Fourth Street, West Tenth Street, and Wilbur Avenue.

PROGRAM ADMINISTRATION: Includes the costs of acquiring and maintaining equipment necessary to operate the program and conduct maintenance activities and the work of management staff that provide program oversight, scheduling, budgeting and coordination for special work groups.

**TABLE 2
NEIGHBORHOOD AND COMMUNITY PARKS**

District Number	Common Name
1-1	Hillcrest Park
	Nelson Ranch Park
1-2	Country Manor Park
	Deerfield Park
	Knoll Park
	Prewett Community Park
1-4	Meadow Creek Park
2A-1	Barbara Price
	Contra Loma Estates Park
	Fairview Park
	Prosserville Park
2A-2	City Park
2A-3	Jacobsen Park

	Meadowbrook Park
2A-4	Harbour Park
	Mountaire Park
2A-5	Chichibu Park
2A-6	Canal Park
	Gentrytown Park
2A-6	Mira Vista Park
	Village East Park
2A-7	Marchetti Park
2A-8	Antioch Community Park
	Mira Vista Hills Park
2A-9	Eaglesridge Park
2A-10	Markley Creek Park
4-1	--
5-1	Almondridge Park
9-1	Williamson Ranch Park
	Chaparral Park
9-2	Diablo West Park
9-3	Hansen Park
	Dallas Ranch Park
9-4	Heidorn Park
10	--

IV. COST ESTIMATES

Cost estimates for operating, maintaining, servicing, installing, repairing, replacing and upgrading lighting, landscaping, parks and recreational improvements are provided by the City of Antioch. Tables 3 through 22 present cost estimates for each benefit area.

Table 3
COST ESTIMATE -- 2013/2014
District 1, Zone 1 -- Hillcrest Avenue District

The following schedule shows the allocation of costs to be spread to this District/Zone (254-4541)

	Base Rate Benefit Units 1,681		
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$55,480	\$82,493	\$0
Arterial Medians and Roadside	\$21,361	\$21,361	\$0
Local Landscaping, Trails, Open Space	\$198,925	\$5,652	\$193,273
Administration	\$81,790	\$0	\$81,790
SUBTOTAL:	\$357,556	\$109,506	\$275,063

535	Parcels Assessed at	\$216	per unit =	\$115,560
413	Parcels Assessed at	\$190	per unit =	\$78,470
283	Parcels Assessed at	\$165	per unit =	\$46,695
207	Parcels Assessed at	\$94	per unit =	\$19,458
131	Parcels Assessed at	\$64	per unit =	\$8,384
112	Parcels Assessed at	\$58	per unit =	\$6,496

TOTAL ASSESSED:

\$275,063

Ending FY12/13 Fund Balance (Estimated):

\$301,065

GENERAL FUND PORTION OF MAINTENANCE COST:

\$0

District/Zone Benefits:

Parks: Hillcrest, Nelson Ranch

Arterial Landscaping: Hillcrest Avenue

Roadway Landscaping: Larkspur Drive, Wild Horse Road and cul-de-sac bulbs

Miscellaneous: Open space and trails

Table 3A
District 1, Zone 1
Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
1-1	California Terrace	7222	123	165	165	165
1-1	Hillcrest Subd Un 1	5653	221	190	190	190
1-1	Hillcrest Subd Un 2	6067	83	190	190	190
1-1	Hillcrest Subd Un 3	6068	61	190	190	190
1-1	Nelson Ranch I	6893	102	216	216	216
1-1	Nelson Ranch II	8850	128	216	216	216
1-1	Nelson Ranch III	8851	138	216	216	216
1-1	Northwood Downs 1	6429	81	58	58	58
1-1	Northwood Downs 2	6564	31	58	58	58
1-1	Northwood Downs 3	6565	76	64	64	64
1-1	Ridgeview Un 1	6262	48	190	190	190
1-1	Ridgeview Un 2	6264	55	64	64	64
1-1	Viera Ranch 1-1	6855	172	94	94	94
1-1	Viera Ranch 1-2	7180	116	165	165	165
1-1	Viera Ranch 1-3	7181	69	216	216	216
1-1	Viera Ranch 2-1	6925	44	165	165	165
1-1	Viera Ranch 2-2	7219	49	216	216	216
1-1	Viera Ranch 2-3	7220	49	216	216	216
1-1	Viera Ranch 3	6943	35	94	94	94
Total:			1,681			275,063

Note: Values in the "FY 13-14 Assessment" column are for the forthcoming Fiscal Year. Assessments for the previous year (FY 12-13) are included for comparison.

Table 4
COST ESTIMATE -- 2013/2014
District 1, Zone 2 -- Hillcrest Avenue District

The following schedule shows the allocation of costs to be spread to this District/Zone (254-4542)

	Base Rate Benefit Units 3,237	
	District Need	Assessments Applied
MAINTENANCE AND SERVICES:	Total Cost	
Parks	\$102,279	\$53,170
Arterial Medians and Roadside	\$68,872	\$0
Local Landscaping, Trails, Open Space	\$171,540	\$0
Administration	\$73,705	\$0
SUBTOTAL:	\$416,396	\$53,170

882	Parcels Assessed at	\$216.00	per unit =	\$190,512
88	Parcels Assessed at	\$158.00	per unit =	\$13,904
1290	Parcels Assessed at	\$82.00	per unit =	\$105,780
53	Parcels Assessed at	\$76.00	per unit =	\$4,028
184	Parcels Assessed at	\$69.00	per unit =	\$12,696
52	Parcels Assessed at	\$56.00	per unit =	\$2,912
64	Parcels Assessed at	\$151.20	per unit =	\$9,676
458	Parcels Assessed at	\$42.00	per unit =	\$19,236
166	Parcels Assessed at	\$27.00	per unit =	\$4,482

TOTAL ASSESSED:	\$363,226
Ending FY12/13 Fund Balance (Estimated):	\$55,864
GENERAL FUND PORTION OF MAINTENANCE COST:	\$0

District/Zone Benefits:

Parks: Country Manor, Deerfield Mini, Knoll, Prewett Water Park
 Arterial Landscaping: Hillcrest Avenue, Lone Tree Way and Deer Valley Road
 Roadway Landscaping: Via Dora, Country Hills, Asilomar Drive and cul-de-sac bulbs
 Miscellaneous: open space and trails

Table 4A
District 1, Zone 2
Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
1-2	Bear Ridge Un 1	7145	93	216	216.00	216.00
1-2	Bear Ridge Un 2	7251	79	216	216.00	216.00
1-2	Country Hills	6800	243	82	82.00	82.00
1-2	Country Manor Un 1	5891	69	69	69.00	69.00
1-2	Country Manor Condos	6657	233	82	82.00	82.00
1-2	Country Manor Un 2	6178	54	69	69.00	69.00
1-2	Country Manor Un 3	6179	61	69	69.00	69.00
1-2	Country Manor Un 4	6180	71	82	82.00	82.00
1-2	Country Manor Un 5	6181	18	82	82.00	82.00
1-2	Country Manor Un 6	6256	19	82	82.00	82.00
1-2	Country Manor Un 7R	6653	101	82	82.00	82.00
1-2	Deer Park Un 1	6899	204	42	42	42.00
1-2	Deer Park Un 4	7569	38	216	216.00	216.00
1-2	Deer Park Un 5	7847	38	216	216.00	216.00
1-2	Deer Park Un 6	7848	34	216	216.00	216.00
1-2	Deer Park Un 7	7281	35	216	216.00	216.00
1-2	Deerfield Un 1	6732	113	27	27	27.00
1-2	Deerfield Un 2	6733	53	27	27	27.00
1-2	Deerfield Un 3	6818	138	82	82.00	82.00
1-2	Deerfield Un 4	6817	150	82	82.00	82.00
1-2	Deerfield Un 5	6908	32	42	42	42.00
1-2	Deerfield Un 6	7283	53	76	76.00	76.00
1-2	Deerfield Un 7	7281	67	216	216.00	216.00
1-2	Deerfield Un 8	7286	60	216	216.00	216.00
1-2	Deerfield Un 9	7284	47	158	158.00	158.00
1-2	Deerfield Un 10	7285	52	56	56	56.00
1-2	Deerfield Un 11	7282	71	216	216.00	216.00
1-2	Hillcrest View Apts	-	64	151.20	151.20	151.20
1-2	Ho Property Un 1	7973	41	158	158.00	158.00
1-2	Ho Property Un 2	7974	65	216	216.00	216.00
1-2	Ho Property Un 8	8230	79	216	216.00	216.00
1-2	Ho Property Un 9	8231	80	216	216.00	216.00
1-2	Ho Property Un 10	8232	54	216	216.00	216.00
1-2	Parkside Un 1	6975	158	82	82.00	82.00
1-2	Parkside Un 2	7104	101	42	42	42.00
1-2	Shelbourne Un 1	7019	121	42	42	42.00
1-2	Shelbourne Un 2	7218	89	216	216.00	216.00
1-2	Sterling Gate Un 1	6616	76	82	82.00	82.00
1-2	Sterling Gate Un 2	6928	83	82	82.00	82.00
Total:			3237			363,226.80

Table 5
COST ESTIMATE -- 2013/2014
District 1, Zone 4 -- Hillcrest Avenue District

The following schedule shows the allocation of costs to be spread to this District/Zone (254-4544)

		Base Rate Benefit Units 1,607	
MAINTENANCE AND SERVICES:	Total Cost	District Need	Assessments Applied
Parks	\$18,861	\$16,658	\$2,203
Arterial Medians and Roadside	\$23,321	\$0	\$23,321
Local Landscaping, Trails, Open Space	\$108,153	\$0	\$108,153
Administration	\$52,144	\$0	\$52,144
SUBTOTAL:	\$202,479	\$16,658	\$185,821

350	Parcels Assessed at	\$193.00	per unit =	\$67,550
119	Parcels Assessed at	\$167.00	per unit =	\$19,873
344	Parcels Assessed at	\$216.00	per unit =	\$74,304
117	Parcels Assessed at	\$44.00	per unit =	\$5,148
225	Parcels Assessed at	\$38.00	per unit =	\$8,550
452	Parcels Assessed at	\$23.00	per unit =	\$10,396

TOTAL ASSESSED:	\$185,821
Ending FY12/13 Fund Balance (Estimated):	\$86,004
GENERAL FUND PORTION OF MAINTENANCE COST:	\$0

District/Zone Benefits:

Parks: Meadow Creek Estates

Arterial Landscaping: Hillcrest Avenue and Lone Tree Way

Roadway Landscaping: Laurel Road, Country Hills Drive and cul-de-sac bulbs

Miscellaneous: Open space and trails

Table 5A
District 1, Zone 4
Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
1-4	Canada Hills Un 1	6898	147	23	23	23
1-4	Canada Hills Un 2	7130	99	23	23	23
1-4	Canada Hills Un 3	7341	111	38	38	38
1-4	Canada Hills Un 4	7458	47	193	193	193
1-4	Canada Hills Un 5	7761	40	193	193	193
1-4	Canada Hills Un 6	7460	81	193	193	193
1-4	Canada Hills Un 7	7459	122	193	193	193
1-4	Hidden Glen Un1	6909	89	23	23	23
1-4	Hidden Glen Un 2	7505	81	216	216	216
1-4	Hidden Glen Un 3	8387	75	216	216	216
1-4	Hidden Glen Un 4	8388	126	216	216	216
1-4	Meadow Crk Est. 1	6930	117	23	23	23
1-4	Meadow Crk Est. 2	7123	114	38	38	38
1-4	Meadow Crk Est. 3	7124	117	44	44	44
1-4	Meadow Crk Est. 4	7125	119	167	167	167
1-4	Meadow Crk Est. 5	7867	60	193	193	193
1-4	Viera Ranch 2-2	7219	18	216	216	216
1-4	Viera Ranch 2-3	7220	44	216	216	216
Total:			1,607			185,821

Table 6
COST ESTIMATE -- 2013/2014
District 2A, Zone 1 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4561)

	Base Rate Benefit Units		
	0		
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$48,389	\$48,389	\$0
Arterial Medians and Roadside	\$23,060	\$23,060	\$0
Local Landscaping, Trails, Open Space	\$0	\$0	\$0
Administration	\$0	\$0	\$0
SUBTOTAL:	\$71,449	\$71,449	\$0
TOTAL ASSESSED:			\$0
Ending FY12/13 Fund Balance (Estimated):			\$0
GENERAL FUND PORTION OF MAINTENANCE COST:			\$71,449

District/Zone Benefits:

Parks: Barbara Price, Contra Loma, Fairview, Prosserville
 Arterial Somersville Road, L Street, Fourth Street, West Tenth Street
 Roadway Landscaping: Sycamore Drive, G Street and cul-de-sac bulbs
 Miscellaneous: open space and trails

Table 7
COST ESTIMATE -- 2013/2014
District 2A, Zone 2 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4562)

	Base Rate Benefit Units		
	0		
	Total Cost	District Need	Assessed
MAINTENANCE AND SERVICES:			
Parks	\$19,663	\$19,663	\$0
Arterial Medians and Roadside	\$4,797	\$4,797	\$0
Local Landscaping, Trails, Open Space	\$0	\$0	\$0
Administration	\$0	\$0	\$0
SUBTOTAL:	\$24,460	\$24,460	\$0
TOTAL ASSESSED:			\$0
Ending FY12/13 Fund Balance (Estimated):			\$0
GENERAL FUND PORTION OF MAINTENANCE COST:			\$24,460

District/Zone Benefits:

Parks: City Park

Arterial: A Street

Roadway Landscaping: Merrill Drive, G Street and Cavallo Road roadside and cul-de-sac bulbs

Miscellaneous: open space and trails

Table 8
COST ESTIMATE -- 2013/2014
District 2A, Zone 3 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4563)

		Base Rate Benefit Units 230	
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$24,412	\$24,412	\$0
Arterial Medians and Roadside	\$12,544	\$12,544	\$0
Local Landscaping, Trails, Open Space	\$18,223	\$15,855	\$2,368
Administration	\$12,128	\$0	\$12,128
SUBTOTAL:	\$67,307	\$52,811	\$14,496
			\$14,496
188 Parcels Assessed at \$66.00 per unit =			\$12,408
36 Parcels Assessed at \$22 per unit =			\$792
6 Parcels Assessed at \$216 per unit =			\$1,296
TOTAL ASSESSED:			\$14,496
Ending FY12/13 Fund Balance (Estimated):			\$13,010
GENERAL FUND PORTION OF MAINTENANCE COST:			\$39,801

District/Zone Benefits:

Parks: Jacobsen, Meadowbrook

Arterial: East 18th Street and Wilbur Avenue

Roadway Landscaping: Cavallo Road and cul-de-sac bulbs

Miscellaneous: open space and trails

Table 8A
 District 2A, Zone 3
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
2A-3	Lakeshore Apt.	6770	188	66	66	66
2A-3	Terrace Gardens	5582	36	22	22	22
2A-3	Bermuda Way	8848	6	216	216	216
Total:			230			14,496

Table 9
COST ESTIMATE -- 2013/2014
District 2A, Zone 4 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4564)

	Base Rate Benefit Units 337		
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$49,063	\$49,063	\$0
Arterial Medians and Roadside	\$30,627	\$30,627	\$0
Local Landscaping, Trails, Open Space	\$18,294	\$9,421	\$8,873
Administration	\$4,043	\$0	\$4,043
SUBTOTAL:	\$102,027	\$89,111	\$12,916
	171 Parcels Assessed at \$60 per unit =		\$10,260
	166 Parcels Assessed at \$16 per unit =		\$2,656
TOTAL ASSESSED:			\$12,916
Ending FY12/13 Fund Balance (Estimated):			\$4,755
GENERAL FUND PORTION OF MAINTENANCE COST:			\$84,356

District/Zone Benefits:

- Parks: Harbour, Mountaire
- Arterial: Lone Tree Way, Davison Drive and Hillcrest Avenue
- Roadway Landscaping: Cul-de-sac bulbs
- Miscellaneous: open space and trails

Table 9A
 District 2A, Zone 4
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
2A-4	Hillcrest Estates	5494	54	60	60	60
2A-4	Hillcrest Estates Un 2	6184	53	60	60	60
2A-4	Brookside Estates	7155	166	16	16	16
2A-4	Shelbourne Un 3	7294	64	60	60	60
Total:			337			12,916

Table 10
COST ESTIMATE -- 2013/2014
District 2A, Zone 5 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4565)

	Base Rate Benefit Units 13							
	District Need	Assessments Applied						
MAINTENANCE AND SERVICES:	Total Cost							
Parks	\$27,761	\$0						
Arterial Medians and Roadside	\$31,993	\$0						
Local Landscaping, Trails, Open Space	\$38,492	\$0						
Administration	\$16,171	\$1,492						
SUBTOTAL:	\$114,417	\$1,492						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">4</td> <td style="width: 45%;">Parcels Assessed at \$139 per unit =</td> <td style="width: 40%; text-align: right;">\$556</td> </tr> <tr> <td style="text-align: center;">9</td> <td>Parcels Assessed at \$104 per unit =</td> <td style="text-align: right;">\$936</td> </tr> </table>		4	Parcels Assessed at \$139 per unit =	\$556	9	Parcels Assessed at \$104 per unit =	\$936	
4	Parcels Assessed at \$139 per unit =	\$556						
9	Parcels Assessed at \$104 per unit =	\$936						
TOTAL ASSESSED:		\$1,492						
Ending FY12/13 Fund Balance (Estimated):		\$13,990						
GENERAL FUND PORTION OF MAINTENANCE COST:		\$98,935						

District/Zone Benefits:

Parks: Chichibu

Arterial: Lone Tree Way, James Donlon Boulevard, Contra Loma Boulevard

Roadway Landscaping: Cul-de-sac bulbs

Miscellaneous: open space and trails

Table 10A
 District 2A, Zone 5
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
2A-5	Wilhelm Sub'd	7121	4	139	139	139
2A-5	Wilhelm Sub'd	7412	9	104	104	104
Total:			13			1,492

Table 11
COST ESTIMATE -- 2013/2014
District 2A, Zone 6 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4566)

		Base Rate Benefit Units 274	
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$101,699	\$101,699	\$0
Arterial Medians and Roadside	\$38,823	\$38,823	\$0
Local Landscaping, Trails, Open Space	\$36,469	\$13,277	\$23,192
Administration	\$5,390	\$0	\$5,390
SUBTOTAL:	\$182,381	\$153,799	\$28,582
			\$28,582
148 Parcels Assessed at \$139 per unit =			\$20,572
18 Parcels Assessed at \$103 per unit =			\$1,854
108 Parcels Assessed at \$57 per unit =			\$6,156
TOTAL ASSESSED:			\$28,582
Ending FY12/13 Fund Balance (Estimated):			\$20,946
GENERAL FUND PORTION OF MAINTENANCE COST:			\$132,853

District/Zone Benefits:

Parks: Canal, Gentrytown, Mira Vista, Village East

Arterial: Somersville Road, Buchanan Road, James Donlon Boulevard, Contra Loma Boulevard

Roadway Landscaping: Putnam Street, Johnson Drive and Cul-de-sac bulbs

Miscellaneous: open space and trails

Table 11A
 District 2A, Zone 6
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
2A-6	California Gables	7105	148	139	139	139
2A-6	Centennial Park	6812	108	57	57	57
2A-6	Mira Vista Un 11	7034	18	103	103	103

Total: 274 28,582

Table 12
COST ESTIMATE -- 2013/2014
District 2A, Zone 7 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4567)

	Base Rate Benefit Units		
	0		
	Total Cost	District Need	Assements Applied
MAINTENANCE AND SERVICES:			
Parks	\$18,509	\$18,509	\$0
Arterial Medians and Roadside	\$12,745	\$12,745	\$0
Local Landscaping, Trails, Open Space	\$0	\$0	\$0
Administration	\$0	\$0	\$0
SUBTOTAL:	\$31,254	\$31,254	\$0
TOTAL ASSESSED:			\$0
Ending FY12/13 Fund Balance (Estimated):			\$0
GENERAL FUND PORTION OF MAINTENANCE COST:			\$31,254

District/Zone Benefits:

- Parks: Marchetti
- Arterial: Somersville Road, Delta Fair Boulevard
- Roadway Landscaping: None
- Miscellaneous: open space and trails

Table 13
COST ESTIMATE -- 2013/2014
District 2A, Zone 8 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4568)

	Base Rate Benefit Units 426		
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$130,124	\$130,124	\$0
Arterial Medians and Roadside	\$23,213	\$10,162	\$13,051
Local Landscaping, Trails, Open Space	\$40,154	\$0	\$40,154
Administration	\$21,561	\$0	\$21,561
SUBTOTAL:	\$215,052	\$140,286	\$74,766

261	Parcels Assessed at	\$216.00	per unit =	\$56,376
120	Parcels Assessed at	\$129	per unit =	\$15,480
5	Parcels Assessed at	\$118	per unit =	\$590
40	Parcels Assessed at	\$58	per unit =	\$2,320

TOTAL ASSESSED:

\$74,766

Ending FY12/13 Fund Balance (Estimated):

\$14,133

GENERAL FUND PORTION OF MAINTENANCE COST:

\$126,153

District/Zone Benefits:

Parks: Mira Vista Hills, Antioch Community Park

Arterial: James Donlon Boulevard

Roadway Landscaping: Cul-de-sac bulbs

Miscellaneous: open space and trails

Table 13A
 District 2A, Zone 8
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
2A-8	Mira Vista Hills	4420	5	118	118	118
2A-8	Mira Vista Hills, Un 10	6472	78	129	129	129
2A-8	Mira Vista Hills, Un 12	6744	40	58	58	58
2A-8	Mira Vista Hills, Un 13	6708	95	216	216	216
2A-8	Mira Vista Hills, Un 14	6824	42	129	129	129
2A-8	Mira Vista Hills, Un 15	6920	79	216	216	216
2A-8	Mira Vista Hills, Un 16	6921	87	216	216	216

Total: 426 74,766.00

AZ7

Table 14
COST ESTIMATE -- 2013/2014
District 2A, Zone 9 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4569)

	Base Rate Benefit Units 1,379																																																							
	District Need	Assessments Applied																																																						
MAINTENANCE AND SERVICES:	Total Cost																																																							
Parks	\$19,831	\$0																																																						
Arterial Medians and Roadside	\$41,802	\$33,876																																																						
Local Landscaping, Trails, Open Space	\$61,903	\$61,903																																																						
Administration	\$20,213	\$20,213																																																						
SUBTOTAL:	\$143,749	\$115,992																																																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 10%; text-align: center;">68</td> <td style="width: 30%;">Parcels Assessed at</td> <td style="width: 10%; text-align: right;">\$144</td> <td style="width: 10%;">per unit =</td> <td style="width: 30%;"></td> <td style="width: 10%; text-align: right;">\$9,792</td> </tr> <tr> <td style="text-align: center;">174</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$135</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$23,490</td> </tr> <tr> <td style="text-align: center;">442</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$108</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$47,736</td> </tr> <tr> <td style="text-align: center;">122</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$107</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$13,054</td> </tr> <tr> <td style="text-align: center;">34</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$74</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$2,516</td> </tr> <tr> <td style="text-align: center;">539</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$36</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$19,404</td> </tr> <tr> <td colspan="5">TOTAL ASSESSED:</td> <td style="text-align: right;">\$115,992</td> </tr> <tr> <td colspan="5">Ending FY12/13 Fund Balance (Estimated):</td> <td style="text-align: right;">\$52,396</td> </tr> <tr> <td colspan="5">GENERAL FUND PORTION OF MAINTENANCE COST:</td> <td style="text-align: right;">\$0</td> </tr> </tbody> </table>			68	Parcels Assessed at	\$144	per unit =		\$9,792	174	Parcels Assessed at	\$135	per unit =		\$23,490	442	Parcels Assessed at	\$108	per unit =		\$47,736	122	Parcels Assessed at	\$107	per unit =		\$13,054	34	Parcels Assessed at	\$74	per unit =		\$2,516	539	Parcels Assessed at	\$36	per unit =		\$19,404	TOTAL ASSESSED:					\$115,992	Ending FY12/13 Fund Balance (Estimated):					\$52,396	GENERAL FUND PORTION OF MAINTENANCE COST:					\$0
68	Parcels Assessed at	\$144	per unit =		\$9,792																																																			
174	Parcels Assessed at	\$135	per unit =		\$23,490																																																			
442	Parcels Assessed at	\$108	per unit =		\$47,736																																																			
122	Parcels Assessed at	\$107	per unit =		\$13,054																																																			
34	Parcels Assessed at	\$74	per unit =		\$2,516																																																			
539	Parcels Assessed at	\$36	per unit =		\$19,404																																																			
TOTAL ASSESSED:					\$115,992																																																			
Ending FY12/13 Fund Balance (Estimated):					\$52,396																																																			
GENERAL FUND PORTION OF MAINTENANCE COST:					\$0																																																			

District/Zone Benefits:

Parks: Eaglesridge

Arterial: Lone Tree Way, Deer Valley Road

Roadway Landscaping: Ridgerock Drive, Asilomar, Country Hills Drive and cul-de-sac bulbs

Miscellaneous: Open space and trails

Table 14A
 District 2A, Zone 9
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Assmnt	FY 12-13 Assmnt	FY13-14 Assessment
2A-9	Eagles Ridge Un 1	5614	116	36	36	36
2A-9	Eagles Ridge Un 2	6162	151	36	36	36
2A-9	Eagles Ridge Un 3	6163	122	36	36	36
2A-9	Eagles Ridge Un 4	6164	150	36	36	36
2A-9	Deer Park Un 2	7290	68	144	144	144
2A-9	Deer Park Un 3	7291	94	135	135	135
2A-9	Lone Tree Est. Un 1	7079	122	107	107	107
2A-9	Lone Tree Est. Un 1A	7880	5	108	108	108
2A-9	Lone Tree Est. Un 2	7691	80	135	135	135
2A-9	Lone Tree Est. Un 3	7900	75	108	108	108
2A-9	Lone Tree Est. Un 4	8020	46	108	108	108
2A-9	Lone Tree Est. Un 5	8120	62	108	108	108
2A-9	Lone Tree Est. Un 6	8366	99	108	108	108
2A-9	Ho Sub'd, Un 3	7999	34	74	74	74
2A-9	Ho Sub'd, Un 4	8025	47	108	108	108
2A-9	Ho Sub'd, Un 5	8045	61	108	108	108
2A-9	Ho Sub'd, Un 6	8102	47	108	108	108
Total:			1,379			115,992

AZ9

Table 15
COST ESTIMATE -- 2013/2014
District 2A, Zone 10 -- Citywide District

The following schedule shows the allocation of costs to be spread to this District/Zone (256-4572)

	Base Rate Benefit Units	
	286 Residential 4 Commercial	
	District Need	Assessments Applied
MAINTENANCE AND SERVICES:	Total Cost	
Parks	\$20,225	\$17,336
Arterial Medians and Roadside	\$10,904	\$10,904
Local Landscaping, Trails, Open Space	\$81,502	\$81,502
Channel Maintenance	\$15,000	\$15,000
Administration	\$17,982	\$17,982
SUBTOTAL:	\$145,613	\$142,724
286 Parcels Assessed at \$492.15 per unit =		\$140,755
1 Commercial Parcel Assessed at \$492.15 per benefit unit =		\$1,969
TOTAL ASSESSED:		\$142,724
Ending FY12/13 Fund Balance (Estimated):		\$49,083
GENERAL FUND PORTION OF MAINTENANCE COST:		\$0

District/Zone Benefits:

- Parks: Markley Creek
- Arterial: James Donlan, Somersville
- Roadway Landscaping: cul-de-sac bulbs

Table 15A
District 2A, Zone 10
Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assesment
2A-10	Black Diamond Ranch Un 1	7487	58	561.05	463.08	492.15
2A-10	Black Diamond Ranch Un 2	8585	117	561.05	463.08	492.15
2A-10	Black Diamond Ranch Un 3	8586	111	561.05	463.08	492.15
2A-10	Commerical Parcel	-	4	561.05	463.08	492.15

Total: 290 142,724

Table 16
COST ESTIMATE -- 2013/2014
District 4, Zone 1 -- Downtown District

The following schedule shows the allocation of costs to be spread to this District/Zone (252-4521)

	Base Rate Benefit Units		
	0		
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$0	\$0	\$0
Arterial Medians and Roadside	\$0	\$0	\$0
Local Landscaping, Trails, Open Space	\$76,578	\$76,578	\$0
Administration	\$2,695	\$2,695	\$0
SUBTOTAL:	\$79,273	\$79,273	\$0
TOTAL ASSESSED:			\$0
Ending FY12/13 Fund Balance (Estimated):			\$12,203
GENERAL FUND PORTION OF MAINTENANCE COST:			\$67,070
<i>District/Zone Benefits:</i>			
Roadway Landscaping: Waldie Plaza, Rivertown Promenade, public parking lots, A Street extension, train station			

Table 17
COST ESTIMATE -- 2013/2014
District 5, Zone 1 -- Almondridge District

The following schedule shows the allocation of costs to be spread to this District/Zone (253-4531)

		Base Rate Benefit Units 479	
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$42,120	\$37,494	\$4,626
Arterial Medians and Roadside	\$0	\$0	\$0
Local Landscaping, Trails, Open Space	\$65,088	\$0	\$65,088
Administration	\$21,712	\$0	\$21,712
SUBTOTAL:	\$128,920	\$37,494	\$91,426
463 Parcels Assessed at \$190.00 per unit =			\$87,970
16 Parcels Assessed at \$216.00 per unit =			\$3,456
TOTAL ASSESSED:			\$91,426
Ending FY12/13 Fund Balance (Estimated):			\$47,456
GENERAL FUND PORTION OF MAINTENANCE COST:			\$0

District/Zone Benefits:

Parks: Almondridge

Arterial: None

Roadway Landscaping: Viera Avenue, Willow Avenue and cul-de-sac bulbs

Miscellaneous: open space and trails

Table 17A
 District 5, Zone 1
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
5-1	Almondridge West	6621	25	190	190	190.00
5-1	Almondridge Un 1	6109	93	190	190	190.00
5-1	Almondridge Un 2	6454	35	190	190	190.00
5-1	Almondridge Un 3	6788	50	190	190	190.00
5-1	Almondridge Un 4	6869	52	190	190	190.00
5-1	Almondridge Un 5	7190	96	190	190	190.00
5-1	Almondridge Un 6	7411	48	190	190	190.00
5-1	Almondridge Un 9	7673	35	190	190	190.00
5-1	Almondridge Un 11	7901	25	190	190	190.00
5-1	Almondridge Un 12	8065	4	190	190	190.00
5-1	Oakley Knolls	8501	16	216	216	216.00
Total:			479			91,426

Table 18
COST ESTIMATE -- 2013/2014
District 9, Zone 1 -- Lone Tree District

The following schedule shows the allocation of costs to be spread to this District/Zone (251-4511)

	Base Rate Benefit Units 1,200							
	Total Cost	District Need	Assessments Applied					
MAINTENANCE AND SERVICES:								
Parks	\$43,853	\$43,853	\$0					
Arterial Medians and Roadside	\$25,516	\$21,108	\$4,408					
Local Landscaping, Trails, Open Space	\$96,428	\$0	\$96,428					
Administration	\$47,164	\$0	\$47,164					
SUBTOTAL:	\$212,961	\$64,961	\$148,000					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">575</td> <td style="width: 45%;">Parcels Assessed at \$140 per unit =</td> <td style="width: 40%; text-align: right;">\$80,500</td> </tr> <tr> <td style="text-align: center;">625</td> <td>Parcels Assessed at \$108 per unit =</td> <td style="text-align: right;">\$67,500</td> </tr> </table>			575	Parcels Assessed at \$140 per unit =	\$80,500	625	Parcels Assessed at \$108 per unit =	\$67,500
575	Parcels Assessed at \$140 per unit =	\$80,500						
625	Parcels Assessed at \$108 per unit =	\$67,500						
TOTAL ASSESSED:			\$148,000					
Ending FY12/13 Fund Balance (Estimated):			\$71,892					
GENERAL FUND PORTION OF MAINTENANCE COST:			\$0					

District/Zone Benefits:

Parks: Chapparal, Williamson Ranch

Arterial: Hillcrest Avenue, Lone Tree Way, Deer Valley Road, Prewett Ranch

Roadway Landscaping: Lone Tree Way, Deer Valley Road, Dallas Ranch Road, Prewett Ranch Road

Miscellaneous: open space and trails

Table 18A
 District 9, Zone 1
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
9-1	Diablo East Un 1	7121	177	108	108	108
9-1	Diablo East Un 2	7400	44	108	108	108
9-1	Diablo East Un 3	7401	21	140	140	140
9-1	Diablo East Un 4	8038	39	140	140	140
9-1	Diablo East Un 5	8052	39	140	140	140
9-1	Diablo East Un 6	8079	34	140	140	140
9-1	Diablo East Un 7	8122	52	140	140	140
9-1	Diablo East Un 8	8164	77	140	140	140
9-1	Diablo East Un 9	8191	71	140	140	140
9-1	Williamson Ranch 1	7114	20	108	108	108
9-1	Williamson Ranch 2	7258	166	108	108	108
9-1	Williamson Ranch 3	7587	86	108	108	108
9-1	Williamson Ranch 4	7606	93	108	108	108
9-1	Williamson Ranch 5	7618	39	108	108	108
9-1	Williamson Ranch 6	7619	75	140	140	140
9-1	Williamson Ranch 7	7620	82	140	140	140
9-1	Williamson Ranch 8	7826	85	140	140	140

Total: 1,200 148,000

Table 19
COST ESTIMATE -- 2013/2014
District 9, Zone 2 -- Lone Tree Way District

The following schedule shows the allocation of costs to be spread to this District/Zone (251-4512)

	Base Rate Benefit Units 2,024																																											
	District Need	Assessments Applied																																										
MAINTENANCE AND SERVICES:	Total Cost																																											
Parks	\$13,879	\$0																																										
Medians and Roadside	\$30,586	\$15,050																																										
Local Landscaping, Trails, Open Space	\$130,905	\$130,905																																										
Administration	\$51,207	\$51,207																																										
SUBTOTAL:	\$226,577	\$197,162																																										
<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 10%; text-align: center;">229</td> <td style="width: 30%;">Parcels Assessed at</td> <td style="width: 10%; text-align: right;">\$216.00</td> <td style="width: 10%;">per unit =</td> <td style="width: 30%;"></td> <td style="width: 10%; text-align: right;">\$49,464</td> </tr> <tr> <td style="text-align: center;">1149</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$93.00</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$106,857</td> </tr> <tr> <td style="text-align: center;">29</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$88.00</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$2,552</td> </tr> <tr> <td style="text-align: center;">45</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$83.00</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$3,735</td> </tr> <tr> <td style="text-align: center;">38</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$216.00</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$8,208</td> </tr> <tr> <td style="text-align: center;">460</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$51.00</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$23,460</td> </tr> <tr> <td style="text-align: center;">74</td> <td>Parcels Assessed at</td> <td style="text-align: right;">\$39.00</td> <td>per unit =</td> <td></td> <td style="text-align: right;">\$2,886</td> </tr> </tbody> </table>			229	Parcels Assessed at	\$216.00	per unit =		\$49,464	1149	Parcels Assessed at	\$93.00	per unit =		\$106,857	29	Parcels Assessed at	\$88.00	per unit =		\$2,552	45	Parcels Assessed at	\$83.00	per unit =		\$3,735	38	Parcels Assessed at	\$216.00	per unit =		\$8,208	460	Parcels Assessed at	\$51.00	per unit =		\$23,460	74	Parcels Assessed at	\$39.00	per unit =		\$2,886
229	Parcels Assessed at	\$216.00	per unit =		\$49,464																																							
1149	Parcels Assessed at	\$93.00	per unit =		\$106,857																																							
29	Parcels Assessed at	\$88.00	per unit =		\$2,552																																							
45	Parcels Assessed at	\$83.00	per unit =		\$3,735																																							
38	Parcels Assessed at	\$216.00	per unit =		\$8,208																																							
460	Parcels Assessed at	\$51.00	per unit =		\$23,460																																							
74	Parcels Assessed at	\$39.00	per unit =		\$2,886																																							
TOTAL ASSESSED:					\$197,162																																							
Ending FY12/13 Fund Balance (Estimated):					\$140,394																																							
GENERAL FUND PORTION OF MAINTENANCE COST:					\$0																																							

District/Zone Benefits:

Parks: Diablo West

Arterial: Lone Tree Way, Deer Valley Road, Dallas Ranch Road, Prewett Ranch Road

Roadway Landscaping: Lone Tree Way, Deer Valley Road, Dallas Ranch Road, Prewett Ranch Road

Miscellaneous: open space and trails

Table 19A
 District 9, Zone 2
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
9-2	Black Dia. Knolls 1	7201	29	51	51	51
9-2	Black Dia. Knolls 2	7498	45	51	51	51
9-2	Black Dia. Knolls 3	7554	28	51	51	51
9-2	Black Dia. Knolls 4	7592	36	51	51	51
9-2	Black Dia. Knolls 5	7499	64	51	51	51
9-2	Black Dia. Knolls 6	7593	24	51	51	51
9-2	Black Dia. Knolls 7	7594	31	93	93	93
9-2	Black Dia. Knolls 8	7825	26	83	83	83
9-2	Black Dia. Knolls 9	8008	19	83	83	83
9-2	Black Dia. Knolls 10	7824	29	88	88	88
9-2	Black Dia. Knolls 11	7500	48	93	93	93
9-2	Black Dia. Knolls 12	7823	26	93	93	93
9-2	Black Dia. Knolls 13	7822	32	93	93	93
9-2	Black Dia. Knolls 14	8110	43	93	93	93
9-2	Black Dia. Knolls 15	8181	53	93	93	93
9-2	Black Dia. Knolls 16	8182	42	93	93	93
9-2	Black Dia. Knolls 17	8183	45	93	93	93
9-2	Black Dia. Knolls 18	8324	56	93	93	93
9-2	Black Dia. Knolls 19	8325	89	93	93	93
9-2	Black Dia. Knolls 20	8326	64	93	93	93
9-2	Black Dia. Knolls 21	8466	49	216	216	216
9-2	Black Dia. Knolls 22	8467	64	216	216	216
9-2	Black Dia. Knolls 23	8525	27	216	216	216
9-2	Black Dia. Knolls 24	8526	89	216	216	216
9-2	Black Dia. Knolls 25	8528	38	216	216	216
9-2	Diablo West Un 1	7128	74	39	39	39
9-2	Diablo West Un 2	7469	119	51	51	51
9-2	Diablo West Un 3	7616	115	51	51	51
9-2	Diablo West Un 4	8243	71	93	93	93
9-2	Diablo West Un 5	8244	56	93	93	93
9-2	Diablo West Un 6	8245	81	93	93	93
9-2	Diablo West Un 7	8312	99	93	93	93
9-2	Diablo West Un 8	8313	46	93	93	93
9-2	Diablo West Un 9	8314	106	93	93	93
9-2	Lone Tree Glen	7275	161	93	93	93

Total: 2,024 197,162

Table 20
COST ESTIMATE -- 2013/2014
District 9, Zone 3 -- Lone Tree Way District

The following schedule shows the allocation of costs to be spread to this District/Zone (251-4513)

	Base Rate Benefit Units 1,953		
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$54,095	\$13,966	\$40,129
Arterial Medians and Roadside	\$16,772	\$0	\$16,772
Local Landscaping, Trails, Open Space	\$110,256	\$0	\$110,256
Administration	\$48,512	\$0	\$48,512
SUBTOTAL:	\$229,635	\$13,966	\$215,669

129	Parcels Assessed at	\$216.00	per unit =	\$27,864
860	Parcels Assessed at	\$139.00	per unit =	\$119,540
519	Parcels Assessed at	\$95.00	per unit =	\$49,305
120	Parcels Assessed at	\$93.00	per unit =	\$11,160
25	Parcels Assessed at	\$216.00	per unit =	\$5,400
300	Parcels Assessed at	\$8.00	per unit =	\$2,400

TOTAL ASSESSED:

\$215,669

Ending FY12/13 Fund Balance (Estimated):

\$83,943

GENERAL FUND PORTION OF MAINTENANCE COST:

\$0

District/Zone Benefits:

Parks: Hansen and Dallas Ranch Park

Arterial: Lone Tree Way, Dallas Ranch Road

Roadway Landscaping: Prewett Ranch Road, Golf Course Road, Frederickson Lane and cul-de-sac bulbs

Miscellaneous: Open space and trails

Table 20A
 District 9, Zone 3
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
9-3	Black Dia. Est. Un 1	7515	31	95	95	95
9-3	Black Dia. Est. Un 2	7644	41	139	139	139
9-3	Black Dia. Est. Un 3	8064	54	139	139	139
9-3	Black Dia. Est. Un 4	8194	64	139	139	139
9-3	Black Dia. Est. Un 5	8076	55	139	139	139
9-3	Black Dia. Est. Un 6	8317	56	139	139	139
9-3	Black Dia. Est. Un 7	8318	73	139	139	139
9-3	Black Dia. Est. Un 8	8319	47	216	216	216
9-3	Black Dia. Est. Un 9	8320	49	216	216	216
9-3	Black Dia. Est. Un 10	8472	33	216	216	216
9-3	Black Dia. Est. Un 11	8567	25	216	216	216
9-3	Dallas Ranch Un 1	7380	58	95	95	95
9-3	Dallas Ranch Un 2	7859	50	95	95	95
9-3	Dallas Ranch Un 3	7860	34	95	95	95
9-3	Dallas Ranch Un 4	7198	138	95	95	95
9-3	Dallas Ranch Un 5	7376	122	95	95	95
9-3	Dallas Ranch Un 6	7966	45	95	95	95
9-3	Dallas Ranch Un 7	7377	187	139	139	139
9-3	Dallas Ranch Un 8	7378	54	139	139	139
9-3	Dallas Ranch Un 9	8107	34	139	139	139
9-3	Dallas Ranch Un 10	8108	63	139	139	139
9-3	Dallas Ranch Un 11	8109	120	93	93	93
9-3	Diamond Ridge Un 1	7317	179	8	8	8
9-3	Diamond Ridge Un 2	7536	86	8	8	8
9-3	Diamond Ridge Un 3	7537	41	95	95	95
9-3	Diamond Ridge Un 4	7627	35	8	8	8
9-3	Sandhill I	8247	75	139	139	139
9-3	Sandhill II	8410	104	139	139	139

Total: 1,953 215,669

A40

Table 21
COST ESTIMATE -- 2013/2014
District 9, Zone 4 -- Lone Tree Way District

The following schedule shows the allocation of costs to be spread to this District/Zone (251-4514)

	Base Rate Benefit Units 435			
	Total Cost	District Need	Assessments Applied	
MAINTENANCE AND SERVICES:				
Parks	\$12,685	\$12,685	\$0	
Arterial Medians and Roadside	\$9,558	\$9,558	\$0	
Local Landscaping, Trails, Open Space	\$68,061	\$26,485	\$41,576	
Administration	\$14,974	\$0	\$14,974	
SUBTOTAL:	\$105,278	\$48,728	\$56,550	
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%; text-align: center;">435 Parcels Assessed at \$130.00 per unit =</td> <td style="text-align: right;">\$56,550</td> </tr> </table>			435 Parcels Assessed at \$130.00 per unit =	\$56,550
435 Parcels Assessed at \$130.00 per unit =	\$56,550			
TOTAL ASSESSED:			\$56,550	
Ending FY12/13 Fund Balance (Estimated):			\$125,143	
GENERAL FUND PORTION OF MAINTENANCE COST:			\$0	

District/Zone Benefits:

Park: Heidorn

Arterial: Lone Tree Way, Hillcrest Avenue

Roadway Landscaping: Vista Grande Drive and cul-de-sac bulbs

Miscellaneous: Open space and trails

Table 21A
 District 9, Zone 4
 Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
9-4	Meadow Crk. Village 1	7862	55	216	160	130
9-4	Meadow Crk. Village 2	7947	77	216	160	130
9-4	Meadow Crk. Village 3	7967	108	216	160	130
9-4	Meadow Crk. Village 4	7971	98	216	160	130
9-5	Meadow Crk. Village 5	7897	97	216	160	130
Total:			435			56,550

Table 22
COST ESTIMATE -- 2013/2014
District 10, Zone 1 -- East Lone Tree Way District

The following schedule shows the allocation of costs to be spread to this District/Zone (259-4591)

	Base Rate Benefit Units 660.5		
	Total Cost	District Need	Assessments Applied
MAINTENANCE AND SERVICES:			
Parks	\$0	\$0	\$0
Arterial Medians and Roadside	\$8,196	\$8,196	\$0
Local Landscaping, Trails, Open Space	\$95,043	\$18,423	\$76,620
Channel Maintenance	\$20,000	\$0	\$20,000
Administration	\$17,982	\$0	\$17,982
SUBTOTAL:	\$141,221	\$26,619	\$114,602
462 Parcels Assessed at	\$195.08	per unit =	\$90,126
152 Multi Family Res	\$133.55	per unit =	\$20,299
12.6 Comm. Parcel	\$109.35	per unit =	\$1,378
33.9 Bus. Park parcel	\$82.58	per unit =	\$2,799
TOTAL ASSESSED:			\$114,602
Ending FY12/13 Fund Balance (Estimated):			\$61,924
GENERAL FUND PORTION OF MAINTENANCE COST:			\$0

District/Zone Benefits:

Park: None

Arterial: Lone Tree Way

Roadway Landscaping: Country Hills Drive, Canada Valley Road, Vista Grande, and cul de sacs

Miscellaneous: Open space and trails

Table 22A
District 10
Base Assessment Allocation

Dist/Zone	Sub'd	Tract	Benefit Units	Base Fee	FY 12-13 Assmnt	FY13-14 Assessment
10-1	Sand Creek Ranch 1	8114	57	450.08	101.58	195.08
10-1	Sand Creek Ranch 2	8958	27	450.08	101.58	195.08
10-1	Sand Creek Ranch 4	8640	97	450.08	101.58	195.08
10-1	Sand Creek Ranch 5	8885	42	450.08	101.58	195.08
10-1	Sand Creek Ranch 6	8886	31	450.08	101.58	195.08
10-1	Sand Creek Ranch 7	8948	52	450.08	101.58	195.08
10-1	Sand Creek Ranch 8	8951	156	450.08	101.58	195.08
10-1	Multi-Family Apts	-	152	314.36	69.54	133.55
10-1	Commercial parcel	-	12.6	261	56.94	109.35
10-1	Business Park	-	33.9	203	43.00	82.58

Total: 660.5 114,602

Table 23

Summary of Costs, Benefits and Assessments by Zone -- Fiscal Year 2013/2014

District/ Zone	Benefit Units	Ending Bal FY12/13	Est. Cost of Maintenance	Estimated Assessments	Zone Deficit	Assessment per BU
1-1	1,681	\$301,065	\$357,556	\$275,063	\$0	\$58 to \$216
1-2	3,237	\$55,864	\$416,396	\$363,226	\$0	\$27 to \$216
1-4	1,607	\$86,004	\$202,479	\$185,821	\$0	\$23 to \$216
2A-1	0	\$0	\$71,449	\$0	(\$71,449)	\$0
2A-2	0	\$0	\$24,460	\$0	(\$24,460)	\$0
2A-3	230	\$13,010	\$67,307	\$14,496	(\$39,801)	\$22 to \$216
2A-4	337	\$4,755	\$102,027	\$12,916	(\$84,356)	\$16 to \$60
2A-5	13	\$13,990	\$114,417	\$1,492	(\$98,935)	\$104 to \$139
2A-6	274	\$20,946	\$182,381	\$28,582	(\$132,853)	\$57 to \$139
2A-7	0	\$0	\$31,254	\$0	(\$31,254)	\$0
2A-8	426	\$14,133	\$215,052	\$74,766	(\$126,153)	\$58 to \$216
2A-9	1,379	\$52,396	\$143,749	\$115,992	\$0	\$36 to \$144
2A-10	290	\$49,083	\$145,613	\$142,724	\$0	\$492.15
4-1	0	\$12,203	\$79,273	\$0	(\$67,070)	\$0
5-1	479	\$47,456	\$128,920	\$91,426	\$0	\$190 to \$216
9-1	1,200	\$71,892	\$212,961	\$148,000	\$0	\$108 to \$140
9-2	2,024	\$140,394	\$226,577	\$197,162	\$0	\$39 to \$216
9-3	1,953	\$83,943	\$229,635	\$215,669	\$0	\$8 to \$216
9-4	435	\$125,143	\$105,278	\$56,550	\$0	\$130
10-1	660.5	\$61,924	\$141,221	\$114,602	\$0	\$82.58 to \$195.08
Totals		\$1,154,201	\$3,198,005	\$2,038,487	(\$676,331)	

V. ASSESSMENT METHODS

Proposition 218 provides that assessments imposed by petition signed by persons owning all of the parcels subject to assessment are exempt from the requirements of Prop. 218 insofar as the amount of such assessments are not increased over the amount in effect at the time of the petition. These assessments are known as the "base amount" or "base assessments".

A large number of parcels fall within this situation and have base assessments in place. Those parcels are the subjects of this Engineer's Report. The base assessment amounts vary, depending upon when the petition was filed with the City and the scope of improvements in place at the time that were being maintained by assessment. In preparing this Report, the Engineer determined the maximum base assessment that is assessable against each parcel, the improvements that are being maintained within the benefit zone, the cost of maintaining the improvements, and the total amount generated by the relevant base assessments. In instances where the cost of maintaining the improvements is less than the maximum assessable amount, the base assessments were proportionally reduced.

The assessment method suggested was to increase assessments to the maximum base rates over a 3-year period beginning in Fiscal Year 2003-04. The final increment was reached in FY 2005-06. Allocation of assessments has been applied first to administration costs; followed by local landscaping, trails, and open space; and finally arterials medians and roadside landscaping. Park costs continue to be shown; however, they also are shown as being paid by those districts and zones that can afford it. Remaining costs are shown as a contribution from the General Fund.

VI. SUMMARY OF ASSESSMENTS

The methods described in Section V are applied to estimate the benefits received by each assessable parcel, in every District and benefit zone, from the improvements described in this report.

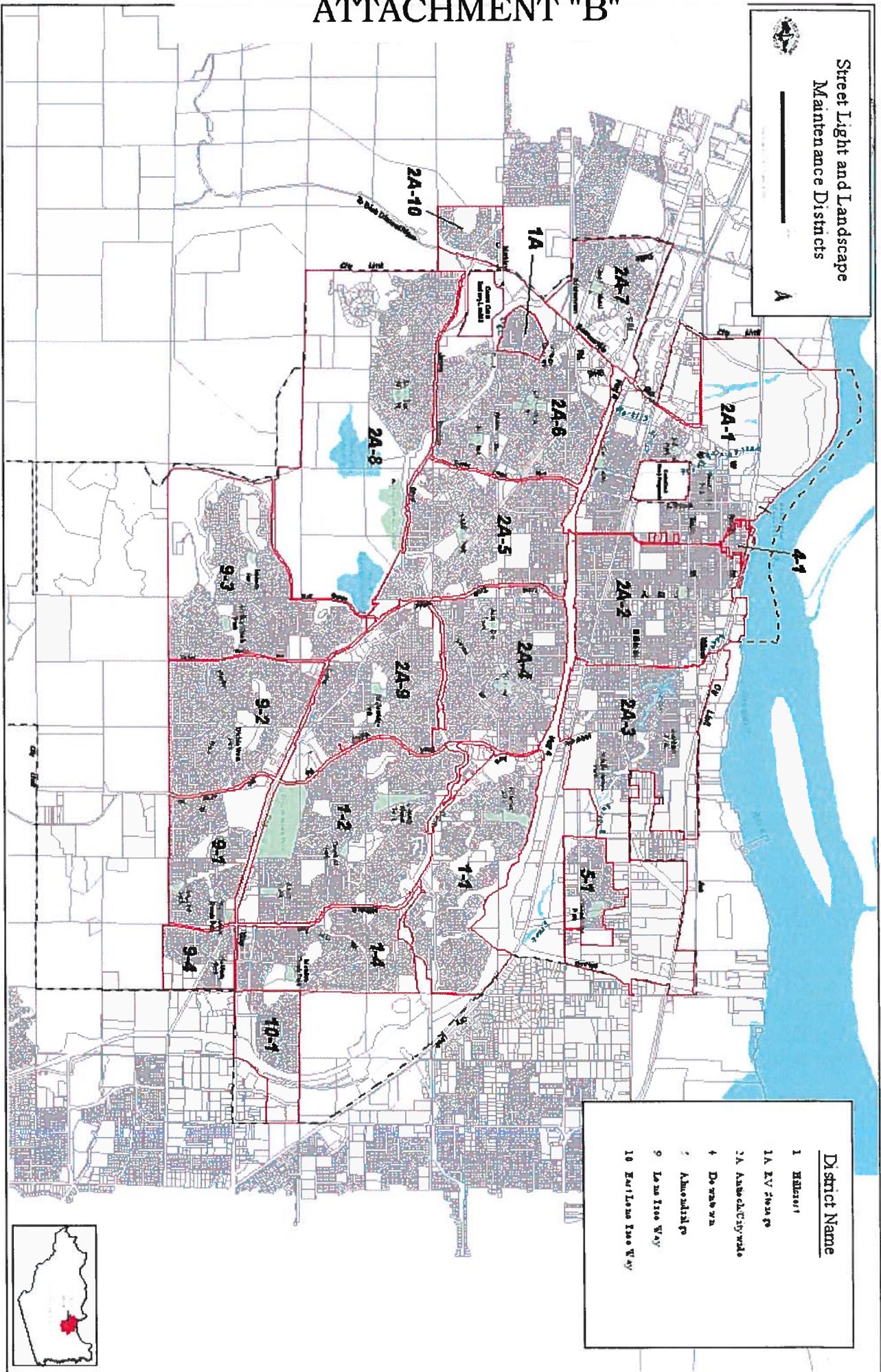
Table 23, Summary of Costs, Benefits and Assessments by Zone, presents a summary of assessments for each District and benefit zone.


VII. ASSESSMENT ROLL

The Assessment Roll is a listing of all assessable parcels of land within the District. Because of its large size, the Assessment Roll is presented under separate cover and is incorporated by reference into this report. The Assessment Roll can be inspected at the office of the City Engineer during regular working hours.


The Assessment Roll lists each parcel in the District by its distinctive designation, the Assessor's Parcel Number, and includes the Assessment amount for each parcel.


ATTACHMENT "B"



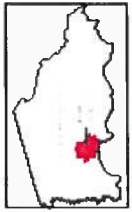


**Street Light and Landscape
 Maintenance Districts**





District Name
1 Hillcrest
1A El Estero
2A Anselmo/Coyote
4 De Anza
5 Almaden
9 Los Tule Way
10 East Los Tule Way



**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013**

Prepared by: Tina Wehrmeister, Community Development Director *AW*

Date: June 27, 2013

Subject: Adoption of an Urgency Ordinance Extending a Temporary Moratorium on the Establishment and Operation of Tobacco and Paraphernalia Retailers and including the prohibition on Computer Gaming at Tobacco and Paraphernalia Retailers

RECOMMENDATION

It is recommended that the City Council adopt the attached urgency ordinance extending a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Tobacco and Paraphernalia Retailer businesses within the City of Antioch and including the prohibition on Computer Gaming and Internet Access Businesses at Tobacco and Paraphernalia Retailers on an interim basis pending consideration of amendments to the Antioch Municipal Code for a period of 10 months and 15 days and declaring the urgency to do so (four-fifths vote).

Existing businesses will not be impacted by the recommended urgency ordinance extension as long as they do not engage in Computer Gaming and Internet Access Businesses at the same location.

BACKGROUND / DISCUSSION

On May 28, 2013, the City Council adopted an urgency ordinance establishing a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Tobacco and Paraphernalia Retailer businesses. The staff report for that City Council meeting is included as Attachment "A" and provides more details regarding the issue and the urgent need for a temporary moratorium to address public safety, health and welfare issues raised by these Tobacco and Paraphernalia Retailer businesses (as defined in the ordinance).

Pursuant to Government Code Section 65858 the initial moratorium is effective for 45 days and can be extended for up to a total of 2 years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium.

Due to staffing levels, the complexity of the issues to be studied and the ongoing public safety, health and welfare issues raised by Tobacco and Paraphernalia Retailer businesses, it is recommended that the moratorium be extended for 10 months and 15 days. Any further extension would require an additional noticed public hearing. Proper noticing procedures were followed in advance of this item being placed on the agenda.

Staff has been in contact with ChangeLab Solutions (formerly TALC – Tobacco Assistance Legal Center) and staff from the Contra Costa Tobacco Prevention Coalition to discuss the City's options regarding land use as well as licensing ordinances. As mentioned, these issues are complex and additional time is needed to prepare and present an ordinance(s) for consideration.

In addition, it has come to staff's attention that Computer Gaming and Internet Access Businesses are approaching Tobacco and Paraphernalia Retailers to operate computer gaming businesses with less than 4 computers apparently to avoid the application of the moratorium on such uses with more than 4 computers. The staff report to the City Council on February 28, 2012 regarding Computer Gaming and Internet Access Businesses is attached by way of background, as well as Ordinance No. 2056-C-S dated April 10, 2012 that adopted a moratorium on new Computer Gaming and Internet Access Business with more than 4 computers.

As indicated in the staff report and Ordinance, there is a moratorium on computer gaming and internet access businesses with more than 4 computers because the provisions of the Municipal Code regarding these businesses are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of computer gaming and internet access businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community. Given the high number of calls for service and nature of such calls at computer gaming and internet access businesses, combined with the number and nature of calls for service at Tobacco and Paraphernalia Retailers and current lack of compliance with federal, state and local laws at many of these Tobacco and Paraphernalia Retailers as discussed in the City Council staff report on May 28, 2013, it is recommended that these businesses be prohibited from combining until further review can be undertaken even if there are four or less computers involved.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed urgency ordinance. There will be staff time expended to prepare ordinances addressing Tobacco and Paraphernalia Retailers and to review and make recommendations regarding regulations for existing businesses.

OPTIONS

The Council may choose not to adopt the urgency ordinance extending the moratorium. This will leave the City without a zoning ordinance specifically addressing Tobacco and Paraphernalia Retailer businesses.

ATTACHMENTS

- A. May 28, 2013 staff report
- B. February 28, 2012 staff report regarding Computer Gaming and Internet Access Businesses
- C. Ordinance No. 2056-C-S dated April 10, 2012

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF TOBACCO AND PARAPHERNALIA RETAILER BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO THE ANTIOCH MUNICIPAL CODE

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

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Tobacco and Paraphernalia Retailer businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Tobacco and Paraphernalia Retailer businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians, not to mention use of tobacco products or illegal substances. Seven of the twelve Tobacco and Paraphernalia Retailers listed below are located within several blocks of schools. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch is concerned with exposure of youth to tobacco products and prevalence of smoking among youth:

1. In California, 11.9% of the adult population¹ and 14.6% of teenagers² currently smoke.
2. Although it is unlawful to sell tobacco products and/or tobacco paraphernalia to minors,³ 5.6% of California retailers surveyed do sell to minors.⁴ These numbers

¹ Cal. Dep't Health Servs, Tobacco Control Program, Smoking Prevalence Among California Adults (April 2011).

² Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (September 2009).

are more concerning locally. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%⁵. In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Tobacco and Paraphernalia Retailers. The City of Antioch needs additional time to study this issue and determine if concentration and/or location of Tobacco and Paraphernalia Retailers in close proximity to other uses with generally high rates of calls for service such as bars or liquor stores would exasperate these concerns. The City of Antioch is also concerned about uses with high rates of calls for service in proximity to youth including schools and parks.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Tobacco and Paraphernalia Retailers, including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. For example, the Antioch Police Department has documented a significant amount of calls for service involving a variety of crimes in these businesses and within the shopping centers in which Tobacco and Paraphernalia Retailers are located. Included below as findings are representational incidents associated with Tobacco and Paraphernalia Retailers for the 12 month period from May 9, 2012 – May 9, 2013 (not all businesses were in operation for the entire period):

1. Cigarette 4 Less, 3142 Contra Loma Blvd: two (2) calls for service related to an alarm and an alleged fight between juveniles in the area.
2. Cigarette 4 Less, 2549 San Jose Drive: eleven (11) calls for service related to alarms, petty thefts, a civil complaint and an assault.
3. Smoke Shop, 4532 Lone Tree Way: five (5) calls for service related to a robbery, petty thefts, unfounded 911 call and a fight inside the store.
4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: two (2) calls for service related to an armed robbery and false alarm.
5. Cigarette 4 Less, 2727 Hillcrest Ave: five (5) calls for service related to alarms, a threat complaint, armed robbery and a suspicious circumstance.
6. Sycamore Smoke & More, 1096 Sycamore Drive: thirty-one (31) calls for service related to unwanted guests, loitering complaints, assaults, panhandling and fighting.
7. Cigarette 4 Less, 3708 Lone Tree Way: six (6) calls for service related to alarms, juvenile disturbance and a burglary of the business.

³ Cal. Penal Code § 308

⁴ Cal. Dep't Health Servs, Tobacco Control Sec., Youth Tobacco Purchase Survey 1995-2011

⁵ California Department of Health Services Food and Drug Branch Compliance Checks, 2003.

8. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: five (5) calls for service related to an armed robbery, petty theft and 911 hang-up.
9. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: eight (8) calls for service related to alarms, armed robbery, petty theft, harassment and suspicious persons.
10. Smoke Shop Mini Market, 1515 A Street: eleven (11) calls for service related to threats, loitering, juvenile disturbance, panhandling, stolen cars, an alarm, counterfeit bill and petty theft.
11. Discount Cigarette & Cigar Store, 1615 A Street: nine (9) calls for service related to an alarm, a fight in the parking lot in front of the business, medical call, burglary, unwanted guest, a suspicious person, a suspicious circumstance and a fraud (counterfeit) complaint.
12. Fusion Novelties, 1336 Sunset Drive: one (1) call for service related to a vandalism – broken window.

G. In addition to the increased calls for service and increasing reports of violent criminal behavior described above, the City Council is also concerned that Tobacco and Paraphernalia Retailers are not complying with applicable State and local laws related to tobacco and paraphernalia sales. Code Enforcement staff has inspected the businesses listed below and found violations of California Health and Safety Code 11364.5 and Antioch Municipal Code Title 5, Chapter 16 related to paraphernalia sales; Municipal Code Section 9-5.519 related to tobacco advertising; Municipal Code 9-5.508 related to general advertising; and California Business and Professions Code 22962 and Municipal Code 6-8.13 related to self service display of tobacco:

1. Buchanan Smoke Shop, 2329A Buchanan Road: notice of violation for illegal display of paraphernalia. This location opened in April 2013 and is therefore not listed above as they did not have calls for service during the 12 month period.
2. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: notice of violation for illegal display of paraphernalia and tobacco related signs.
3. Cigarette 4 Less, 3142 Contra Loma Blvd: notice of violation for illegal display of paraphernalia, general signage, and self service tobacco.
4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
5. Cigarette 4 Less, 2727 Hillcrest Ave: notice of violation for illegal display of paraphernalia.
6. Cigarette 4 Less, 3708 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
7. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: notice of violation for illegal display of paraphernalia.

8. Smoke Shop Mini Market, 1515 A Street: notice of violation for illegal display of paraphernalia.
9. Discount Cigarette & Cigar Store, 1615 A Street: notice of violation for illegal display of paraphernalia.
10. Fusion Novelties, 1336 Sunset Drive: notice of violation for illegal display of paraphernalia.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Tobacco and Paraphernalia Retailers that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public health, safety, and welfare from dangers caused by Tobacco and Paraphernalia Retailers. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement, concentration and operation of Tobacco and Paraphernalia Retailers so that such regulations are applied in a nondiscriminatory manner.

I. In addition, Computer Gaming and Internet Access Businesses have created additional issues that need to be reviewed before allowing such uses, even with less than 4 computers, to be located with Tobacco and Paraphernalia Retailers, as summarized below and discussed further in the staff report to the City Council on February 28, 2012 and Ordinance No. 2056-C-S, which are incorporated into these findings:

1. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.
2. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours, creating unknown impacts on the surrounding area and businesses, such as observed lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.
3. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental

neighborhood effects associated with Computer Gaming and Internet Access Businesses.

4. The City of Antioch, as well as neighboring cities, has experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses.

J. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

K. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Tobacco and Paraphernalia Retailers in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

L. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Tobacco and Paraphernalia Retailer business.

M. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Tobacco and Paraphernalia Retailers. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

A. Restricted Activities. For a period of 10 month and 15 days following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement for the construction, placement, or operation of new Tobacco and Paraphernalia Retailer businesses within the City or an existing Tobacco and Paraphernalia Retailer business that includes a Computer Gaming and Internet Access Business. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions

are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Tobacco and Paraphernalia Retailer business. These prohibitions shall remain in effect during the 10 months and 15 days following enactment of this Ordinance. Existing Tobacco and Paraphernalia Retailer businesses may continue to operate at their current locations provided that they are in compliance with State law and the Antioch Municipal Code and do not operate a "Computer Gaming and Internet Access Business" at the same location.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. **TOBACCO AND PARAPHERNALIA RETAILER** shall mean any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition.
2. **PARAPHERNALIA** shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.
3. For purposes of this Ordinance, a **COMPUTER GAMING AND INTERNET ACCESS BUSINESS** shall mean an establishment that provides a computer or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.
4. **PUBLIC USE OR INTERNET LEARNING BUSINESS** shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. 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 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 10 months and 15 days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 9th day of July, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

ATTACHMENT "A"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF MAY 28, 2013

Prepared by: Tina Wehrmeister, Community Development Director *tw*

Reviewed by: Jim Jakel, City Manager
Lynn Tracy Nerland, City Attorney

Date: May 23, 2013

Subject: Adoption of an Urgency Ordinance Establishing a Temporary Moratorium on the Establishment and Operation of Tobacco and Paraphernalia Retailers

RECOMMENDATION

It is recommended that the City Council adopt the attached urgency ordinance establishing a temporary moratorium on the establishment and operation of any new Tobacco and Paraphernalia Retailers to become effective immediately (4/5 vote required).

BACKGROUND INFORMATION & DISCUSSION

Public Nuisance Complaints

Over the past several years, both the Community Development Department and the Police Department have received numerous complaints regarding loitering and crime associated with Tobacco and Paraphernalia Retailers (as defined in the attached ordinance, also known as smoke shops). A review of one year of Police Department calls for service indicates that the twelve Tobacco and Paraphernalia Retailers listed in the ordinance findings generated 96 calls for service including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills.

Underage Tobacco Use

Many Tobacco and Paraphernalia Retailers are located in close proximity to schools, parks, and residential neighborhoods. Seven of the twelve listed Tobacco and Paraphernalia Retailers are located within several blocks of schools. Youth access to tobacco products and paraphernalia is concerning. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%. In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

Violations of State and Local Laws regarding Paraphernalia

The California Health and Safety Code Section 11364.5 and Title 5, Chapter 16 of the Antioch Municipal Code contain provisions regulating the manner of sale of paraphernalia. A Code Enforcement inspection of ten Tobacco and Paraphernalia Retailers found that all were in violation of these State and local laws which require that paraphernalia be kept and displayed in

5
5-28-13

a separate room or enclosure and that access by anyone under the age of 18 not accompanied by a parent or legal guardian is prohibited. Most Tobacco and Paraphernalia Retailers display paraphernalia in the general sales area of the store in violation of State and local law. Paraphernalia is defined in State and local law as: all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Paraphernalia" includes, but is not limited to, all of the following:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales and balances intended for use or designed for use in weighing or measuring controlled substances.
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.
7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.
9. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.
10. Containers and other objects intended for use or designed for use in storing or concealing controlled substances.
11. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.
12. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as the following:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Smoking and carburetion masks.
- e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand.
- f. Miniature cocaine spoons, and cocaine vials.
- g. Chamber pipes.
- h. Carburetor pipes.
- i. Electric pipes.
- j. Air-driven pipes.
- k. Chillums.
- l. Bongs.
- m. Ice pipes or chillers.

Violations of Local Laws regarding Self Serve Tobacco Displays

The California Business and Professions Code Section 22962 and Antioch Municipal Code Section 6-8.13 prohibit sale or display of any tobacco product by means of a self-service display rack, counter-top or shelf that allows any self-service customer access to any tobacco product. All tobacco products must be offered for sale exclusively by means of seller assistance and shall be located exclusively in a locked case, located behind counters out of reach of customers, or in a similar location that is inaccessible to customers, requiring seller assistance for the customer to obtain access to the tobacco products. Three of the inspected Tobacco and Paraphernalia Retailers were in violation these regulations. This is particularly concerning given the ease of access to youth. Many Tobacco and Paraphernalia Retailers also sell candy, snacks and other products that are attractive to youth.

Violations of Local Laws regarding Tobacco Advertising and General Advertising

Section 9-5.519 of the Antioch Municipal Code regulates tobacco related signage and states that advertising promoting tobacco products is prohibited when located within 1,600 feet of an elementary or secondary school, public playground or playing field when visible from the public street or sidewalk. One of the inspected Tobacco and Paraphernalia Retailers was in violation of this Code.

Section 9-5.508(L)(2) prohibits signage, either temporary or permanent, where placed within, upon, or over any public street right-of-way, parking area, sidewalk, required landscaping or utility pole. One of the inspected Tobacco and Paraphernalia Retailers was in violation of this Code.

Urgency Ordinance

The Zoning Ordinance does not currently specifically define or regulate Tobacco and Paraphernalia Retailers. Therefore, Tobacco and Paraphernalia Retailers are considered general or specialty retailers and are permitted uses in a variety of commercial districts.

The Municipal Code does contain regulations regarding various aspects and issues related to tobacco and paraphernalia sales such as those discussed above and included in Title 6, Chapter 8 related to smoking in general; however, the Code does not include regulations as to the time, place, or manner for Tobacco and Paraphernalia Retailers such as proximity to schools and parks and over concentration. Staff needs additional time to study these issues. Therefore, staff is recommending adoption of the proposed moratorium pursuant to Government Code Section 65858 that would prohibit any more of these uses in Antioch while these issues are being reviewed. Existing uses would not be impacted by this Urgency Ordinance, but are discussed below. Note that retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from the definition of Tobacco and Paraphernalia Retailer.

Existing Tobacco and Paraphernalia Retailers

Both Code Enforcement and Police Department staff has been drastically reduced, with Code Enforcement being completely eliminated for a period of approximately three years. This means that proactive enforcement of local and State laws regulating Tobacco and Paraphernalia Retailers has not been possible and as evidenced by the notices of violation issued by Code Enforcement these businesses are not voluntarily complying with State and local laws.

Staff is reviewing existing regulations given the extensive non-compliance issues with State and local laws described above. Part of this review would look at whether the noncompliance is a staffing/enforcement issue or whether further regulations more specifically tied to the public nuisance provisions in the Municipal Code would be appropriate and legal.

FISCAL IMPACT

There is no significant fiscal impact anticipated with the adoption of the proposed urgency ordinance. There will be staff time expended to prepare the land use ordinance addressing Tobacco and Paraphernalia Retailers and to review and make recommendations regarding regulations for existing businesses.

OPTIONS

The Council may choose not to adopt the urgency ordinance.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF TOBACCO AND PARAPHERNALIA RETAILERS WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF FORTY-FIVE DAYS AND DECLARING THE URGENCY THEREOF

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

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Tobacco and Paraphernalia Retailer businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Tobacco and Paraphernalia Retailer businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians, not to mention use of tobacco products or illegal substances. Seven of the twelve Tobacco and Paraphernalia Retailers listed below are located within several blocks of schools. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch is concerned with exposure of youth to tobacco products and prevalence of smoking among youth:

1. In California, 11.9% of the adult population¹ and 14.6% of teenagers² currently smoke.
2. Although it is unlawful to sell tobacco products and/or tobacco paraphernalia to minors,³ 5.6% of California retailers surveyed do sell to minors.⁴ These numbers are more concerning locally. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%⁵. In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Tobacco and Paraphernalia Retailers. The City of Antioch needs additional time to study this issue and determine if concentration and/or location of Tobacco and Paraphernalia Retailers in close proximity to other uses with generally high rates of calls for service such as bars or liquor stores would exasperate these concerns. The City of Antioch is also concerned about uses with high rates of calls for service in proximity to youth including schools and parks.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Tobacco and Paraphernalia Retailers, including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. For example, the Antioch Police Department has documented a significant amount of calls for service involving a variety of crimes in these businesses and within the shopping centers in which Tobacco and Paraphernalia Retailers are located. Included below as findings are representational incidents associated with Tobacco and Paraphernalia Retailers for the 12 month period from May 9, 2012 – May 9, 2013 (not all businesses were in operation for the entire period):

1. Cigarette 4 Less, 3142 Contra Loma Blvd: two (2) calls for service related to an alarm and an alleged fight between juveniles in the area.
2. Cigarette 4 Less, 2549 San Jose Drive: eleven (11) calls for service related to alarms, petty thefts, a civil complaint and an assault.
3. Smoke Shop, 4532 Lone Tree Way: five (5) calls for service related to a robbery, petty thefts, unfounded 911 call and a fight inside the store.

¹ Cal. Dep't Health Servs, Tobacco Control Program, Smoking Prevalence Among California Adults (April 2011).

² Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (September 2009).

³ Cal. Penal Code § 308

⁴ Cal. Dep't Health Servs, Tobacco Control Sec., Youth Tobacco Purchase Survey 1995-2011

⁵ California Department of Health Services Food and Drug Branch Compliance Checks, 2003.

4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: two (2) calls for service related to an armed robbery and false alarm.
5. Cigarette 4 Less, 2727 Hillcrest Ave: five (5) calls for service related to alarms, a threat complaint, armed robbery and a suspicious circumstance.
6. Sycamore Smoke & More, 1096 Sycamore Drive: thirty-one (31) calls for service related to unwanted guests, loitering complaints, assaults, panhandling and fighting.
7. Cigarette 4 Less, 3708 Lone Tree Way: six (6) calls for service related to alarms, juvenile disturbance and a burglary of the business.
8. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: five (5) calls for service related to an armed robbery, petty theft and 911 hang-up.
9. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: eight (8) calls for service related to alarms, armed robbery, petty theft, harassment and suspicious persons.
10. Smoke Shop Mini Market, 1515 A Street: eleven (11) calls for service related to threats, loitering, juvenile disturbance, panhandling, stolen cars, an alarm, counterfeit bill and petty theft.
11. Discount Cigarette & Cigar Store, 1615 A Street: nine (9) calls for service related to an alarm, a fight in the parking lot in front of the business, medical call, burglary, unwanted guest, a suspicious person, a suspicious circumstance and a fraud (counterfeit) complaint.
12. Fusion Novelties, 1336 Sunset Drive: one (1) call for service related to a vandalism – broken window.

G. In addition to the increased calls for service and increasing reports of violent criminal behavior described above, the City Council is also concerned that Tobacco and Paraphernalia Retailers are not complying with applicable State and local laws related to tobacco and paraphernalia sales. Code Enforcement staff has inspected the businesses listed below and found violations of California Health and Safety Code 11364.5 and Antioch Municipal Code Title 5, Chapter 16 related to paraphernalia sales; Municipal Code Section 9-5.519 related to tobacco advertising; Municipal Code 9-5.508 related to general advertising; and California Business and Professions Code 22962 and Municipal Code 6-8.13 related to self service display of tobacco:

1. Buchanan Smoke Shop, 2329A Buchanan Road: notice of violation for illegal display of paraphernalia. This location opened in April 2013 and is therefore not listed above as they did not have calls for service during the 12 month period.

2. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: notice of violation for illegal display of paraphernalia and tobacco related signs.
3. Cigarette 4 Less, 3142 Contra Loma Blvd: notice of violation for illegal display of paraphernalia, general signage, and self service tobacco.
4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
5. Cigarette 4 Less, 2727 Hillcrest Ave: notice of violation for illegal display of paraphernalia.
6. Cigarette 4 Less, 3708 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
7. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: notice of violation for illegal display of paraphernalia.
8. Smoke Shop Mini Market, 1515 A Street: notice of violation for illegal display of paraphernalia.
9. Discount Cigarette & Cigar Store, 1615 A Street: notice of violation for illegal display of paraphernalia.
10. Fusion Novelties, 1336 Sunset Drive: notice of violation for illegal display of paraphernalia.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Tobacco and Paraphernalia Retailers that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public health, safety, and welfare from dangers caused by Tobacco and Paraphernalia Retailers. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement, concentration and operation of Tobacco and Paraphernalia Retailers so that such regulations are applied in a nondiscriminatory manner.

I. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

J. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Tobacco and Paraphernalia Retailers in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

K. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Tobacco and Paraphernalia Retailer business.

L. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Tobacco and Paraphernalia Retailers. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

- A. **Restricted Activities.** For a period of forty-five (45) days following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement for the construction, placement, or operation of new Tobacco and Paraphernalia Retailer businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Tobacco and Paraphernalia Retailer business. These prohibitions shall remain in effect during the forty-five (45) days following enactment of this Ordinance. Existing Tobacco and Paraphernalia Retailer businesses may continue to operate at their current locations provided that they are in compliance with State law and the Antioch Municipal Code.

- B. **Definitions.** In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be

in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. **TOBACCO AND PARAPHERNALIA RETAILER** shall mean any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition.
2. **PARAPHERNALIA** shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. 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 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for forty-five (45) days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety

and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the ___ day of ____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch


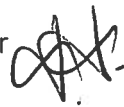
ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

A12

ATTACHMENT "B"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF FEBRUARY 28, 2012

Prepared by: Tina Wehrmeister, Community Development Director 
Reviewed by: Jim Jakel, City Manager 
Date: February 23, 2012
Subject: Computer Gaming and Internet Access Businesses

RECOMMENDATION

It is recommended that the City Council:

1. Motion to read the Interim Urgency Zoning Ordinance, Urgency Ordinance and Regular Ordinance by title only;
2. Motion to adopt the attached Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any computer gaming and internet access business within the City of Antioch on an interim basis pending consideration of amendments to Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof (four-fifths vote required) (Attachment "A");
3. Motion to adopt an Urgency Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses and making findings declaring the urgency thereof (four-fifths vote required) (Attachment "B");
4. Motion to introduce a Regular Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses (majority vote required) (Attachment "C"); and
5. Motion to adopt a resolution to initiate an amendment to the Zoning Ordinance to address computer gaming and internet access businesses (majority vote required) (Attachment "D").

BACKGROUND INFORMATION

Operations at Internet Room, T's Internet Café and Cot on the Web

During the past two years, the City received business license applications for the Internet Room (2962 Delta Fair Boulevard), T's Internet Café (1908 A Street and previously at 1836 A Street and 1653 A Street) and Cot on the Web (2333 Buchanan Road), which were described as offering "print, copy, fax services and internet access" or "internet sales" (Attachment "E"). In effect, City staff envisioned Kinko's-like businesses offering copying, computer and fax services

to small businesses and individuals and thus the businesses were allowed to open as permitted uses at the given locations.

However, the City began receiving complaints regarding nuisance and illegal activities occurring in and near these facilities, such as loitering, vandalism, panhandling, theft, and assaults. The Police Department prepared a summary chart showing calls at each location and the surrounding vicinity before and during the time the use opened (Attachment "F"). Of particular note, at 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

Attachment "G" shows 9-1-1 calls for service at each location. The Police Department also indicates that the following number of arrests were made at each location for the given time period. This does not mean that all of the arrested individuals committed crimes at these locations, but reflects that those engaged in criminal activity frequent these locations. The arrests were for violations including robbery, illegal drug use and sales, burglary, assaults, public intoxication, as well as arrests for outstanding warrants:

<u>Business</u>	<u>Location</u>	<u>Time Period</u>	<u># Arrests</u>
Internet Room	2962 Delta Fair Blvd.	2/11/11-02/15/12	2
T's Internet Café	1908 A Street	08/20/11-12/31/11	9
T's Internet Café	1653 A Street	09/01/10-08/31/11	14
T's Internet Café	1836 A Street	03/06/10-07/23/10	5
Cot on the Web	2333 Buchanan #A	09/01/11-02/15/12	1

Upon visiting these businesses during the course of investigating complaints, staff found that the primary activity of the patrons at each of these locations is playing a sweepstakes game, which resembles video slot machines. A copy of the "Sweepstakes Rules" from the Cot on the Web is attached (Attachment "H"). Concerns were raised that the on-going "sweepstakes games" appeared to be potentially illegal gambling; although, that is not the focus of the action before the City Council.

Ms. Simmons, the owner of T's Internet Café (now closed) and Cot on the Web has stated that her business sells internet time and also runs a sweepstakes as a promotional tool to draw customers. The customer receives a number of sweepstakes entries proportional to the amount of internet time purchased. The customer then plays the sweepstakes entries on the computer via an interface that resembles a video slot machine. At Cot on the Web, the potential maximum single winnings are over \$1,000. At the Internet Room, staff was told that a maximum single winning payout could reach \$2,800.

Determination that Use was a Mechanical or Electrical Game

With rising concerns about the general health, safety, and welfare of the community, staff determined that the primary activity at these facilities was not offering internet, copy, print and fax services to small businesses, but rather a gaming business. Putting aside whether this gaming activity is illegal gambling under state law, the Community Development Director

determined that the use was more properly classified as a Mechanical or Electronic Game, pursuant to Municipal Code Section 9-5.3816 (Attachment "I"). Such uses are prohibited within 1000 feet of a playground or school and a use permit is required for other locations.

Once this determination was made, staff sent Notices of Violation to the existing internet café/sweepstakes businesses and did not permit T's Internet Café to relocate without first obtaining a use permit (Attachment "J"). The owners of all three businesses have appealed that determination (Attachment "K"). In part, Allan Moore, the attorney for the Internet Room, indicates that his client is engaged in internet activities protected by the First Amendment and that the California Appellate Court in *Vo v. City of Garden Grove* (115 Cal. App. 4th 425(2004)) does not allow for unfettered discretion in issuing a use permit for such a use. However, in discussions with staff, the businesses expressed a willingness to work with the City to address the concerns through appropriate regulations.

Urgency Ordinance

To adopt a regular ordinance, a first reading of the ordinance is held and then a second reading to adopt the ordinance at a regular meeting of the City Council. A regular ordinance is effective 30 days after adoption. An urgency ordinance is adopted at one meeting and takes effect immediately following a 4/5 vote of the City Council finding that there is a need for the immediate preservation of the public peace, health and safety.

It is not uncommon for a city council to adopt an urgency ordinance followed by taking the steps to adopt a regular ordinance in case there is any question about the findings for the immediate preservation of the public peace, health and safety.

Interim Ordinances/Moratoriums

An interim zoning ordinance is often called a moratorium and takes effect immediately to prohibit a use. Pursuant to Government Code Section 65858, the City may establish a moratorium prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the Planning Department is considering in order to protect and preserve the public safety, health and welfare. A moratorium lasts only 45 days, but may be extended for up to a total of two (2) years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium. Interim ordinances require a 4/5 vote of the City Council.

In order to initiate a zoning ordinance, a Resolution of Initiation is required by the Antioch Municipal Code directing staff, and then presumably the Planning Commission, to consider whether amendments to the zoning ordinance (Title 9 of the Antioch Municipal Code) are appropriate.

DISCUSSION

Rather than continue to debate whether the existing computer gaming and internet access businesses fall within the existing Mechanical or Electronic Game Ordinance in Antioch Municipal Code Section 9-5.3816 through appeals to the Board of Administrative Appeals, staff recommends that the City Council use its regulatory police power to study and address these uses and their impacts. Staff proposes the following definition for these uses:

“Computer Gaming and Internet Access Business” shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer (“PC”) café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

“Public Use or Internet Learning Center” shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

It is presumed that the businesses would not feel compelled to continue with their appeals of the Community Development Director’s determination that their businesses fall under Mechanical or Electronic Game Ordinance in Antioch Municipal Code Section 9-5.3816, as the more specific Interim Zoning Ordinance and Urgency Ordinance will in effect supersede the application of the Mechanical or Electronic Game Ordinance making the appeals moot.

During this study period, no new computer gaming and internet access businesses could open and the existing two businesses would be required to follow the regulations set forth in the Urgency Ordinance (Attachment “B”). This approach should alleviate any concerns that the City is negatively impacting anyone’s ability to access the internet and possible First Amendment rights. During this study period, City staff can meet with the representatives of these businesses to better address the issues that have been raised.

It should also be noted that computers accessing the internet are available at no charge at the Library Annex at the Antioch Community Center at Prewett Park and at the Antioch Library located at 501 W. 18th Street.

Urgency Findings

The existing computer gaming and internet access businesses have created impacts that create immediate threats to the public peace, health or safety, as more specifically shown in the testimony provided by the Police Department including the log of the calls for service at each facility; summary showing calls for service at each location and the surrounding vicinity before and during the time the use opened; and arrests from these various locations.

Threats to public health, safety and welfare experienced in Antioch at the computer gaming and internet access businesses include criminal activity associated with robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism, property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these computer gaming and internet access businesses. Truancy and curfew violations have also been experienced in other communities.

Operation of additional computer gaming and internet access businesses will increase these negative impacts while the use is being studied. Further, additional computer gaming and internet access businesses could create conflicts among land uses or conflict with the City’s

long-term planning goals. Thus, it is recommended that the City Council also adopt a resolution initiating an Amendment to the Zoning Ordinance to formally commence the process for studying land use issues related to computer gaming and internet access businesses, including whether the uses should only be allowed in specific zoning districts, whether there should be limitations on the concentration of uses, and similar issues.

Proposed Regulations

The proposed regulations set forth in the Urgency Ordinance and Regular Ordinance to establish a licensing scheme for Computer Gaming and Internet Access Businesses and address operational issues like prohibiting minors in the business during school hours, hours of operation, establishment of an interior waiting area with seats to avoid loitering, staffing levels, surveillance system, alarm system, security guards, prohibition on private rooms and the like. Staff has already scheduled a meeting with the business operators for Monday, February 27, 2012 to address these regulations and related items. Staff will be reporting at the City Council meeting regarding the outcome of this meeting.

FISCAL IMPACT

The computer gaming and internet access businesses are causing negative impacts to the City's limited police resources, so it is prudent to address the negative impacts.

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance and Urgency Ordinance, introduction of the Regular Ordinance and adoption of the Resolution Initiating a Zoning Amendment. There will be staff time expended to meet with business representatives and to finalize a Regular Ordinance and prepare a Zoning Amendment, if appropriate.

OPTIONS

1. If the Council chose not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional computer gaming and internet access businesses could open without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations.
2. If the Council chose not to adopt the Urgency Ordinance by 4/5 vote, then the Regular Ordinance can be introduced on a majority vote. The Regular Ordinance would require a second reading for adoption and then be effective 30 days later.
3. The Council could choose not to initiate a Resolution for a Zoning Amendment, but staff recommends that the Council start the process for staff, and potentially Planning Commission, to at least study the issue to determine if Zoning Ordinance Amendments would be appropriate for this computer gaming and internet access business use.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any computer gaming and internet access business within the City of Antioch on an interim basis pending consideration of amendments to Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof

- B. Urgency Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses and making findings declaring the urgency thereof
- C. Regular Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses
- D. Resolution to initiate an amendment to the Zoning Ordinance to address Computer Gaming and Internet Access Businesses
- E. Business License Applications for Internet Room, T's Internet Café and Cot on the Web
- F. Comparison of Calls for Service prepared by the Police Department
- G. Log of Calls for Service at the Internet Room, T's Internet Café and Cot on the Web
- H. Sweepstakes Rules from Cot on the Web
- I. Municipal Code Section 9-5.3816
- J. Determination by Community Development Director regarding uses
- K. Appeals by the Internet Room, T's Internet Café and Cot on the Web

ATTACHMENT "A"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF COMPUTER GAMING AND INTERNET ACCESS BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF FORTY-FIVE DAYS AND DECLARING THE URGENCY THEREOF

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

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours,

B7
AT

creating unknown impacts on the surrounding area and businesses, such as observed lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

G. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Computer Gaming and Internet Access Businesses that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by Computer Gaming and Internet Access Businesses. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement and operation of Computer Gaming and Internet Access Businesses so that such regulations are applied in a nondiscriminatory manner.

H. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

I. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Computer Gaming and Internet Access Businesses in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

J. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that

B9
A3

currently seeks to construct or operate a Computer Gaming and Internet Access Business.

K. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Computer Gaming and Internet Access Businesses. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

A. Restricted Activities. For a period of forty-five (45) days following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement for the construction, placement, or operation of new Computer Gaming and Internet Access Businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Computer Gaming and Internet Access Business. These prohibitions shall remain in effect during the forty-five (45) days following enactment of this Ordinance. The two existing Computer Gaming and Internet Access Businesses may continue to operate at their current locations: Internet Room at 2962 Delta Fair Boulevard and Cot on the Web at 2333 Buchanan Road.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from

users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

2. "Public Use or Internet Learning Center" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. 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 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for forty-five (45) days from the date of its adoption by not less than a four-fifth's vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to

the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 28th day of February, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

ATTACHMENT "B"

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES AND MAKING FINDINGS DECLARING THE URGENCY THEREOF

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

SECTION 1. The City Council finds as follows:

A. The City Council of the City of Antioch is concerned with the increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

B. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking

B13
BT

and other crimes, as well as on outstanding warrants. While some of these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch finds that the activities of Computer Gaming and Internet Access Businesses have become frequently associated with detrimental impacts to the surrounding area.

E. The Antioch Municipal Code does not currently provide adequate standards and regulations concerning the review, approval and operation of Computer Gaming and Internet Access Businesses. Section 9-5.3816 pertaining to Mechanical or Electronic Games is at least 30 years old and does not specifically address regulations pertinent to Computer Gaming and Internet Access Businesses.

F. The City Council finds, determines and declares that the current threat to the public health, safety and welfare of the City and its citizens necessitates the immediate enactment of this Ordinance to help deter and prevent crimes and criminal activity from occurring at and around Computer Gaming and Internet Access Businesses.

G. The City Council further finds that this Ordinance constitutes a matter of Citywide importance and is not directed towards nor targeted at any particular parcel of property, any particular business or any proposed occupant.

SECTION 2. Title 5 of the Antioch Municipal Code is hereby amended by the addition of a new Chapter 11, to read as follows:

“Chapter 11”

COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

Sections:

<u>5-11.01</u>	Purpose.
<u>5-11.02</u>	Definitions.
<u>5-11.10</u>	Computer Gaming and Internet Access Business - License required.
<u>5-11.11</u>	Term of license.
<u>5-11.12</u>	Renewal of license.
<u>5-11.20</u>	License application and issuance.
<u>5-11.30</u>	Transfer of license.
<u>5-11.40</u>	Alterations to Computer Gaming and Internet Access Business.
<u>5-11.50</u>	License revocation.
<u>5-11.60</u>	Operational standards and regulations.
<u>5-11.70</u>	Abatement of nuisance.
<u>5-11.80</u>	Penalty.
<u>5-11.90</u>	License fees.

§ 5-11.01 Purpose.

It is the purpose and intent of this chapter to regulate Computer Gaming and Internet Access Businesses to promote the protection of the public from the dangers of fire and hazards to health, to ensure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the City to establish minimally intrusive protocols to provide reasonable accountability for computer gaming and internet access and use at Computer Gaming and Internet Access Businesses. The City finds such accountability to be reasonably necessary to minimize the risk of use of the computer and/or internet by persons at Computer Gaming and Internet Access Businesses for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Computer Gaming and Internet Businesses for criminal purposes, while recognizing rights of individuals to use the internet and Computer Gaming and Internet Access Businesses for legitimate purposes.

§ 5-11.02 Definitions.

A. “Computer Gaming and Internet Access Business” shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer (“PC”) café, internet café,

cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

B. "Public Use or Internet Learning Business" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

§ 5-11.10 Computer Gaming and Internet Access Businesses - License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the City, the activities of an Computer Gaming and Internet Access Business, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the City where a Computer Gaming and Internet Access Business is to be established. Public Use or Internet Learning Business shall be exempt from the license requirements herein.

§ 5-11.11 Term of license.

The term of a Computer Gaming and Internet Access Business license, unless sooner suspended or revoked, shall be one year.

§ 5-11.12 Renewal of license.

A Computer Gaming and Internet Access Business license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the Community Development Director made at least sixty (60) days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section § 5-11.120 of this chapter and shall be processed in accordance with the provisions of this chapter.

§ 5-11.20 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate a Computer Gaming and Internet Access Business shall file a written application with the Community Development Director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the City Council, shall be paid to the City to defray the cost of the investigation and issuance

required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Computer Gaming and Internet Access Business until such license has been granted or renewed.

C. Each applicant for a Computer Gaming and Internet Access Business license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner of the business, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. A precise description of the activities and/or services to be provided;
8. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the City's zoning code;
9. A detailed description of the food and beverage service, if any, that will be offered to patrons;
10. The dates and hours during which the Computer Gaming and Internet Access Business is desired to be conducted and a list of the fees to be charged patrons;

11. The name(s) of the person(s) responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business;

12. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business has, within the past five (5) years, had any permit or license issued in conjunction with a Computer Gaming and Internet Access Business in any jurisdiction, and whether during that period the license was suspended or revoked. If so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation;

13. Signature of the property owner indicating approval of the submission of the license application; and

14. Such other information as the Community Development Director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the Community Development Director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the City's Planning and Building Divisions, the Police Department and the Fire District for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Community Development Director within five (5) business days of such change.

F. The Community Development Director shall have a reasonable time, not to exceed thirty (30) days to investigate the facts set forth in the application and to receive comments from the City's Planning and Building Departments, the Police Department and the Fire District. The Community Development Director shall, within sixty (60) days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;
2. The application and all information contained therein conform in all respects to the provisions of this chapter;
3. The applicant has not knowingly made a material misrepresentation of fact in the application;

4. The proposed Computer Gaming and Internet Access Business would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards, and that, as proposed, the Computer Gaming and Internet Access Business would not tend to generate criminal activities, present unnecessary criminal opportunities, or tend to cause violations of curfews by minors due to failure to comply with Federal or State law or the Municipal Code including but not limited to Operational Standards set forth below ;

5. The applicant is at least eighteen (18) years of age;

6. The Computer Gaming and Internet Access Business site and floor plan have been reviewed by the City's Planning and Building Departments and the Police Department and Fire District, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,

7. The Community Development Director has not received evidence that the applicant has, within the previous five (5) years, had any license or entitlement to operate a Computer Gaming and Internet Access Business revoked due to the applicant's commission of a crime or violation of the operational standards or conditions of approval applicable to a Computer Gaming and Internet Access Business; provided, however, a Computer Gaming and Internet Access Business license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the Community Development Director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within sixty (60) days after the date of the filing of the application specifying the ground(s) of the denial and a description of the hearing rights provided by Section § 5-11.20(G)(2), below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three (3) days after mailing.

2. The decision of the Community Development Director may be appealed by filing a written notice requesting a hearing within ten (10) calendar days of the decision of the Community Development Director. The appeal may be heard by a Hearing Officer (for purposes of this section, the term Hearing

Officer shall mean the City Manager or a Hearing Officer appointed by the City Manager) or by the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code.

a. The hearing shall be conducted within forty-five (45) days of the request.

b. The hearing shall be conducted under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer/Board of Administrative Appeals shall not be bound by the statutory rules of evidence in the hearing. The applicant shall have the burden of proof that the Community Development Director's determination was wrong. The hearing shall be recorded so that a transcript of the hearing can be prepared by either party.

c. At the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten (10) days after the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall file with the City Clerk, together with the recording of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of the order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant by the City Clerk. The decision of the Hearing Officer/Board of Administrative Appeals shall become effective three (3) days after its mailing to the applicant unless timely appealed as provided in the following Section.

H. The decision of the Hearing Officer or Board of Administrative Appeals shall be final unless appealed to the City Council by the filing of a written appeal with the City Clerk by the City Manager or member of the Council within ten (10) calendar days of mailing of the decision. All such appeals shall be filed with the City Clerk and shall be public records. The City Council shall, at a duly noticed meeting within forty-five (45) days from the date the written appeal was filed, independently review the entire record, including the recording or transcript of the hearing and any oral or written arguments which may be offered to the City Council by the appellant. At the conclusion of the review, a majority of the City Council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Council finds is supported by the entire record. The lack of a majority to take action means that the decision of the Hearing Officer or Board of Administrative Appeals remains in effect. The action of the City Council shall be final and conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the applicant.

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may

request additional time beyond that provided or may request a continuance regarding any decision or consideration by the City of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on applications.

J. The time for a court challenge to a decision under this section is governed by California Code of Civil Procedure § 1094.8 and notice of the City's decision and its findings shall include citation to California Code of Civil Procedure § 1094.8.

§ 5-11.30 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in a Computer Gaming and Internet Access Business, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Computer Gaming and Internet Access Business. Any application involving the sale or transfer of any interest in an existing Computer Gaming and Internet Access Business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

§ 5-11.40 Alterations to Computer Gaming and Internet Access Businesses.

A. A holder of a valid Computer Gaming and Internet Access Business license shall notify the Community Development Director, in writing, of any proposed change in the business location, floor plan or business name at least thirty (30) days prior to such change.

B. Nothing in this section shall excuse the owner of a Computer Gaming and Internet Access Business from obtaining all other approvals necessary to change a location, floor plan or business name, including but not limited to building permits.

§ 5-11.50 License revocation.

A. If the City finds that any person holding an Computer Gaming and Internet Access Business license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of section § 5-11.20(G) of this chapter. Notice of the pending revocation and right

to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three (3) days after mailing.

C. If a request for hearing is filed within ten (10) calendar days from the notice provided in B above, the City shall conduct an appeal hearing as provided in section § 5-11.20(G) H, I and J, above. The revocation shall be stayed pending the decision, unless, in the determination of the City Manager, immediate suspension pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period.

§ 5-11.60 Operational standards and regulations.

A. Prohibitions regarding Minors.

1. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during any time that he or she is required to be in attendance at school unless accompanied by a parent or legal guardian.
2. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during the hours of the Juvenile Protection Curfew of 11:01 p.m. through 5:00 a.m. seven nights a week, pursuant to Article 2 of Chapter 10 of Title 5 of the Antioch Municipal Code.
3. Signs shall be placed at the entrance of the business and inside the business setting forth these restrictions in lettering of at least two (2) inches in size.

B. Hours of Operation. The Computer Gaming and Internet Access Business shall not be open to customers, patrons or any member of the public between the hours of 12:00 a.m. and 8:00 a.m. on Friday, Saturday and Sunday or between the hours of 11:00 p.m. and 8:00 a.m. Monday through Thursday.

C. Interior Waiting Area. An interior waiting area with not less than eight (8) seats shall be provided for customers waiting to use a computer. The number of seats shall be increased by one (1) for every five (5) additional computers beyond twenty-five (25) computers in the business. No outside waiting or seating area is permitted.

D. No Smoking or Consumption of Alcoholic Beverages. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the

BZZ
BHO

premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Staffing. Employees shall be at least 18 years of age. There shall be a minimum of two (2) employees staffing the Computer Gaming and Internet Access Business during all working hours with at least one manager or supervisor. The ratio of employees to computers and/or other electronic devices that access the internet shall be 2:15. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name. Security personnel indicated in Section I below shall not be included in this minimum staffing number

F. Occupancy. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. Surveillance System.

1. The Chief of Police may require a Computer Gaming and Internet Access Business operator to install a digital camera/video surveillance system on the premises in the event there are or have been repeated calls for police services relating to the premises including, but not limited to, assaults, public intoxication, vandalism, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. In the event of such a determination, the establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of fourteen (14) calendar days, or as required by the Chief of Police. The owner shall permit a representative of the Police Department's office to inspect the tapes/disks during business hours.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. Window Coverings. Window areas shall not be covered, tinted or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment or the like, excepting during daylight hours when partial blinds or other equivalent window coverings may be used as long as the interior remains visible from the public right of way.

I. Security Guards.

1. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to provide a security guard(s) on the premises

in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. The security guard shall be uniformed and be employed by a Private Patrol Operator that is currently licensed with the California Department of Consumer Affairs. The name of the Patrol Operator with state license number and the guard registration numbers shall be provided to the Community Development Department. Any changes to the Patrol Operator shall be approved by the Police Chief at least two working days prior to Patrol Operator taking over security at the business.

3. The security guard shall also patrol the exterior of the business and any parking lot areas.

4. The Chief of Police may require more than one security guard if there are more than fifteen (15) computers or similar devices or continued repeated calls for service indicate that one security guard is not adequate.

J. No Adult Entertainment Business or Adult Boutique. Any access to adult entertainment oriented web sites, as defined in section 9-5.203 of this code, is prohibited unless specifically permitted under sections 9-5.3808 or 9-5.3808.1 of this code.

K. No Other Amusement Devices. No pool tables or other amusement devices not directly related to the internet and similar computer devices shall be permitted in the business.

L. No Tournaments. No gaming tournaments for cash prizes deemed to be gambling under the provisions of State Law shall be permitted.

M. Interior Signs. User rates and other fees must be conspicuously posted on the premises.

N. No Illegal Gambling. Under no circumstances shall electronic game machines, which include computers and other amusement devices, be used for illegal gaming or gambling. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

O. No Litter. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

P. No Private Booths. Any booth or individual computer use area within the business shall be visible from a continuous and accessible main aisle

in a public portion of the Computer Gaming and Internet Access Business, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the booth/individual viewing area from the main aisle. Further, no one shall maintain any booth/individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible from one main aisle. No doors are permitted on a booth/individual viewing area. No partially or fully enclosed booth/individual viewing areas or partially or fully concealed booth/individual viewing areas shall be maintained.

Q. Alarm System. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to install an alarm system that distinguishes between a burglary and a robbery. The system shall monitor twenty-four hours per day. All public entrance and exit doors to the business shall have electronic monitoring system that produce a sound when a person transverses the doorway. If required by the Chief of Police, the system shall be electronically connected with the Police Department if activated.

R. Number of Computers. The number of computers or similar devices in a Computer Gaming and Internet Access Business shall not exceed thirty square feet of floor area per computer of the floor area that is dedicated to the placement of computers for rent or charge.

§ 5-11.70 Abatement of nuisance.

Any Computer Gaming and Internet Access Business operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and the City may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a Computer Gaming and Internet Access Business contrary to the provisions of this chapter.

§ 5-11.90 Penalty.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in chapter 1-2.01 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefore as provided in this section.

B25
B13

§ 5-11.90 License fees.

The City Council shall, by resolution, set a fee for application for a Computer Gaming and Internet Access Business license. Until such fee is set, the application fee shall be the minimum fee currently established for the application extension fee in the City's Master Fee Schedule."

SECTION 3. Compliance for Existing Business; Time. It is the desire and intent of the City Council that any and all existing and legal Computer Gaming and Internet Access Businesses come into compliance with the terms of this Ordinance as rapidly as possible and that all applications, review and decisions be processed on an expedited basis. Within fourteen (14) calendar days of the effective date of this ordinance, every existing Computer Gaming and Internet Access Business shall file a statement with the Community Development Director evidencing its compliance with all provisions of this chapter and providing all information as provided in § 5-11.40. The review and determination of the Community Development Director shall be provided within fourteen (14) days of the filing of the application. In the event that the license requires the installation of improvements at the business (e.g., lighting, surveillance, etc) all such improvements shall be installed per a schedule agreed to by the Community Development Director; however, not to exceed twenty-one (21) days following the determination of the Community Development Director on the license application.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. 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 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance is hereby declared an urgency measure pursuant to the terms of California Government Code section 36937 (b) and shall be effective immediately upon adoption by a four-fifths (4/5th) vote of the City Council.

SECTION 7. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 36937 (b) at a regular meeting of the City Council of the City of Antioch on the 28th day of February, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

1327
B15

ATTACHMENT "C"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

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

SECTION 1. The City Council finds as follows:

A. The City Council of the City of Antioch is concerned with the increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

B. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

B28
AT

these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch finds that the activities of Computer Gaming and Internet Access Businesses have become frequently associated with detrimental impacts to the surrounding area.

E. The Antioch Municipal Code does not currently provide adequate standards and regulations concerning the review, approval and operation of Computer Gaming and Internet Access Businesses. Section 9-5.3816 pertaining to Mechanical or Electronic Games is at least 30 years old and does not specifically address regulations pertinent to Computer Gaming and Internet Access Businesses.

F. The City Council further finds that this Ordinance constitutes a matter of City-wide importance and is not directed towards nor targeted at any particular parcel of property, any particular business or any proposed occupant.

SECTION 2. Title 5 of the Antioch Municipal Code is hereby amended by the addition of a new Chapter 11, to read as follows:

"Chapter 11"

COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

Sections:

<u>5-11.01</u>	Purpose.
<u>5-11.02</u>	Definitions.
<u>5-11.10</u>	Computer Gaming and Internet Access Business - License required.
<u>5-11.11</u>	Term of license.
<u>5-11.12</u>	Renewal of license.
<u>5-11.20</u>	License application and issuance.
<u>5-11.30</u>	Transfer of license.
<u>5-11.40</u>	Alterations to Computer Gaming and Internet Access Business.
<u>5-11.50</u>	License revocation.
<u>5-11.60</u>	Operational standards and regulations.
<u>5-11.70</u>	Abatement of nuisance.
<u>5-11.80</u>	Penalty.
<u>5-11.90</u>	License fees.

§ 5-11.01 Purpose.

It is the purpose and intent of this chapter to regulate Computer Gaming and Internet Access Businesses to promote the protection of the public from the dangers of fire and hazards to health, to ensure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the City to establish minimally intrusive protocols to provide reasonable accountability for computer gaming and internet access and use at Computer Gaming and Internet Access Businesses. The City finds such accountability to be reasonably necessary to minimize the risk of use of the computer and/or internet by persons at Computer Gaming and Internet Access Businesses for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Computer Gaming and Internet Businesses for criminal purposes, while recognizing rights of individuals to use the internet and Computer Gaming and Internet Access Businesses for legitimate purposes.

§ 5-11.02 Definitions.

A. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access

Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

B. "Public Use or Internet Learning Business" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

§ 5-11.10 Computer Gaming and Internet Access Businesses - License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the City, the activities of an Computer Gaming and Internet Access Business, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the City where a Computer Gaming and Internet Access Business is to be established. Public Use or Internet Learning Business shall be exempt from the license requirements herein.

§ 5-11.11 Term of license.

The term of a Computer Gaming and Internet Access Business license, unless sooner suspended or revoked, shall be one year.

§ 5-11.12 Renewal of license.

A Computer Gaming and Internet Access Business license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the community development director made at least sixty (60) days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section § 5-11.120 of this chapter and shall be processed in accordance with the provisions of this chapter.

§ 5-11.20 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate a Computer Gaming and Internet Access Business shall file a written application with the Community Development Director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the City Council,

shall be paid to the City to defray the cost of the investigation and issuance required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Computer Gaming and Internet Access Business until such license has been granted or renewed.

C. Each applicant for a Computer Gaming and Internet Access Business license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner of the business, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. A precise description of the activities and/or services to be provided;
8. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the city's zoning code;
9. A detailed description of the food and beverage service, if any, that will be offered to patrons;
10. The dates and hours during which the Computer Gaming and Internet Access Business is desired to be conducted and a list of the fees to be charged patrons;

11. The name(s) of the person(s) responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business;

12. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business has, within the past five (5) years, had any permit or license issued in conjunction with a Computer Gaming and Internet Access Business in any jurisdiction, and whether during that period the license was suspended or revoked. If so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation;

13. Signature of the property owner indicating approval of the submission of the license application; and

14. Such other information as the Community Development Director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the Community Development Director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the City's Planning and Building Divisions, the Police Department and the Fire District for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Community Development Director within five (5) business days of such change.

F. The Community Development Director shall have a reasonable time, not to exceed thirty (30) days to investigate the facts set forth in the application and to receive comments from the City's Planning and Building Departments, the Police Department and the Fire District. The Community Development Director shall, within sixty (60) days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;

2. The application and all information contained therein conform in all respects to the provisions of this chapter;

3. The applicant has not knowingly made a material misrepresentation of fact in the application;

4. The proposed Computer Gaming and Internet Access Business would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards, and that, as proposed, the Computer Gaming and Internet Access Business would not tend to generate criminal activities, present unnecessary criminal opportunities, or tend to cause violations of curfews by minors due to failure to comply with Federal or State law or the Municipal Code including but not limited to Operational Standards set forth below ;

5. The applicant is at least eighteen (18) years of age;

6. The Computer Gaming and Internet Access Business site and floor plan have been reviewed by the City's Planning and Building Departments and the Police Department and Fire District, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,

7. The Community Development Director has not received evidence that the applicant has, within the previous five (5) years, had any license or entitlement to operate a Computer Gaming and Internet Access Business revoked due to the applicant's commission of a crime or violation of the operational standards or conditions of approval applicable to a Computer Gaming and Internet Access Business; provided, however, a Computer Gaming and Internet Access Business license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the Community Development Director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within sixty (60) days after the date of the filing of the application specifying the ground(s) of the denial and a description of the hearing rights provided by Section § 5-11.20(G)(2), below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three (3) days after mailing.

2. The decision of the Community Development Director may be appealed by filing a written notice requesting a hearing within ten (10) calendar days of the decision of the Community Development Director. The appeal may be heard by a Hearing Officer (for purposes of this section, the term Hearing Officer shall mean the City Manager or a Hearing Officer appointed by the City Manager) or by the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code.

a. The hearing shall be conducted within forty-five (45) days of the request.

b. The hearing shall be conducted under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer/Board of Administrative Appeals shall not be bound by the statutory rules of evidence in the hearing. The applicant shall have the burden of proof that the Community Development Director's determination was wrong. The hearing shall be recorded so that a transcript of the hearing can be prepared by either party.

c. At the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten (10) days after the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall file with the City Clerk, together with the recording of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of the order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant by the City Clerk. The decision of the Hearing Officer/Board of Administrative Appeals shall become effective three (3) days after its mailing to the applicant unless timely appealed as provided in the following Section.

H. The decision of the Hearing Officer or Board of Administrative Appeals shall be final unless appealed to the City Council by the filing of a written appeal with the City Clerk by the City Manager or member of the Council within ten (10) calendar days of mailing of the decision. All such appeals shall be filed with the City Clerk and shall be public records. The City Council shall, at a duly noticed meeting within forty-five (45) days from the date the written appeal was filed, independently review the entire record, including the recording or transcript of the hearing and any oral or written arguments which may be offered to the City Council by the appellant. At the conclusion of the review, a majority of the City Council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Council finds is supported by the entire record. The lack of a majority to take action means that the decision of the Hearing Officer or Board of Administrative Appeals remains in effect. The action of the City Council shall be final and

conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the applicant.

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided or may request a continuance regarding any decision or consideration by the City of the pending appeal: Extensions of time sought by applicants shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on applications.

J. The time for a court challenge to a decision under this section is governed by California Code of Civil Procedure § 1094.8 and notice of the City's decision and its findings shall include citation to California Code of Civil Procedure § 1094.8.

§ 5-11.30 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in a Computer Gaming and Internet Access Business, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Computer Gaming and Internet Access Business. Any application involving the sale or transfer of any interest in an existing Computer Gaming and Internet Access Business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

§ 5-11.40 Alterations to Computer Gaming and Internet Access Businesses.

A. A holder of a valid Computer Gaming and Internet Access Business license shall notify the Community Development Director, in writing, of any proposed change in the business location, floor plan or business name at least thirty (30) days prior to such change.

B. Nothing in this section shall excuse the owner of a Computer Gaming and Internet Access Business from obtaining all other approvals necessary to change a location, floor plan or business name, including but not limited to building permits.

§ 5-11.50 License revocation.

A. If the City finds that any person holding an Computer Gaming and Internet Access Business license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could

have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of section § 5-11.20(G) of this chapter. Notice of the pending revocation and right to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three (3) days after mailing.

C. If a request for hearing is filed within ten (10) calendar days from the notice provided in B above, the City shall conduct an appeal hearing as provided in section § 5-11.20(G) H, I and J, above. The revocation shall be stayed pending the decision, unless, in the determination of the City Manager, immediate suspension pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period.

§ 5-11.60 Operational standards and regulations.

A. Prohibitions regarding Minors.

1. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during any time that he or she is required to be in attendance at school unless accompanied by a parent or legal guardian.

2. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during the hours of the Juvenile Protection Curfew of 11:01 p.m. through 5:00 a.m. seven nights a week, pursuant to Article 2 of Chapter 10 of Title 5 of the Antioch Municipal Code.

3. Signs shall be placed at the entrance of the business and inside the business setting forth these restrictions in lettering of at least two (2) inches in size.

B. Hours of Operation. The Computer Gaming and Internet Access Business shall not be open to customers, patrons or any member of the public between the hours of 12:00 a.m. and 8:00 a.m. on Friday, Saturday and Sunday or between the hours of 11:00 p.m. and 8:00 a.m. Monday through Thursday.

C. Interior Waiting Area. An interior waiting area with not less than eight (8) seats shall be provided for customers waiting to use a computer. The number of seats shall be increased by one (1) for every five (5) additional

computers beyond twenty-five (25) computers in the business. No outside waiting or seating area is permitted.

D. No Smoking or Consumption of Alcoholic Beverages. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Staffing. Employees shall be at least 18 years of age. There shall be a minimum of two (2) employees staffing the Computer Gaming and Internet Access Business during all working hours with at least one manager or supervisor. The ratio of employees to computers and/or other electronic devices that access the internet shall be 2:15. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name. Security personnel indicated in Section below shall not be included in this minimum staffing number

F. Occupancy. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. Surveillance System.

1. The Chief of Police may require a Computer Gaming and Internet Access Business operator to install a digital camera/video surveillance system on the premises in the event there are or have been repeated calls for police services relating to the premises including, but not limited to, assaults, public intoxication, vandalism, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. In the event of such a determination, the establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of fourteen (14) calendar days, or as required by the Chief of Police. The owner shall permit a representative of the Police Department's office to inspect the tapes/disks during business hours.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. Window Coverings. Window areas shall not be covered, tinted or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment or the like, excepting during daylight hours when partial blinds or other equivalent window coverings may be used as long as the interior remains visible from the public right of way.

I. Security Guards.

1. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to provide a security guard(s) on the premises in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. The security guard shall be uniformed and be employed by a Private Patrol Operator that is currently licensed with the California Department of Consumer Affairs. The name of the Patrol Operator with state license number and the guard registration numbers shall be provided to the Community Development Department. Any changes to the Patrol Operator shall be approved by the Police Chief at least two working days prior to Patrol Operator taking over security at the business.

3. The security guard shall also patrol the exterior of the business and any parking lot areas.

4. The Chief of Police may require more than one security guard if there are more than fifteen (15) computers or similar devices or continued repeated calls for service indicate that one security guard is not adequate.

J. No Adult Entertainment Business or Adult Boutique. Any access to adult entertainment oriented web sites, as defined in section 9-5.203 of this code, is prohibited unless specifically permitted under sections 9-5.3808 or 9-5.3808.1 of this code.

K. No Other Amusement Devices. No pool tables or other amusement devices not directly related to the internet and similar computer devices shall be permitted in the business.

L. No Tournaments. No gaming tournaments for cash prizes deemed to be gambling under the provisions of State Law shall be permitted.

M. Interior Signs. User rates and other fees must be conspicuously posted on the premises.

N. No Illegal Gambling. Under no circumstances shall electronic game machines, which include computers and other amusement devices, be used for illegal gaming or gambling. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

O. No Litter. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

P. No Private Booths. Any booth or individual computer use area within the business shall be visible from a continuous and accessible main aisle in a public portion of the Computer Gaming and Internet Access Business, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the booth/individual viewing area from the main aisle. Further, no one shall maintain any booth/individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible from one main aisle. No doors are permitted on a booth/individual viewing area. No partially or fully enclosed booth/individual viewing areas or partially or fully concealed booth/individual viewing areas shall be maintained.

Q. Alarm System. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to install an alarm system that distinguishes between a burglary and a robbery. The system shall monitor twenty-four hours per day. All public entrance and exit doors to the business shall have electronic monitoring system that produce a sound when a person transverses the doorway. If required by the Chief of Police, the system shall be electronically connected with the police department if activated.

R. Number of Computers. The number of computers or similar devices in a Computer Gaming and Internet Access Business shall not exceed thirty square feet of floor area per computer of the floor area that is dedicated to the placement of computers for rent or charge.

§ 5-11.70 Abatement of nuisance.

Any Computer Gaming and Internet Access Business operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and the City may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a Computer Gaming and Internet Access Business contrary to the provisions of this chapter.

§ 5-11.90 Penalty.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a

B40
E13

misdemeanor and upon conviction thereof shall be punished as set forth in chapter 1-2.01 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefore as provided in this section.

§ 5-11.90 License fees.

The City Council shall, by resolution, set a fee for application for a Computer Gaming and Internet Access Business license. Until such fee is set, the application fee shall be the minimum fee currently established for the application extension fee in the City's Master Fee Schedule."

SECTION 3. Compliance for Existing Business; Time. It is the desire and intent of the City Council that any and all existing and legal Computer Gaming and Internet Access Businesses come into compliance with the terms of this Ordinance as rapidly as possible and that all applications, review and decisions be processed on an expedited basis. Within fourteen (14) calendar days of the effective date of this ordinance, every existing Computer Gaming and Internet Access Business shall file a statement with the Community Development Director evidencing its compliance with all provisions of this chapter and providing all information as provided in § 5-11.40. The review and determination of the Community Development Director shall be provided within fourteen (14) days of the filing of the application. In the event that the license requires the installation of improvements at the business (e.g., lighting, surveillance, etc) all such improvements shall be installed per a schedule agreed by the Community Development Director; however, not to exceed twenty-one (21) days following the determination of the Community Development Director on the license application.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. 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 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section.

SECTION 7. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced on 28th day of February, 2012 and adopted at a regular meeting of the City Council of the City of Antioch on _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

B42
C15

ATTACHMENT "D"

RESOLUTION NO. 2012/**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING A RESOLUTION OF INTENT TO INITIATE AN AMENDMENT TO CHAPTER 5 OF TITLE 9 OF THE ANTIOCH MUNICIPAL CODE TO ADDRESS COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

WHEREAS, Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users; "Computer Gaming and Internet Access Business" is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center, which is defined as an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition; and

WHEREAS, the City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses within the City; and

WHEREAS, the City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering; and

WHEREAS, there have been complaints about prostitution associated with these uses and it is known that other cities have experienced significant gang-related activities occurring at these Computer Gaming and Internet Access Businesses; and

WHEREAS, the City Council has determined that the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Antioch adopts this resolution of intention to initiate an amendment to Chapter 5 of Title 9 of the Antioch Municipal Code to address land use issues with Computer Gaming and Internet Access Businesses

B43
DT

RESOLUTION NO. 2012/**

February 28, 2012

Page 2

* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly passed and adopted by the City Council of the City of Antioch, California, at a regular meeting thereof held on the 28th day of February 2012, by the following vote:

AYES:

NOES:

ABSENT:

DENISE SKAGGS, City Clerk

B44
DI

ATTACHMENT "E"

CITY OF ANTIOCH BUSINESS LICENSE APPLICATION



DUE BY:
BUSINESS NO: 3005779
CLASS CODE:

INSTRUCTIONS

Hold License Cert for Pick up
give to [REDACTED]

1. MAILING NAME & ADDRESS IPG Inc. [REDACTED] Spring Hill, FL 34606		2. BUSINESS NAME IPG Inc. dba Rapid Business Solutions	
3. BUSINESS ADDRESS 1892 A Street		4. BUSINESS CITY, ST, ZIP Antioch, CA 94509	
5. PHONE 914-498-3629	6a. CELL PHONE 914-[REDACTED]	6b. FAX 815-349-2829	6c. E-MAIL ADDRESS internetpromotiongroup@gmail.com
7. BUSINESS DESCRIPTION Offer consumers print, copy, fax services, and internet access			
8. FED ID# [REDACTED]	9. STATE ID# [REDACTED]	10. SELLER'S PERMIT# [REDACTED]	11. HOME OCCUPATION# [REDACTED]
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust) [REDACTED]		13. CERTIFICATION NO. [REDACTED]	14. NUMBER OF EMPLOYEES [REDACTED]
15. OWNER#1 NAME James Hayes		16. OWNER#2 NAME Gino Ciaschetti	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT) [REDACTED]		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT) [REDACTED]	
19. OWNER#1 CITY, ST, ZIP Dunedin, FLORIDA 34697		20. OWNER#2 CITY, ST, ZIP Humble, TX 77396	
21. OWNER#1 HOME PHONE 914-[REDACTED]		22. OWNER#2 HOME PHONE 713-[REDACTED]	
23. OWNER#1 SSN [REDACTED]	24. OWNER#1 DL [REDACTED]	25. OWNER#2 SSN [REDACTED]	26. OWNER#2 DL [REDACTED]
27. CONTACT NAME Jimmy Hayes or Gino Ciaschetti		28. CONTACT PHONE 914-[REDACTED] or 713-[REDACTED]	
29. LICENSE TYPE (Office use only)		29A. INTERNET ADDRESS internetpromotiongroup@gmail.com	
30A. GROSS RECEIPTS	30B. NUMBER OF CARD TABLES	30C. NUMBER OF VEHICLES	
31. LICENSE FEE [REDACTED]	32. [REDACTED]	33. APPLICATION FEE [REDACTED]	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33) [REDACTED]		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date:		Expir. Date:	
Purchase Date: FEB 16 2011		Receipt No: 400542	
Planning Dept: [Signature]		Bldg Dept: [Signature]	
Zoning: C-2		Health Dept:	

The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.

Sign Here

Signature:

Date: 2-14-2011

B45
ET

**CITY OF ANTIOCH
BUSINESS LICENSE RENEWAL**



DUE BY:
BUSINESS NO. 3001773
CLASS CODE E

INSTRUCTIONS

1. MAILING NAME & ADDRESS T'S internet cafe [REDACTED] Antioch CA 94531		2. BUSINESS NAME T'S internet cafe	
3. BUSINESS ADDRESS 1653 A St		4. BUSINESS CITY, ST, ZIP Antioch CA 94509	
5. PHONE 925 522 0801	6. EMERGENCY PHONE 925 [REDACTED]	8. FAX	5. E-MAIL ADDRESS Aventor@earthlink.net
7. BUSINESS DESCRIPTION Internet CAFE			
8. FED ID#	9. STATE ID#	10. SELLER'S PERMIT#	11. HOME OCCUPATION#
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust)		18. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES
15. OWNER#1 NAME Patricia Simmons		16. OWNER#2 NAME	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT)		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT)	
19. OWNER#1 CITY, ST, ZIP Antioch CA 94531		20. OWNER#2 CITY, ST, ZIP	
21. OWNER#1 HOME PHONE 925 [REDACTED]		22. OWNER#2 HOME PHONE	
23. OWNER#1 SSN	24. OWNER#1 DL	25. OWNER#2 SSN	26. OWNER#2 DL
27. CONTACT NAME Patricia Simmons		28. CONTACT PHONE 925 [REDACTED]	
29. LICENSE TYPE (Office use only)	29A. INTERNET ADDRESS		
30. GROSS RECEIPTS	30B. NUMBER OF CARD TABLES	30C. NUMBER OF VEHICLES	
31. LICENSE FEE	32. PENALTY	33. APPLICATION FEE	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33)		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date:	Expir. Date: 4-30-11	Planning Dept. [Signature]	Blgd Dept. [Signature]
Purchase Date:	Receipt No.: 412134	Zoning: [Signature]	Health Dept.

The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.

Sign Here

 Signature

4-16-11
 Date

1346
E2

**CITY OF ANTIOCH
BUSINESS LICENSE
DELINQUENCY NOTICE**



DUE BY: 05/30/2010
BUSINESS NO 3004773
CLASS CODE: 0 - 0

INSTRUCTIONS			3rd Notice
Please review the complete form and make corrections to this side. Complete lines 30, 31, 32, 33 and 34. Use schedule on reverse side to calculate fees.			
Your license fee is delinquent, add a 10% penalty if paid after due date			
1. MAILING NAME & ADDRESS T'S INTERNET CAFE [REDACTED] ANTIOCH, CA 94531-6357 [Barcode]		2. BUSINESS NAME T'S INTERNET CAFE	
		3. BUSINESS ADDRESS 1836 A ST	
		4. BUSINESS CITY, ST, ZIP ANTIOCH, CA 94509-2602	
5. PHONE (925)522-0801	6a. EMERGENCY PHONE 925-[REDACTED]	6b. FAX	6c. E-MAIL ADDRESS:
7. BUSINESS DESCRIPTION INTERNET SALES			
8. FED ID#	9. STATE ID#	10. SELLERS'S PERMIT #	11. HOME OCCUPATION #
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust) [REDACTED]		13. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES
15. OWNER #1 NAME Katie L. Cooper-Simmons		16. OWNER #2 NAME	
17. OWNER #1 ADDRESS (NO PO BOXES, STATE REQUIREMENT) [REDACTED]		18. OWNER #2 ADDRESS (NO POBOXES, STATE REQUIREMENT)	
19. OWNER #1 CITY, ST, ZIP Antioch CA 94531		20. OWNER #2 CITY, ST, ZIP	
21. OWNER #1 HOME PHONE Kevin Amalia		22. OWNER #2 HOME PHONE	
23. OWNER #1 SSN [REDACTED]	24. OWNER #1 DL [REDACTED]	25. OWNER #2 SSN	26. OWNER #2 DL
27. CONTACT NAME Katie L. Cooper-Simmons		28. CONTACT PHONE	
29. LICENSE TYPE (Office use only)	29A INTERNET ADDRESS		
30A.GROSS RECEIPTS	30B.NUMBER OF CARD TABLES 0	30C. NUMBER OF VEHICLES [REDACTED]	
31. LICENSE FEE [REDACTED]	32. PENALTY [REDACTED]	33. APPLICATION FEE [REDACTED]	
34. TOTAL AMOUNT DUE (combine lines 33, 34 & 35)		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICIAL USE ONLY			
Effective Date: 05/01/2010	Expir. Date: 04/30/2011	Planning Dept:	Bldg Dept:
Purchase Date: JUN 23 2010	Receipt No: 348181	Zoning:	Health Dept:
The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.			
Sign Here	[Signature]		Date: 6-21-10

B47
E3

**CITY OF ANTIOCH
BUSINESS LICENSE APPLICATION**



D E BY:
BUSINESS NO: 3006114
CLASS CODE:

INSTRUCTIONS			
1. MAILING NAME & ADDRESS Coton the web 2333A Buchanan Antioch CA 94509		2. BUSINESS NAME Cot on the web	
		IN ADRESS 2333A Buchanan	
		4. BUSINESS CITY, ST, ZIP Antioch CA 94509	
5. PHONE 925 209 8332	6. ALT PHONE 925 [REDACTED]	6a. CELL PHONE 925 [REDACTED]	6b. FAX NUMBER
6c. EMAIL ADDRESS Aeventhoremember@comcast.net		7. BUSINESS DESCRIPTION Fax copy print internet	
8. FED ID#	9. STATE ID#	10. SELLER'S PERMIT#	11. HOME OCCUPATION#
12. OWNER TYPE (S= S, P= partnership, P= marsh p, C= RP, Trust)		13. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES
15. OWNER#1 NAME Patricia Simmons LLC		16. OWNER#2 NAME	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT)		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT)	
19. OWNER#1 CITY, ST, ZIP Antioch CA 94531		20. OWNER#2 CITY, ST, ZIP	
21. OWNER#1 HOME PHONE 925 [REDACTED]		22. OWNER#2 HOME PHONE	
23. OWNER#1 SSN#	24. OWNER#1 DL	25. OWNER#2 SSN	26. OWNER#2 DL
27. CONTACT NAME Patricia Simmons		28. CONTACT PHONE	
29. LICENSE TYPE (Office use only)	3. INTERNET ADDRESS		
30A. GROSS RECEIPTS	30B. NUMBER OF CARD TABLES	30C. NUMBER OF VEHICLES	30D. STICKER FEE (\$5/VEHICLE)
31. LICENSE FEE	32. PENALTY	33. APPLICATION FEE	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33)		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date:	Expir. Date:	Planning Dept. MB	Bldg Dept. MB
Purchase Date: SEP 29 2011	Receipt No: 450689	Zoning: C3	Health Dept.
The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.			
Sign Here		Date	
Patricia Simmons			
Signature		Date	

MB
E4

ATTACHMENT "F"

ADDRESS	BUSINESS	Before Internet Café		Internet Café		%Change
		2/16/10 - 2/15/11	Totals	2/16/11 - 2/15/12		
Delta Fair BL		109		259		137.61%
2954	CA Check Cashing	52		124		138.46%
2958	Super Wine	44		77		75.00%
2962	Internet Room	0		16		nc
2970	Gold Palace	0		3		
2974	UPS Store	7		15		114.29%
2980	The OTS group	0		7		
2982	Geeta's Herbal Spa & Salon	3		6		100.00%
2996		1		0		
3000	Better Homes Realty	2		11		450.00%

Sample types of Calls	Before Internet Café		Internet Café		%Change
	2/16/10 - 2/15/11	Totals	2/16/11 - 2/15/12		
CA Check Cashing					
DISPO CLASS					
MSDS	7		21		200.00%
SUSC	7		16		128.57%
ATMC	7		19		171.43%
DRUN	0		3		
FINF	0		11		
LOIT	0		5		
Super Wine					
DISPO CLASS					
ATMC	9		14		55.56%
AUTT	0		2		
MSDS	7		21		200.00%
SUSC	3		12		300.00%

B49
F

ADDRESS	BUSINESS	Before Internet Café		Internet Café		After Internet Café		
		2/1/09-8/30/09	2009	2/1/10-8/30/10	2010	2/1/11-8/30/11	2011	%Change
	Totals	157	240			158		
A ST			59			40		-34.17%
1800	Gas of America	29	8			9		-32.20%
1806	Juarez	7	0			1		12.50%
1808		1	50			31		nc
1818	Grocery Outlet	49	1			0		-38.00%
1826		0	0			4		-100.00%
1828		4	0			0		nc
1836	Internet Café	0	27			2		-100.00%
1840	Gold Star	1	0			2		-77.78%
1844		0	5			1		nc
1848	Quick Check	2	1			1		-80.00%
1852		3	9			7		0.00%
1860	Lamothe Cleaners	3	1			0		-22.22%
1864		1	5			3		-100.00%
1868	Delta Vaccum	1	1			0		-40.00%
1870	CCC Fed Credit Union	4	0			1		0.00%
1872	Berrys	1	2			1		-50.00%
1884	Thai Cuisine	0	4			4		0.00%
1888	Cheers	0	9			5		-44.44%
1890	Rock Bottom Records	6	0			1		nc
1892	Minute Man Press	1	1			2		100.00%
1894	STARBUCKS	29	48			43		-10.42%
1896	STARBUCKS	15						

B50
F2

5.5 months

ADDRESS	BUSINESS	Before Internet Café		Internet Café		After Internet Café	
		9/1/09-8/31/10	9/1/10-8/31/11	%Change	9/01/11 - 2/15/12		
A ST	Totals	166	279	68.07%	72		
1611	Cruisers	61	72	18.03%	27		
1615	Fireside Thrift	10	7	-30.00%	6		
1623	Auto Zone	46	57	23.91%	22		
1625	The Beauty Source	9	6	-33.33%	0		
1631	Delta Barber	2	15	650.00%	3		
1633		0	1	nc	0		
1635	Russell's Cheesecake	0	3	nc	0		
1639		1	5	400.00%	2		
1641	World Fashion	21	4	-80.95%	0		
1645	Los Caporalles	2	4	100.00%	2		
1653	Internet Café	0		nc	4		
1657	Launderland	6	12	100.00%	5		
1661		0	2	nc	0		
1663	Dollar Store	8	24	200.00%	1		

ADDRESS	BUSINESS	Before Internet Café		Internet Café	
		8/20/10-12/31/10	8/20/11-12/31/11	2010	2011
A ST	Totals	3	38	1166.67%	
1900		1	4	300.00%	
1908	Internet Café	0		nc	
1912	APEX	2	0	-100.00%	

B51
F3

ADDRESS	BUSINESS	Before Internet Café		Internet Café		%Change
		9/1/10 - 2/15/11	9/1/11 - 2/15/12	9/1/11 - 2/15/12	9/1/11 - 2/15/12	
BUCHANAN RD	Totals	7	19	19	19	171.43%
2327	OKAWA	2	2	2	2	0.00%
2329	Brooks & Books	0	0	1	1	
2331 #A	Serenity Salon & Spa	0	0	2	2	
2331 #B	Black Diamond Print	0	0	3	3	
2333 #A	COT on the Web	0	0	6	6	
2333 #B	Dominos Pizza	5	5	5	5	0.00%

B52
F4

ATTACHMENT "G"

CALLS FOR SERVICE
2962 DELTA FAIR BL
2/16/11 - 2/15/12

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11068917	7/26/11 0:46	MSIN	MSIN		NEW INTERNET CAFE - NAME AND LOCATION NOTED FOR ADDITION TO CAD.
11097719	10/16/11 20:29	911U	911U		NVC/VOIP LINE
11109110	11/21/11 12:46	MEDPD	FIDA		FIRE ENRT FOR A MALE LAYING ON THE GROUND, BARELY CONSCIOUS
11109512	11/22/11 18:18	27SUB	WRNO	11010014	OV NEW CASE FOR WARRANT XXXXXXXXXXXX
11116985	12/17/11 0:40	FINF	FINF		MALE FELL OUTSIDE IS BLEEDING FROM SIDE OF HIS FACE
12001418	1/5/12 15:37		CANC		
12002550	1/9/12 2:00	96	WRNO	12000286	
12007174	1/24/12 2:06		VCOO		
12007425	1/24/12 22:00	415V	DISC		VERB WITH SUBJ IFO LOC
12008291	1/27/12 19:49	415UG	MSDS		GROUP IFO REFUSING TO LEAVE.. RP IS OTS SECURITY
12008631	1/28/12 22:11	10851	CIVI		2007 GRY DODGE MAGNUM XXXXXXXXXX (LOC VIA DMV) RP SAID HE JUST MET SOME GUY AND HE ALLOWED HIM TO DRIVE HIS VEH TO THIS LOC SO RP COULD USE THE RESTROOM BEF THEY WENT OVER THE HILL TO "DO SOME BUSN" WHEN RP CAME OUT, UNK MALE THAT HE JUST MET WAS GONE WITH RPS VEH..... OCC SOMETIME DURING THE NIGHT 07 GRY DODGE MAGNUM LIC XXXXXXXXXX
12008717	1/29/12 8:39	10851	CIVI		
12009234	1/30/12 22:56	1059	XPAT		
12009256	1/31/12 1:30	96	VCOO	12001054	
12011363	2/6/12 22:29	VCOO	VCOO		
12011680	2/8/12 0:51		ATMC		

TOTAL # EVENTS 16

TOTAL # CASES 3

{EVENT_MAIN.ADDR_ST} = "DELTA FAIR BL" and
{EVENT_MAIN.ADDR_NUM} = "2962" and
{EVENT_MAIN.RCV_TIME} in DateTime (2011, 02, 16, 00, 00, 00) to DateTime (2012, 02, 15, 23, 59, 59)

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-2962DFB.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
Report for analysis purposes only - not for distribution - Law Enforcement Use Only

B53

GT

CALLS FOR SERVICE

1908 A ST

8/20/11 - 12/31/11

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11077745	8/20/11 22:26	415UG	MSDS		HMA LSW RED HAT RED SHIRT IFO THROWING THINGS AT THE BUSN AND YELLING THAT HE IS GOING TO COME BACK AND HURT THE EMPS... PER RP THE BUSN JUST MOVED AND THEY ARE NOW AT 1908 A ST .. [REDACTED] CAME IN AS 1653 A ST .. WAS ADV TO CONTACT PHONE COMPANY TO CORRECT .. PLS HAVE OFCR CONFIRM ADDRESS WHEN 97
11078136	8/22/11 7:58		ACCN	11006858	
11086692	9/15/11 0:54	417	SUSC		OCCRD AT 19TH/ D ST
11089401	9/22/11 22:25	PTOW	PTOW		5 AGO ... MALE POINTED THE GUN AT RP AND COCKED IT
11090260	9/25/11 2:03	647F	DRUN	11007953	91 CHEV VAN WHI CALIC #4 [REDACTED] LEFT ON PREMISE W/O PERMISSION
11091081	9/27/11 18:19	95	NARC	11008041	IN SMOKING AREA IN THE BACK OF THE BLDG.. 1051 WF BLN HAIR LSW BLK SHIRT AND BLU JEANS REFUSING TO LEAVE.... ACTING VERY AGGRESSIVE
11094268	10/6/11 22:42	96	AUTR	11008369	
11094358	10/7/11 6:42	SUSP	SUPP		RP SAID POLICE WERE LOOKING FOR A MALE RE A 10851 VEH...RP SAID THE MALE IS BACK, WM YELLOW HAT, THIN BUILD...MALE RAN OFF WB ON W 20TH....NFI
11096757	10/14/11 1:32	94	WRNO	11008608	TRO ON W 20TH
11096763	10/14/11 1:54	96	MSNF	11008609	SEP INC FOR THE 96
11097174	10/15/11 5:09	SUSP	SUPP		[REDACTED] IS IFO T'S INTERNET IN MULTIPLE COLOR ZIP UP HOODIE, BLK PANTS, WHI SHOES. SUBJ SHOULD HAVE PC ON A 288 CASE
11098790	10/20/11 1:41	FINF	FINF		F/A ENRT FOR CUSTOMER FEELING ILL, SWELLING IN LEGS AND HANDS, SUFFERS FROM LUPIS, CONSCIOUS AND BREATHING
11098824	10/20/11 4:58	FINF	FINF		MALE 24YS POSS ASTHMA ATTACK, AWAKE
11098851	10/20/11 8:11		WRNO	11008857	
11100420	10/24/11 21:56		WRNO	11009027	
11100726	10/25/11 23:27	94	FIED		
11101053	10/27/11 2:40	SUSV	SUSC		RP RECVD INFO THAT HIS GIRLF [REDACTED] 37 YO LEFT IN A 10851 WHI HOND ACC WITH 3 BM'S AND ARE PARKED AT THE ABOVE BUSN - NFI
11101413	10/28/11 3:18	415V	DISC		TO THE REAR OF BUSN, 6 MALES ARGUING. RP CLAIMS SOMEONE HAS A GUN BUT WHEN QUESTIONED FURTHER MALE SAID HE DOESN'T KNOW AND HUNG UP
11101754	10/28/11 23:06	FINF	FINF		ANOTHER CALL OF ODOR OF NATURAL GAS..CONFIRE 49
11103379	11/2/11 19:06	415UG	SUSC		BELLIGERNT FEMALE ON 19TH SIDE OF STORE.. ASKED TO LEAVE SO SHES UPSET
11105196	11/8/11 20:34	94	SUSC		WFA WRG BABY BLUE TANK TOP
11105283	11/9/11 8:36	94	WRNO	11009540	BEH THE ABOVE
11106500	11/13/11 2:01	96	VCOO		X21, [REDACTED] HAT DK PLAID SWTER

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11109312	11/22/11 5:01	415UG	SRVC		BMA 20'S REFUSING TO LEAVE AFTER FALLING ASLEEP AT THE STATION AND RUNNING OUT OF MONEY/ TIME ON HIS ACCOUNT.. STILL SITTING AT A COMPUTER WRG BLK HOODED SWEATSHIRT
11110006	11/24/11 12:21	96	AUTR	11010069	
11110550	11/26/11 11:12	96	SUSC		PLOT
11111845	11/30/11 21:06	1059	HSOO		RP SAYS PATRONS FROM INTERNET CAFE ARE SMOKING HS BY THE DUMPSTER IN THE BACK PLOT.. RIGHT NOW MALE AND 2 FEMALES
11111949	12/1/11 8:54	94	WRNO		
11112557	12/2/11 22:01	UNK	SUSC		IN BACK PARKING LOT RP GOT A CALL FROM A SEC GUARD WHO IS 97 IN BACK PARKING LOT... SAID HE HAD SOMEONE IN CUFFS THEN THE PHONE DROPPED AND LINE WENT DEAD. RP IS 49 BUT REQUESTING PD ALSO
11113240	12/5/11 2:26	96	SUSC		
11116649	12/16/11 4:32		XPAT		
11118279	12/21/11 12:18		SUSC		
11119257	12/24/11 14:16		MSNF		
11120678	12/29/11 18:35	415	DRUN	11011304	

TOTAL # EVENTS 34

TOTAL # CASES 11

{EVENT_MAIN.ADDR_ST} = "A ST" and
 {EVENT_MAIN.ADDR_NUM} = "1908" and
 {EVENT_MAIN.RCV_TIME} in DateTime (2011, 08, 20, 00, 00, 00) to DateTime (2011, 12, 31, 23, 59, 59)

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-1908A.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
 Report for analysis purposes only - not for distribution - Law Enforcement Use Only

MSB
63

CALLS FOR SERVICE

1653 A ST

9/1/10 - 8/31/11

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
10089393	9/11/10 0:52	415F	ASLS		MALE AND FEMALE ON THE PHONE - BOTH SOUND INTOX OR ON H&S - SAYS PARKER, JOHN IS ON PAROLE AND GAVE THE FEMALE RP'S HUSB A LUMP ON HIS HEAD - AND NOW HE IS TRYING TO TAKE HIS VEH
10096584	9/30/10 22:35		NARC	10008553	
10096629	10/1/10 0:47	94	SUSC		
10103792	10/22/10 1:55		WRNO	10009178	
10110505	11/12/10 0:15	94	WRNO	10009842	
10111087	11/13/10 20:29	94	SUSC		
10112776	11/18/10 21:15	211A	ROBB	10010053	MALE W/BLK MASK, BLK HOODED SWEATSHIRT, BLK JEANS, JUST ROBBED MONEY FROM REGISTER, WAS ARMED W/SAW OFF SHOT GUN SHOT IT AT A CO WORKER, NO ONE HIT IPOD STOLEN AND RP WANTS APD TO CK THEIR CAMERAS FOR THE RESP....OK TO SEND OFC PER C22
10115832	11/28/10 19:36	488	THOF		RP FOUND HER BLU PONT TRANSPORT VAN AT THE ABOVE LOCATION - RP SAYS HER DAUGHTER TOOK IT AND SHE IS STILL THERE - NOW A MALE IS THERE TRYING TO TAKE VEH FROM THE RP - VEH HAS DIABLO DEALER PAPER PLATES VIN: [REDACTED]
10116206	11/29/10 23:22	CIVI	CIVI		
10116816	12/1/10 20:52	94	SUSC		
10116863	12/1/10 23:25	95	VCOO		
10118970	12/8/10 23:48	PROM	PCOO		3 TO 4 SHOTS HEARD, NOTHING SEEN - SECURITY HAS INFO
10125571	12/30/10 19:54	96	VCOO		
11002393	1/8/11 21:01	488	THOF		THEFT OF CELL PH BY UNK RESP E # GIVEN ON 3
11008727	1/28/11 20:56	94	MSDS		
11008803	1/29/11 0:39	95	NARC	11000809	BLK HOND NP
11010169	2/2/11 11:26	HOOO	HOOO		[REDACTED] WORKS AT LOC AND HIS GIRLFRIEND [REDACTED] ARE BUYING AND SELLING DRUGS AT LOC....SHE SAYS HE SOMETIMES "CHECKS" HIS DRUGS....UNK IF THEY ARE THERE NOW OR NOT...RP SAYS [REDACTED] HAS TRACK MARKS ALL OVER HIS ARMS BUT WEARS LONG SLEEVED SHIRTS TO COVER THEM UP
11010329	2/2/11 21:45	94	SUSC		
11010370	2/3/11 1:06	94	VCOO		
11013060	2/10/11 23:00	96	VCOO		
11015349	2/18/11 0:51	95	VCOO		
11015870	2/19/11 20:48		SUPP		
11015889	2/19/11 22:23	95	VCOO		

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11016438	2/21/11 20:07	415F	MSDS		VERY LOUD VERBAL 2 HFS #1 WEARING PINK SHIRT GRY SWEATPANTS...
11016818	2/23/11 0:47	1059	XPAT		
11017471	2/25/11 1:47	95	NARC	11001604	
11020498	3/5/11 23:26	96	SUSC		
11023162	3/13/11 23:21	95	VCOO		
11024113	3/16/11 22:42	94	MSDS		
11025168	3/20/11 3:18	215	CARJ	11002337	10 AGO OCC NEAR AT 20TH/C RP JUST WALKED HERE TO CALL JAMIE UNK LAST NAME AND HER FRIEND HIT RP WITH A PIPE AND BBQ AN THEN TOOK RPS SIL FORD F350 KING CAB, UNK LIC REGISTERD TO [REDACTED] (RP NOT SURE OF SPELLING) MEDICAL REFUSED ALSO TOOK CELL [REDACTED]
11026661	3/25/11 1:59	FIRE	FDIC		VEH ON FIRE CUSTOMER INSIDE THE BUSN - NO ONE IN THE VEH / UNK WHAT HAPPENED.. XFERRED TO FIRE - ENR
11029305	4/1/11 23:32	94	SUPP		
11029757	4/3/11 2:34	95	VCOO		
11029765	4/3/11 3:00	95	VCOO		
11034055	4/16/11 2:20	95	VCOO		
11036122	4/21/11 21:46	96	SRVC		
11036157	4/21/11 23:31	96	PARK		
11036883	4/24/11 0:54	415	MALM		2 SUBJS CHASING EACH OTHER IN THE PARKING LOT, 1 IN A BLK NISS AND 1 IN A GREEN HONDA, PR ADV THE GREEN HONDA HIT A WHI CADI
11038848	4/29/11 23:58		PARK		
11038890	4/30/11 1:59	94	SUSC		
11041791	5/8/11 1:28		WRAN	11003794	
11043128	5/12/11 1:11	95	VCOO		
11043224	5/12/11 10:02	94	WRNO	11003932	
11043239	5/12/11 10:53	94	SUSC		
11043876	5/13/11 23:23	95	VCOO		
11044017	5/14/11 10:32	94	SUSC		
11045926	5/20/11 3:02	1059	NARC	11004182	
11048426	5/27/11 14:11	94	SUSC		
11049360	5/30/11 9:38	SUSV	SUSC		MALE DRIVING THRU THE PL SEVERAL TIMES IN A BLK DURANGO...LS PARKED TRO OF RITE AIDE DRIVER WM C4
11050187	6/1/11 22:40	96	PARK		

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
11050220	6/2/11 0:36	PARK	PARK		
11050899	6/3/11 20:30	PARK	PARK		
11062140	7/5/11 22:53	27SUB	SUSC		RECD INFO THAT PAROLEE AT LARGE IS AT THIS LOC...RESP IS [REDACTED] UNK DOB.....RP HAS NFI. SUBJ IS NOT HIS PAROLEE AND HE HAS NFI.....NO BAIL CDC IN WPS W/4
11063231	7/9/11 0:40	94	SUSC		
11063642	7/10/11 2:41	314	EXPO		WF BLN HAIR ABOUT 24YO 504-505... STRIPPED DOWN NAKED IFO .. WAS WEARING A BLU MINI SKIRT.... FEM ARRIVED WITH A BM BLK HAT WHI SHIRT BLU SHORTS SAGGING BELOW HIS BUTTOCKS.. BOTH SUBJS HEAVILY INTOXICATED
11064952	7/14/11 1:57	10851R	AUTR	11005755	C5 ON UNOCCUPIED 10851
11065264	7/14/11 22:07	94	MSDS		94 ON 4
11065295	7/14/11 23:57	96	SUSC		
11067206	7/21/11 0:25	415	CARJ	11005954	SUBJ TRIED TO REPORT A GUY NAMED [REDACTED] JUST TOOK HIS VEH, BLK 2000 TOYT CAMRY LICTHEN 415 BROKE OUT OVER THE PHONE
11070675	7/31/11 10:26	95	SUPP		
11070676	7/31/11 10:32		AUTT	11006251	
11070678	7/31/11 10:38		AUTR		
11071782	8/3/11 20:09	HOO	HOO		ABOUT 6 SUBJS HANGING OUT IFO THE LOC, APPEAR TO BE USING HS
11071927	8/4/11 10:10	96	SUSC		
11072239	8/5/11 3:08	96	VCOO		
11073120	8/7/11 13:25	94	WRNO	11006430	WTH 1
11074887	8/12/11 18:11	94	SUSC		

TOTAL # EVENTS 67

TOTAL # CASES 14

{EVENT_MAIN.ADDR_NUM} = "1653" and
 {EVENT_MAIN.ADDR_ST} = "A ST" and
 {EVENT_MAIN.RCV_TIME} in DateTime (2010, 09, 01, 00, 00, 00) to DateTime (2011, 08, 31, 00, 00, 00)

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-1653A.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
 Report for analysis purposes only - not for distribution - Law Enforcement Use Only

B58
66


CALLS FOR SERVICE

1836 A ST

2/1/10 - 8/30/10

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
10016711	2/19/10 15:10	5150	AIDX		PURSE MISSING FROM THE BINGO HALL NEAR THIS LOC RP HAS NO MAILING ADDRESS OR HOME SAYS SHE IS HOMELESS AND OUT OF OR ALMOST OUT OF HER MEDS FOR BIPOLAR, SUICIDAL TENDENCIES... PURSE WAS BRO MED SIZE WITH RPS TEETH, MEDS AND CADBURY EGGS INSIDE
10019077	2/26/10 19:47	94	SUSC		W/2
10021601	3/6/10 0:29	94	WRNO	10002054	
10030328	3/31/10 9:46	CAT	CATC		
10032897	4/8/10 0:37	94	WRNO	10003164	INT CAFE
10033045	4/8/10 13:49	415L	MSDS		WM TRANSIENT IFO THE BUSN ASKING FOR MONEY, NOT BOTHERING ANYONE BUT RP WOULD LIKE HIM MOVED ALONG WEARING OLD GRN ARMY JKT
10034163	4/11/10 17:32	SUSP	SUSC		BMA APPROX 20 LSW BEANIE WHI/BLU/RED JACKET KEEPS COMING INTO BUSN ACTING SUSP LS WALKING TWDS A ST
10034675	4/13/10 11:49	415V	SUSC		UNCOOPERATIVE RP SAYING SOMEONE IS TRYING TO FIGHT HIM OVER MONEY HE OWES RESP IS WMA 18-19 YO LONG BLN HAIR BLK SHIRT BLU JEANS ARRIVED ON FOOT
10045265	5/12/10 23:37	96	SUSC		
10046344	5/15/10 18:29	488	THOF		RPS CELL PHONE STOLEN FROM A MALE ...RP THINKS HES ON THE VIDEO
10047837	5/19/10 23:03	96	SUSC		
10048541	5/21/10 23:31	10851R	AUTR	10004654	UNOCC'D 10851
10050612	5/27/10 20:36	95	VCOO		GRAY CELICA NO PLATES
10050627	5/27/10 21:26	95	VCOO		
10053703	6/4/10 20:35	95	AUTS	10005105	
10056437	6/11/10 23:50	SUPP	SUPP		RP ADV SUSP IN JOES LIQUORS INCIDENT YESTERDAY IS A BM, THIN WEARING GLASSES, 99 CENT ONLY BAGS IN HIS HANDS..SUBJ WALKING TWDS INTERNET CAFE...OFC KIDD WAS LOOKING FOR THIS SUBJ PER THE RP
10059069	6/19/10 1:21	94	ASLS		
10061397	6/24/10 23:04		NARC	10005669	
10061417	6/25/10 0:35	94	ATMC		
10064092	7/2/10 1:14	96	SUSC		
10066477	7/7/10 22:05	95	VCOO		
10071603	7/22/10 22:52	94	HOO	10006488	
10071827	7/23/10 16:24	415D	ASLS	10006501	INSIDE BUSINESS MALE AND FEMALE YELLING AT EACH OTHER...NOW PHYSICAL...CAN HEAR THEM YELLING....BMA 27 YRS...506 180 LBS LONG SLEEVE GRY SHIRT.....BFA 30 YRS...BLK SHIRT...NO WEAPONS SEEN...NO INJURIES

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
10072022	7/24/10 1:21	96	VCOO		
10073649	7/28/10 22:01	96	SUSC		
10073978	7/29/10 21:25	94	PCOO		
10083767	8/26/10 22:12	94	VCOO		

TOTAL # EVENTS 27

TOTAL # CASES 7

{EVENT_MAIN.RCV_TIME} in DateTime (2010, 02, 01, 00, 00, 00) to DateTime (2010, 08, 30, 00, 00, 00) and
 {EVENT_MAIN.ADDR_NUM} = "1836" and
 {EVENT_MAIN.ADDR_ST} = "A ST"

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-1836A.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
 Report for analysis purposes only - not for distribution - Law Enforcement Use Only

B60

68

CALLS FOR SERVICE
2333 BUCHANAN RD #A
9/1/11 - 2/15/12

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV_TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
11085380	9/11/11 10:52	33A	ALAF		BUSN CAUGHT ON THE WEB POA FRONT DOOR/ FRONT MOTION 7787004
12003100	1/10/12 20:36	95	NARC	12000344	C4
12005356	1/18/12 1:58	PARK	VCOO		
12008958	1/30/12 4:44	96	LOIT		
12009252	1/31/12 1:18	96	SUSC		
12011679	2/8/12 0:35		VCOO		

TOTAL # EVENTS 6

TOTAL # CASES 1

{EVENT_MAIN.ADDR_NUM} = "2333" and
{EVENT_MAIN.RCV_TIME} in DateTime (2011, 09, 01, 00, 00, 00) to DateTime (2012, 02, 15, 23, 59, 59) and
{EVENT_MAIN.ADDR_APT} = "A" and
{EVENT_MAIN.ADDR_ST} = "BUCHANAN RD"

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-2333-A-Buchanan.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
Report for analysis purposes only - not for distribution - Law Enforcement Use Only

B61
Page 1 of 1
69

ATTACHMENT "H"

SWEEPSTAKES GAMES RULES:

1. Game Rules are pursuant to California Business and Professions Code Sections, 17539.5, 17539.15 (amended September 30, 2008), and 17539.55.
2. Lucky Symbols™ Sweepstakes game chances CAN NOT BE PURCHASED OR SOLD.
3. **THERE IS NO PURCHASE OR PAYMENT NECESSARY TO PLAY LUCKY SYMBOLS™ SWEEPSTAKES.**
4. Any person over the age of eighteen (18) may request a free sweepstakes game chance. No solicitation is required or implied with this free offer with regard to free sweepstake chances awarded in connection to the purchase of Internet Time Services. All game chances have the same "game chance" of winning a sweepstakes prize. Any person upon accepting a free sweepstakes game chance acknowledges and accepts the terms and conditions set forth in these Game Rules.
5. One free sweepstakes game chance per customer per business day is permitted inclusive of all participating Lucky Symbols™ Sweepstakes Game locations throughout the State of California.
Legal name, current address, date of birth and phone number must be provided in writing to receive a free sweepstakes game chance. All personal information gathered will be kept confidential and will not be sold or used in any manner or condition other than to positively identify and keep record of all persons granted a free sweepstakes game chance.
6. All sweepstakes game prizes are redeemed and awarded on the same business. No exceptions considered or accepted. All unclaimed sweepstakes game prizes are considered forfeited by the player.
7. Sweepstakes Game Chances have no cash value and therefore cannot be sold or redeemed for cash or anything of value.
8. Sweepstakes Game Chances are obtained solely by the purchase of Internet Time Access to a live Browser web interlink site (s) on demand by the user. Internet Time Access is the only recognized tangible commodity sold and/or purchased.
9. Sweepstake Game Chances are offered for the purpose of promoting increased sales of Internet Time Services Access.
10. The following classes of persons are not eligible to participate in the free sweepstakes game chances: present or former employees or agents of any Internet Time Access location engaged in the sale of Internet Time Services and offers Sweepstakes Game Chances to promote increased sales of Internet Time Services Access to the general public.
11. All played and winning and redeemed Sweepstakes Game Chance receipts remain to be the property of the game operator.
12. Sweepstakes Game Chance participants agree to release and hold harmless the game sponsor, its officers, members, employees, attorneys, affiliated organizations and agents, as well as the owners of any participating locations, and said owners' directors, officers, members, employees, attorneys, affiliated organizations and agents from any and all claims, demands, liabilities, costs, expenses, penalties, damages (including incidental, consequential and punitive damages), injuries, death, losses of any kind, including, without limitation, reasonable attorney's fees, arising from or in connection with or that may result from their acceptance or use of a prize, their participation in the Sweepstakes Game Chances. Game participants agree not to dispute or contest the Sweepstakes Game Chances winning or losing outcomes. Participants accept responsibility for all federal, state and local taxes on any Sweepstakes Game prizes awarded to the winners.

GAME PRIZES AND ODDS OF WINNING:

1. The number of prizes awarded and the total value of all prize awarded to win depends on the total number of Sweepstakes Game Chances played. The more game chances played increases the player's odds of winning a prize. Some game prize's ratio of win will make some prizes a more frequent winning prize. All prizes are eligible to be a winning prize for any player. All prizes are awarded as a cash prize. Face value of each game prize are represented by the actual cash prize award amount assigned to that specific and separate game prize award. Example: A \$20.00 game prize can be redeemed for a twenty dollar (\$20.00) cash prize.

All game prizes must be redeemed on the same business day and must be redeemed at the same Sweepstake Game operator location. No exceptions considered or accepted.

B6Z HT

ATTACHMENT "I"

9-5.3816 MECHANICAL OR ELECTRONIC GAMES.

These are subject to the following regulations:

(A) Any proprietor owning or operating a business lawfully in existence on August 26, 1982, shall be deemed to have been issued a permit pursuant to this article, provided such proprietor, within 30 calendar days after said date, submits on a form prescribed by the City Manager a record of information on such existing business. No filing fee or permit fee shall be payable therefor. The provisions of this section shall apply to subsequent proprietors at the same location.

(B) Machines may be replaced without a change in such permit. In the event machines are added after August 26, 1982, to total more than three machines for the establishment, a use permit will be required under the provisions of this article.

(C) It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit. The permit shall be conspicuously posted at the location of the games in the premises and shall not be removed during the period for which the license was issued. In cases where the mechanical or electronic games occupy more than 50% of the premises' customer floor space, or account for 50% or more of the premises' gross revenue, or where 10 or more such games are proposed, the use permit shall be referred to the Council for final approval pursuant to the provisions of this article. The use permit shall state the number of games, and the use of additional games shall require a new or modified use permit.

(D) No operator shall install or allow any mechanical or electronic game to be installed in any proprietor's place of business which game requires a permit as provided for in this article unless such proprietor has been issued such permit.

(E) Applicants for use permits shall undergo a background check by the Police Department. The permit may be denied if the applicant has been convicted of a crime which has relevance to the operation of the premises.

(F) No such use permit shall apply to any premises other than the location originally approved. Upon change of ownership, the new owner shall receive clearance from the Police Department; however, no other use permit proceedings shall be required for such transfer if the new owner received police clearance.

(G) The permit provided for in this article may be revoked or suspended as provided for in this chapter. In addition, the violation of any provision of this article shall be grounds for revocation or suspension.

(H) The following shall be considered as standard use permit conditions which can be used as the basis for use permit revocation or suspension:

- (1) There shall be adult supervision during the hours of operation.

B63
IT

- (2) There shall be no minors consuming alcohol on the premises.
- (3) There shall be no use, sale, exchange, or presence of drugs or other illegal substances on the premises.
- (4) Patrons shall not become a nuisance to the properties within the immediate vicinity.

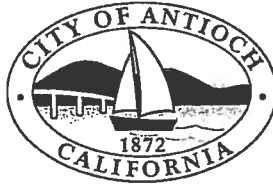
(I) It shall be unlawful for any proprietor of a mechanical or electronic game to cause, permit, or allow such game to be located, operated, or main-tained to be operated within 1,000 feet of the nearest street entrance to or exit from any public playground or public or private school of elementary or high school grades, such distance to be measured from such entrance or exit in the most direct line or route on, along, or across such street or streets adjacent to such public playground or public or private school of elementary or high school grade. The restrictions established by this section shall not apply to businesses lawfully in existence and operating on August 26, 1982.

(J) It shall be unlawful for any proprietor or employee to allow any minor under 18 years of age to play or use any such games during the academic year for public schools in the city, except during school holidays and on Saturdays and Sundays, and between the hours of 7:00 a.m. and 10:00 p.m. on all days preceding school days and between 7:00 a.m. and 11:00 p.m. on all other days.

(K) This article shall not apply to the following:

- (1) Any operation involving three or fewer mechanical or electronic games, except where such games provide the main or primary source of income for the proprietor thereof;
- (2) The operation or maintenance of such games within recreational enterprises, such as bowling alleys or poolrooms, where a use permit has already been obtained; and
- (3) Premises or operations licensed by the Department of Alcoholic Beverage Control of the State for on-sale consumption of alcoholic beverages, excepting therefrom any such premises or operations which lawfully permit minors, such as bona fide public eating places.

ATTACHMENT "J"



January 5, 2012

Will Beaubien
Beaubien Investment Group
One Market Street
Spear Tower, Suite 3600
San Francisco, CA 94105

Patricia Cooper-Simmons
T's Internet Café
3127 Sunflower Drive
Antioch, CA 94531

**Re: T's Internet Café
522 West 2nd Street, Antioch (APN 066-051-006)**

Dear Mr. Beaubien and Ms. Cooper-Simmons:

The City of Antioch understands that the business operating as T's Internet Café falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Subsection (l), pasted below, specifically regulates locations of said businesses. The building at 522 West 2nd Street, Antioch (APN 066-051-006) is located with 1,000 feet of a public school. Therefore, a Use Permit for Mechanical and Electronic gaming cannot be accepted and the use cannot be approved.

- (l) It shall be unlawful for any proprietor of a mechanical or electronic game to cause, permit, or allow such game to be located, operated, or maintained to be operated within 1,000 feet of the nearest street entrance to or exit from any public playground or public or private school of elementary or high school grades, such distance to be measured from such entrance or exit in the most direct line or route on, along, or across such street or streets adjacent to such public playground or public or private school of elementary or high school grade. The restrictions established by this section shall not apply to businesses lawfully in existence and operating on August 26, 1982.

Staff has observed contractors working at the above address without a Building Permit. A Stop Work Notice was given today. A Building Permit will not be issued for T's Internet Café as the use is not permitted.

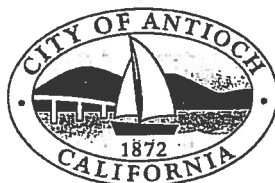
I can be reached at 779.7038 or twehrmeister@ci.antioch.ca.us should you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Tina Wehrmeister".

Tina Wehrmeister
Community Development Director

B65
JT



**NOTICE OF VIOLATION OF THE ANTIOCH MUNICIPAL CODE
MECHANICAL OR ELECTRONIC GAMES**

January 10, 2012

Patricia Simons
Cot on the Web
2333 Buchanan Road, #A
Antioch, CA 94509

Patricia Simons
3127 Sunflower Drive
Antioch, CA 94531

Parcel No. 076-432-014
Address: 2333 Buchanan Road, #A, Antioch, CA

The City of Antioch understands that the business operating as Cot on the Web falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Section 9-5.3816(C) states:

It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit.

The City does not have record of your business obtaining a Use Permit. You are required to submit a Use Permit application by January 30, 2012. An application is attached for your convenience.

The City is providing this one-time opportunity to voluntarily abate the above violation(s) and public nuisance without the need for the City to issue Administrative Citations, which carry fines that range from \$100 to \$1,000 for every day the violation(s) are permitted to remain and/or take other action to compel your compliance.

Thank you in advance for your cooperation in abating these violation(s). If you have any questions, you may contact me at (925) 779-7038 or twehrmeister@ci.antioch.ca.us.

Sincerely,

Tina Wehrmeister
Community Development Director

cc: June Patricia Smoot
Jeffery & Carolyn McClung

B66
JZ



**NOTICE OF VIOLATION OF THE ANTIOCH MUNICIPAL CODE
MECHANICAL OR ELECTRONIC GAMES**

James Hayes
Rapid Business Solutions
2962 Delta Fair Blvd
Antioch, CA 94509

January 18, 2012

Parcel No. 076-440-031
Address: 2962 Delta Fair Blvd., Antioch, CA

The City of Antioch understands that the business operating as Rapid Business Solutions falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Section 9-5.3816(C) states:

It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit.

The City does not have record of your business obtaining a Use Permit. You are required to submit a Use Permit application by January 30, 2012. An application is attached for your convenience.

The City is providing this one-time opportunity to voluntarily abate the above violation(s) and public nuisance without the need for the City to issue Administrative Citations, which carry fines that range from \$100 to \$1,000 for every day the violation(s) are permitted to remain and/or take other action to compel your compliance.

Thank you in advance for your cooperation in abating these violation(s). If you have any questions, you may contact me at (925) 779-7038 or twehrmeister@ci.antioch.ca.us.

Sincerely,

Tina Wehrmeister
Community Development Director

cc: Chiu Family LLC

ATTACHMENT "K"



GagenMcCoy

William E. Gagen, Jr.
Gregory L. McCoy
Patrick J. McMahon
Charles A. Koss
Michael J. Markowitz
Richard C. Raines
Barbara Duval Jewell
Robert M. Fanucci
Allan C. Moore
Stephen T. Buehl
Amanda Bevins
Martin Lysons
Lauren E. Dodge
Sarah S. Nix
Ross Pytlik
Brian P. Mulry
Amanda Beck

Of Counsel
Linn K. Coombs

The Law Offices of
**Gagen, McCoy, McMahon, Koss
Markowitz & Raines**
A Professional Corporation

Danville Office
279 Front Street
P.O. Box 218
Danville, California 94526-0218
Telephone: (925) 837-0585
Fax: (925) 838-5985

Napa Valley Office
The Offices At Southbridge
1030 Main Street, Suite 212
St. Helena, California 94574
Telephone: (707) 963-0909
Fax: (707) 963-5527

Please Reply To:

Danville

February 6, 2012



By Email and Hand-Delivery
February 6, 2012
Board of Administrative Appeals
City of Antioch
Chair Frederick Rouse
c/o City Clerk
200 "H" Street
Antioch, CA 94509

Re: City Notice of Violation dated January 18, 2012
Rapid Business Solutions/2962 Delta Fair Boulevard, Antioch (APN 076-440-031)
Administrative Appeal

Dear Chair Rouse, Board members, and City Clerk:

Our office represents James Hayes, owner and operator of Rapid Business Solutions, located at 2962 Delta Fair Boulevard in Antioch (the Internet café), with regard to the City of Antioch's Notice of Violation dated January 18, 2012.

The City's Notice of Violation states that the business (Internet café) operating as Rapid Business Solutions falls within the City's Municipal Code at §9-5.3816, relating to "Mechanical and Electronic Games." The Notice of Violation states that the Internet café is therefore required to submit a Use Permit application by January 30, 2012.¹

¹ By email exchange, City staff extended the response date to February 6, 2012. Our office further held an informal meeting with Staff on February 2, 2012, and confirmed our Appeal or other response would be filed on/before February 6, 2012.

M68
KT

Please consider this letter a Notice of Appeal of the administrative decision to take the proposed action. (We are filing this Notice of Appeal in anticipation of the City moving forward to take action as outlined in the City's Notice of Violation. If the City does not take such action, and/or if the City will work with us as outlined below, we will withdraw the Notice of Appeal.)

Mr. Hayes wants to work with the City and to continue to be a good neighbor to all adjacent businesses and the greater Antioch community. We understand and appreciate the City's desire to ensure that all businesses comply with the City's ordinances and do not create a nuisance, an increase in vandalism, or any similar land use impacts. We want to cooperate with the City on any such issue as it relates to the Internet café, including increased security, etc., and we will commit to working with the City.

Having stated the above, we hereby appeal the City's potential action (to require a Use Permit or to issue Administrative Citations), based on several grounds, including the following.

1. Applicability of §9-5.3816

The City's Municipal Code at §9-5.3816 is entitled "Mechanical or Electronic Games." Section (C) states as follows:

It shall be unlawful for any proprietor to install, operate or maintain any mechanical or electronic game without first having obtained a use permit . .

The City's Municipal Code defines "Mechanical or Electronic Games" in its Definitions section, at §9-5.203, as follows:

Any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball, or any other article or device, or by paying therefore either in advance of or after use, involving in its use either skill or chance, including, but not limited to, a tape machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game, or any other similar machine or device.

We note that §9-5.3816 as referenced above relates back to businesses operating as of August 26, 1982. At that time, there was no such thing as "Internet cafes" as they are known today. As set forth below, Internet cafes, Cybercafes and related businesses provide access to the Internet, which is recognized as an activity afforded special protection under the First Amendment.

B69
KZ

February 6, 2012

Page 3

We do not believe the City's §9-5.3816 was intended to apply to the Internet, and we do not believe the business activities and facilities (including the computers and related facilities) of Mr. Hayes' Internet café fall within the definition of §9-5.203.

2. City Requirement for a Use Permit

The City's Notice of Violation indicates it intends to require that the subject ongoing business (the Internet café) obtain a Use Permit. The City's Municipal Code at §9-5.2703 (B)(1) requires certain findings for the issuance of a Use Permit, including:

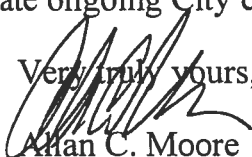
“That the granting of such [Use Permit] will not be detrimental to the public health or welfare ...”

California Appellate cases and authorities state that the discretion of local agencies to require an applicant to obtain a Use Permit is severely limited when First Amendment rights are implicated. This is particularly the case for businesses which provide access to the Internet.

In *Vo v. City of Garden Grove* (115 Cal. App. 4th 425 (2004)), the City of Garden Grove adopted an emergency interim ordinance and a moratorium against new CyberCafes. The ordinance required existing Cybercafes to apply for a Use Permit by a certain date. *The Court held such Use Permit requirement to be invalid.* In its decision, the Court noted that the City's Use Permit ordinance gave the City broad discretion to deny the Use Permit if the use impacts the “public health, safety or general welfare” (*the same criteria in the City of Antioch's ordinance*). The Court found that Garden Grove's Use Permit process gave the City too much discretion to restrict First Amendment rights.

For these and related reasons, we respectfully believe that the City should not impose a Use Permit requirement on Mr. Hayes' existing Internet cafe business. However, as noted above, we do want to work with the City with regard to reasonable steps we can agree on to address legitimate ongoing City concerns.

Very truly yours,



Allan C. Moore

cc: Tina Wehrmeister
Director of Community Development Department

Lynn Tracy Nerland
City Attorney

James Hayes

GAGEN, McCOY, McMAHON, KOSS, MARKOWITZ & RAINES
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
279 FRONT STREET
DANVILLE, CA 94526
PHONE (925) 837-0585

103541



90-2267-1211

2/6/2012

PAY Fifty & No/100 Dollars

50.00

GAGEN, McCOY, McMAHON, KOSS, MARKOWITZ & RAINES
TWO SIGNATURES REQUIRED OVER \$1,000.00 DOLLARS

AUTHORIZED SIGNATURE

TO THE
ORDER
OF
City of Antioch

⑈ 103546 ⑈ ⑆ 121122676 ⑆ 153453447705 ⑈

371
K4

1/23/11

I am appealing letter sent to Cot On The Web 2223a Buchanan rd Antioch CA 94509. It states that I need to get an arcade permit for the sale of internet time I am not a arcade in any way and do not sell anything but internet time.

Any questions

Patricia Simmons

925-209-8332

3127 Sunflower
Antioch CA 94531

Aeventtoremember@ComCast.Net

CITY OF ANTIOCH
925-779-7055

RECH: 00477860 1/24/2012 12:13 PM
OPER: FV3 TERM: 003
REF#:

TRAN: 132.0000 Other Sv Chg-Copies
APPEAL FOR COT ON THE WEB
Other Service Chars 50.000R

TENDERED: 50.00 CASH
APPLIED: 50.00

CHANGE: 0.00



ORIGINAL

RECEIVED

JAN 24 2012

CITY OF ANTIOCH
CITY CLERK

072
K5

1-12-12

To: The city of Antioch

I Am Appealing letter Received 1-5-12
by Tina Wehrmeister stating my sales of
internet time/Phone cards ARE electronic
Games. T's internet cafe Does Not Sell
Any kind of Game At All. I Do NOT
feel A Electronic Game permit is needed
for T's internet cafe

Thank
you

Patricia Simmons
T's internet cafe
925-209-8332

RECEIVED
JAN 12 2012
CITY OF ANTIOCH
CITY CLERK

CITY OF ANTIOCH
925-779-7055

REC#: 00475867 1/12/2012 10:29 AM
OPER: FV3 TERM: 003
REF#:

TRAN: 132.0000 Other Sv Chg-Copies
PATRICIA SIMMONS
Other Service Chrg 50.00CR

TENDERED: 60.00 CASH
APPLIED: 50.00-

CHANGE: 10.00

B73
K6

ATTACHMENT "C"

ORDINANCE NO. 2056-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF COMPUTER GAMING AND INTERNET ACCESS BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE

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

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours, creating unknown impacts on the surrounding area and businesses, such as observed

lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

F. The City of Antioch, as well as neighboring cities, has experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows and as further described in attachments to the staff report:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service at that location and at neighboring businesses have increased from 109 to 259 over a twelve month period since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

G. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Computer Gaming and Internet Access Businesses that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by Computer Gaming and Internet Access Businesses. In particular, although the City Council adopted Urgency Ordinance No. 2053 on February 28, 2012 and Ordinance No. 2054-C-S on March 13, 2012 adding Chapter 11 of Title of the Antioch Municipal Code regarding licensing procedures and certain operational regulations, the current provisions do not fully take into account the impacts related to the location, concentration and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community that could be addressed with a zoning ordinance.

The City requires additional time to prepare, evaluate and adopt reasonable regulations, including land use regulations through a zoning ordinance, regarding the construction, placement and operation of Computer Gaming and Internet Access Businesses so that such regulations are applied in a nondiscriminatory manner.

H. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

I. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Computer Gaming and Internet Access Businesses in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

J. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Computer Gaming and Internet Access Business.

K. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by State or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

L. City staff has provided a staff report indicating that additional time is needed to study these complicated issues and noticed a public hearing for April 10, 2012 for the City Council's consideration of an extension of the temporary moratorium.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Computer Gaming and Internet Access Businesses. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

- A. **Restricted Activities.** In accordance with the authority granted the City of Antioch under Article XI, Section 7 of the California Constitution and California Government Code Section 65858, the moratorium adopted by the City Council on February 28, 2012 is extended for 10 months and 15 days from the date of this ordinance. No permit or any other applicable license or entitlement for use, including, but not limited to, the issuance of a business license, business permit, building permit, conditional use permit, or zoning text amendment shall be approved or issued for the establishment or operation of a Computer Gaming and Internet Access Business in the City of Antioch. Additionally, Computer Gaming and Internet Access Business are hereby expressly prohibited in all areas and zoning districts of the City. The two existing Computer Gaming and Internet Access Businesses may continue to operate at their current locations: Internet Room at 2962 Delta Fair Boulevard and Cot on the Web at 2333 Buchanan Road. No expansion of the number of computer terminals is allowed. Expansion of tenant floor space is permitted in order

to allow compliance with the licensing procedures and regulations in Title 5, Chapter 11 of the Antioch Municipal Code.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

2. "Public Use or Internet Learning Center" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. 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 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 10 months and 15 days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

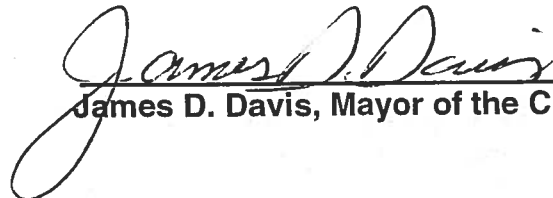
I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 10th day of April, 2012, by the following vote:

AYES: Council Members Kalinowski, Harper, Rocha, Agopian and Mayor Davis

NOES: None

ABSENT: None

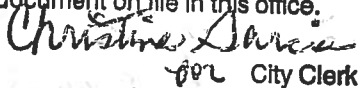
ABSTAIN: None


James D. Davis, Mayor of the City of Antioch

ATTEST:


Denise Skaggs, City Clerk of the City of Antioch

I certify that this is a true copy of
a document on file in this office.


for City Clerk

SEAL

City of Antioch, California

CL



Contra Costa County Tobacco Retailer License Ordinance

Results:

- **Illegal sales rate in the unincorporated areas is 3.8% as compared with 37% before the ordinance took effect.**

Purpose:

- To increase compliance among tobacco retailers with local, state and federal tobacco (including electronic cigarette) sales laws.

Adopted: January 2003

Basic components:

- The license can be suspended for violations of youth tobacco sales laws, like self-service displays of tobacco or tobacco sales to minors.
- License fees cover costs of compliance checks and administration.

Fee:

- \$287 tobacco retailer license fee per year (based on actual costs of administration/enforcement)
- \$348 hearing fee for retailers who have been found to be in violation of any tobacco sales laws and require a suspension hearing
- \$110 re-inspection fees for re-inspection of retailers whose license is suspended

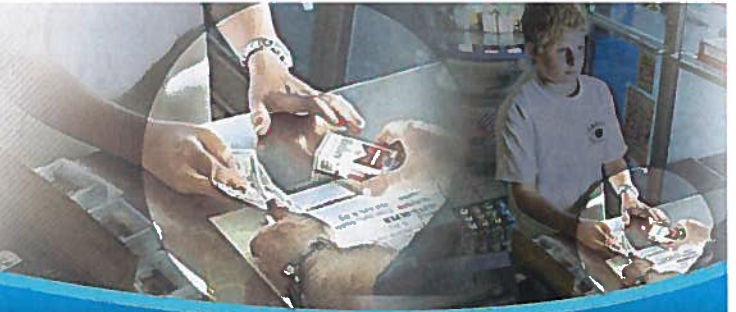
Administration: Tax Collector issues license with County Business License.

Enforcement:

- Contra Costa Health Services staff conduct inspections and administer hearings.
- Undercover buying operations are conducted through law enforcement.

Prepared by the Tobacco Prevention Project 6/13

#4
07-09-13



Tobacco Retailer Licensing

Tobacco Retailer Licensing Is Effective

August 2012

More than 90 communities in California have adopted strong local tobacco retailer licensing ordinances in an effort to reduce illegal sales of tobacco products to minors. These ordinances require tobacco retailers to obtain a license to sell tobacco, which includes an annual licensing fee high enough to fund strong enforcement programs and financial deterrents for violators through fines and penalties that include the suspension and revocation of the license.

The table below lists illegal sales rates to minors before and after a strong licensing law was enacted in 33 communities where data is available and enough time (usually at least a year) has passed after the ordinance was enacted to determine results. These sales rates were determined by youth tobacco purchase surveys administered by local agencies. It is important to note that results from the youth tobacco purchase surveys are somewhat dependent on certain factors that differ in each community, such as the age of the youth and the number of stores surveyed.

The results overwhelmingly demonstrate that local tobacco retailer licensing ordinances with strong enforcement provisions are effective. Rates of illegal tobacco sales to minors have decreased, often significantly, in all 33 municipalities with a strong tobacco retailer licensing ordinance where there is before and after youth sales rate data available. However, a licensing ordinance by itself will not automatically decrease sales rates; proper education and enforcement about the local ordinance and state youth access laws are always needed.

For more resources on these ordinances, including the Matrix of Strong Local Tobacco Retailer Licensing Ordinances with policy and enforcement details for every strong ordinance in the state, visit www.Center4TobaccoPolicy.org/localpolicies-licensing. For model tobacco retailer licensing ordinance language, visit ChangeLab Solutions at changelabsolutions.org.

TABLE OF YOUTH SALES RATES BEFORE AND AFTER THE ADOPTION OF A STRONG TOBACCO RETAILER LICENSING ORDINANCE

City/County	Date Passed	Annual Fee	Youth Sales Rate Before Ordinance	Most Recent Youth Sales Rate
Banning	August 2006	\$350	77%	21%
Beaumont	December 2006	\$350	63%	20%
Berkeley	December 2002	\$427*	38%	4.2%
Burbank	February 2007	\$235	26.7%	4%
Calabasas	June 2009	\$0*	30.8%	5%
Coachella	July 2007	\$350	69%	11%
Contra Costa County	January 2003	\$160*	37%	16%
Corona	October 2005	\$350	50%	17%
Davis	August 2007	\$344	30.5%	2%
Delano	June 2008	\$165	23%	5.6%
Desert Hot Springs	August 2007	\$350	48%	4%
El Cajon	June 2004	\$698	40%	1%
Elk Grove	September 2004	\$270	17%	14%
Grass Valley	November 2009	\$100	27%	0%
Grover Beach	September 2005	\$224	46%	18.7%

**TABLE OF YOUTH SALES RATES BEFORE AND AFTER THE ADOPTION
OF A STRONG TOBACCO RETAILER LICENSING ORDINANCE (continued)**

City/County	Date Passed	Annual Fee	Youth Sales Rate Before Ordinance	Most Recent Youth Sales Rate
Hollister	May 2006	\$269	33%	4.5%
Kern County	November 2006	\$165	34%	13.3%
La Canada Flintridge	June 2009	\$50*	47.1%	0%
Los Angeles County	December 2007	\$235	30.6%	8%
Murrieta	May 2006	\$350	31%	7%
Norco	March 2006	\$350	40%	6%
Pasadena	January 2004	\$225	20%	0%
Riverside	May 2006	\$350	65%	31%
Sacramento	March 2004	\$324	27%	0%
Sacramento County	May 2004	\$287	21%	14%
San Fernando	October 2008	\$250	38.5%	3%
San Francisco	November 2003	\$175*	22.3%	15.5%
San Luis Obispo	August 2003	\$255	17%	2.3%
San Luis Obispo County	October 2008	\$342	33.3%	50%
Santa Barbara County	November 2010	\$235	21%	13%
Tehachapi	February 2007	\$165	8%	16.7%
Vista	May 2005	\$250	39%	1.9%
Yolo County	May 2006	\$344	28%	0%

*City or County fee does not fully cover administration and enforcement of the tobacco retailer license. Rather, the fee is supplemented with another stable source of funds, such as Master Settlement Agreement (MSA) funds or general funds. See the Center's Matrix of Strong Local Tobacco Retailer Licensing Ordinances for full details about the administration and enforcement of these ordinances.



Communities can use tobacco retailer licensing to restrict new businesses that primarily sell tobacco products, like smoke shops, head shops, and hookah bars.

More than 100 communities in California have passed tobacco retailer licensing ordinances, many of which have particularly effective fee and enforcement provisions. For a list of communities with strong tobacco retailer licensing laws and the Plug-ins they have incorporated, see the Center for Tobacco Policy & Organizing's *Matrix of Strong Local Tobacco Retailer Licensing Ordinances* at www.center4tobaccopolicy.org/localpolicies-licensing.

“Plug-in” Policy Provisions for a Tobacco Retailer License

Your community has a range of policy choices to consider when designing a local tobacco retailer licensing ordinance (TRL). Our *Model California Ordinance Requiring a Tobacco Retailer License* (“Model TRL”) contains the essential elements for an effective licensing ordinance that can be used to enforce federal, state, and local tobacco control laws. From there, communities can include additional policy options, or “Plug-ins,” to expand the ordinance. These Plug-ins are not intended to be adopted independently, however, any of the Plug-ins could be incorporated into an existing TRL by amending the ordinance.

This fact sheet describes each of the 15 Plug-ins. The Model TRL and Plug-ins are all available at www.phlpnet.org/tobacco-control. If you would like help adapting any of these models for your community, please contact us at www.phlpnet.org/tobaccoquestions.

Limitations on License Issuance

A local tobacco retailer licensing ordinance allows a community to exercise better control over where tobacco products are sold. These Plug-ins limit the types of businesses and the locations that are eligible for a tobacco retailer license. Limiting where tobacco is sold can reduce access to tobacco products and can also facilitate enforcement of the licensing provisions.

Licenses limited by population and density

This Plug-in can be used to limit the density of tobacco retailers in two ways: (1) by capping the total number of tobacco retailer licenses that can be issued based on population (overall density), and (2) by restricting how close tobacco retailers may be to one another (density relative to other retailers). California law limits alcohol licenses based on density, and this Plug-in applies that same rationale to tobacco retailers. One or both options can be included in a licensing ordinance. Communities also can combine this Plug-in with the “proximity” Plug-in (below) to provide even greater control over where tobacco retailers can locate.

No licenses near schools and youth-populated areas

This “proximity” Plug-in prohibits a license for a business operating too close to a school or other area frequented by youth. Because tobacco sales near schools and child-oriented areas have been shown to increase youth smoking, this Plug-in can be used to keep tobacco retailers out of areas where youth typically congregate. Communities can combine this with the “density” Plug-in (above) to exercise greater control over where tobacco retailers can locate.

No license for a new significant tobacco retailer

This Plug-in prohibits a business that primarily sells tobacco products from obtaining a tobacco retailer license. The Plug-in defines a “significant” tobacco retailer based on either the amount of floor space or the percentage of sales devoted to tobacco products or paraphernalia. Existing retailers that fall into this category would be allowed to continue to operate unless they allow their license to lapse, close for more than 60 days, or significantly change their business operation.



Many California communities face increasing public health and safety concerns that stem from the sale and use of illegal drugs. These concerns can be addressed with a TRL Plug-in provision that gives communities the ability to create local enforcement mechanisms for violations of state drug paraphernalia laws and could ultimately reduce sales of drug paraphernalia.



"Little cigars" are designed to be as similar to cigarettes as possible without meeting the legal definition, to escape being subject to increasing regulations.

No license for businesses that allow smoking anywhere on the premises

This Plug-in prohibits a license for any business that allows smoking on site, either indoors or outdoors. One purpose is to eliminate smoking at businesses that also sell tobacco products, such as hookah bars or cafes that may allow smoking outdoors. Another purpose is to eliminate smoking in retail tobacco shops and private smokers' lounges, both of which may permit smoking indoors under current California law.

No licenses in residential zones

This Plug-in prohibits a license for any business operating in an area zoned for residential use, such as a "store" selling tobacco from a house. One purpose of this Plug-in is to formally separate the areas where people live from the areas where tobacco can be sold. This Plug-in could be further modified to list additional zones where tobacco sales are prohibited, or alternatively, to list the specific zones of the community where tobacco sales will be allowed.

No license for bars or restaurants

This Plug-in denies a tobacco retailer license to any business that sells alcoholic beverages for on-site consumption (i.e., a bar), and any establishment that sells food for on-site consumption (e.g., a restaurant). This Plug-in and the Plug-in entitled "Only Off-Sale Alcohol Retailers May Obtain License" (below) are alternative ways to regulate the types of businesses that may obtain a license in your community. Each approach has advantages, but these two policy options are incompatible and should not both be adopted in a single ordinance.

Only off-sale alcohol retailers may obtain a license

This Plug-in provides that a license can only be issued to a business that has a state license to sell alcohol for consumption off the premises (e.g., a liquor store). Restricting licenses in this way consolidates tobacco sales with alcohol sales and indirectly reduces tobacco retailer density to the same levels as alcohol retailer density, which is already regulated by the state. This Plug-in and the Plug-in entitled "No License for Bars or Restaurants" (above) are alternative ways to regulate the types of businesses that may obtain a license in your community. Each approach has advantages, but these two policy options are incompatible and should not both be adopted in a single ordinance.

Additional Retailer Requirements and Prohibitions

A local tobacco retailer licensing ordinance provides an effective tool to enforce a wide range of laws that are related to the sale and use of tobacco products. Many of these Plug-ins allow communities to revoke a license from retailers for violating existing tobacco-related laws. Some also allow communities to implement new policies that address specific public health concerns related to tobacco sales in the communities.

License revocation for violating drug paraphernalia laws

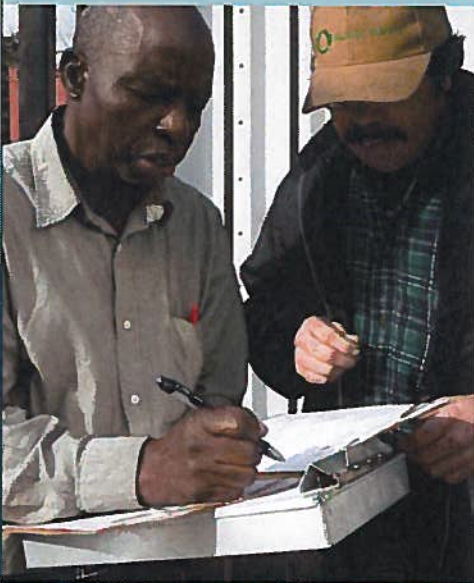
This Plug-in gives communities an additional tool to combat sales of "drug paraphernalia" in their communities. Under this provision, if a retailer is found to have violated state laws regarding drug paraphernalia or controlled substances, that retailer will also be in violation of the tobacco retailer license, and the penalties of the licensing ordinance will apply. For more information on this Plug-in, see our fact sheet on this topic, available at: www.phpnet.org/tobacco-control/products/using-tobacco-retailer-li.

License revocation for violating storefront signage laws

This Plug-in makes abiding by applicable sign laws—including laws regarding exterior, storefront, window, or door signage—a condition of maintaining a tobacco retailer license. For example a California law requires that liquor stores have no more than 33 percent of window space covered by signs of any kind. If a retailer violated this law or similar local laws, then the retailer's tobacco license could be revoked. Because a significant percentage of signs at tobacco retailer locations are likely to



Cigars, little cigars and cigarillos are packaged for single sale and sold for between 50 cents and a dollar each. They are aggressively marketed to young adults, people of color and low-income communities. They are also targeted to youth is through candy flavors – like grape and cherry.



Strong enforcement provisions are a necessary part of any effective policy, ensuring that citizens abide by the law.

Developed by the Technical Assistance Legal Center (TALC), a project of Public Health Law & Policy. (PHLP). PHLP is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state. Made possible by funding from the Department of Health and Human Services through the Los Angeles County Department of Public Health.

© 2012 Public Health Law & Policy

Photos by Lydia Daniller and PHLP.

be tobacco-related, sign laws can have a large, albeit indirect, impact on tobacco advertising. A community could also use this Plug-in to directly limit the amount of signage allowed in storefront windows and doors.

No sales of single cigars

This Plug-in prohibits the sale of individual or small packages of low-priced cigars, including little cigars and cigarillos. These products are particularly appealing to youth due to their low prices and candy flavoring, and though they are often similar to cigarettes, they are not subject to the same restrictions against selling the product individually or in small quantities. This Plug-in allows communities to close that loophole. It also includes optional exemptions for certain “premium” cigars meeting a specific definition, cigars sold above a certain price point, or cigars sold in specialty shops. For more information on this Plug-in, see our fact sheet on this topic, available at: www.phlpnet.org/tobacco-control/products/cigars-minimum-pack-size.

License revocation for violating age-of-purchase laws

Under this Plug-in, if a tobacco retailer is found to have violated any age-of-purchase law (for example, selling alcohol illegally to a minor), the retailer’s tobacco retailer license could be revoked. The rationale for the provision is that if a retailer illegally sells nontobacco products like alcohol or lottery tickets to youth, the retailer should not be trusted to abide by the law prohibiting tobacco sales to minors.

No sales of tobacco look-alike products

This Plug-in prohibits the sale of tobacco “look-alike” products, such as candy cigarettes, bubble gum cigars, and “Big League Chew,” all of which are food items that are packaged to resemble tobacco products and appeal to youth.

No distribution of free tobacco products (no “sampling”)

This Plug-in limits the free or low-cost distribution of tobacco products, also known as sampling. California law, the Master Settlement Agreement (MSA), and the federal Family Smoking Prevention and Tobacco Control Act all contain limitations on the distribution of free tobacco samples. However, there are exceptions for the distribution of smokeless tobacco in certain adult-only facilities. Local governments can go further than existing laws and the MSA by completely banning tobacco sampling at any location where tobacco products are sold. In addition, sampling can be restricted in a more comprehensive way through a stand-alone ordinance (see our model ordinance to prohibit sampling, available at: www.phlpnet.org/tobacco-control/products/sampling-ordinance).

Enforcement

The Model TRL contains mandatory penalties for violating the licensing provisions, but these Plug-ins provide additional enforcement options.

Fine in lieu of license revocation

This Plug-in gives local government staff discretion to impose a fine on a retailer instead of revoking the retailer’s license for the time specified in the ordinance. If your community wants to provide this discretion, mandatory minimum alternative penalties should still be specified in your TRL ordinance. For example, this Plug-in provides that a fine—along with a short suspension (e.g. 1–10 days)—would be available only for a first or second violation and only if the retailer admits guilt.

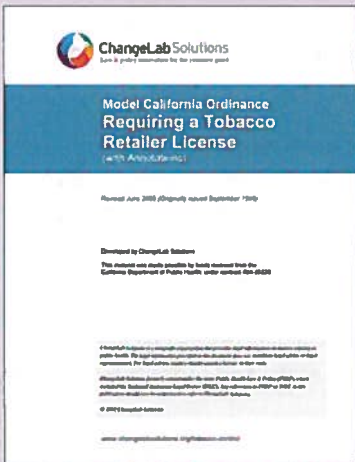
Private enforcement

This Plug-in allows private citizens to enforce a tobacco retailer licensing ordinance directly, rather than relying solely on local enforcement officials to do so. It permits members of the public to complement traditional government enforcement by suing alleged violators in small claims court or, if appropriate, in Superior Court in order to obtain an injunction (a court order to stop a certain activity) or a modest fine (e.g., \$500).



ChangeLab Solutions has developed model language for a tobacco retailer licensing law in California cities and counties. The model language offers a variety of policy options that can be tailored to the specific goals and needs of your community.

In addition to the core provisions, ChangeLab Solutions has drafted supplementary “plug-in” provisions, which offer additional policy options that can be incorporated into the law. For more information, please see our resources on Tobacco Retailer Licensing at www.changelabsolutions.org/publications/model-TRL-ordinance.



While ChangeLab Solutions’ model language for a tobacco retailer licensing law was designed for California communities, the model can be adapted for use in other states as well. It is important to carefully check the existing law in your state to learn if local tobacco retailer licensing is allowed. Consult with an attorney licensed in your jurisdiction.

Tobacco Retailer Licensing

An Effective Tool for Public Health

Communities are adopting tobacco retailer licensing laws as one way to ensure compliance with tobacco laws and to combat the public health problems associated with tobacco use. In this fact sheet, we explain how tobacco retailer licensing works, why many communities are pursuing this policy, and what goes into creating and implementing a strong tobacco retailer licensing law.

What is tobacco retailer licensing?

Licensing is a common policy tool that state and local governments use to regulate businesses like alcohol retailers, pharmacists, or restaurants. A local government may want to similarly license tobacco retailers in order to protect public health and safety by ensuring that retailers comply with responsible retailing practices.

Under a local tobacco retailer licensing law, the city or county government requires all businesses that sell tobacco products to obtain a license from the government in exchange for the privilege of selling these products to consumers.¹ Local governments may require licensed retailers to pay an annual fee, which can fund administration and enforcement activities such as store inspections and youth purchase compliance checks. Increasingly, tobacco retailer licensing is being used to promote other innovative policy solutions as well, including controlling the location and density of tobacco retailers and imposing additional restrictions on the sale and promotion of tobacco products.²

As of June 2012, more than 100 cities and counties in California had adopted a local tobacco retailer licensing law.³ The Center for Tobacco Policy & Organizing (The Center) classifies 94 of these as “strong,”⁴ meaning the laws have at a minimum:

- a requirement that all tobacco retailers obtain a license and renew it annually;
- an annual licensing fee high enough to fund sufficient enforcement;
- meaningful penalties for violators through fines and penalties, including the suspension and revocation of the license;⁵ and
- a provision stating that any violation of existing local, state or federal tobacco laws constitutes a violation of the local law.





Why adopt a tobacco retailer licensing law?

Many communities adopt tobacco retailer licensing laws because they are effective tools for limiting the negative public health consequences of tobacco use. While this tool provides many benefits, there are three main advantages to a tobacco retailer licensing law. First, these laws have been shown to be effective at limiting youth access to tobacco. Second, strong laws with annual fees create self financing programs that allow for regular enforcement. Third, a tobacco retailer licensing law facilitates comprehensive local enforcement of all tobacco related laws. Each of these points is discussed below.

Protecting youth

Despite state laws prohibiting sales of tobacco to minors, a 2007 survey found that nearly three-quarters of youth access enforcement agencies statewide issued warnings to merchants selling tobacco products to minors during the prior year.⁶ Fortunately, strong local tobacco retailer licensing laws—that is, laws that meet the criteria above—have proven effective at reducing illegal tobacco sales to minors. The Center has found that local tobacco retailer licensing is extremely effective at reducing illegal sales to underage youth: the organization surveyed 31 municipalities that have implemented and enforced a strong tobacco retailer licensing law and found that the rates of illegal sales to minors decreased, often significantly, in all communities surveyed.⁷

A self-financing program

An important strength of licensing is that the government may impose a licensing fee that is sufficient to cover the costs of enforcement. Because funding enforcement is often the best way to ensure compliance with a policy, Changelab Solutions recommends that the fee be calculated to include all enforcement activities. For more information on how to calculate a fee for a local tobacco retailer license, see our tobacco licensing cost worksheet at: www.changelabsolutions.org/publications/tobacco-licensure-costs.

A comprehensive enforcement mechanism for local communities

A number of federal and California state laws already regulate tobacco sales and establish penalties for illegal sales to minors. But these laws each have separate enforcement mechanisms and penalty structures, making it difficult to enforce them at the local level. A local tobacco retailer licensing law, on the other hand, empowers *local law enforcement* to impose *meaningful penalties* for illegal sales to minors and ensure compliance with all existing laws—ensuring that local communities can prioritize enforcement even when state and federal authorities are unable to do so.

Meanwhile, some of these state and federal laws fail to address important public health concerns related to tobacco. For example, the federal regulations authorized by the 2009 Tobacco Control Act currently apply only to cigarettes and smokeless tobacco products—they do not apply to little cigars or other tobacco products that are aggressively marketed to youth. A local tobacco retailer licensing law is a tool communities can use to help bridge these gaps and address public health concerns in their communities.



An electronic cigarette with charger.

What is a tobacco product?

When people think of tobacco products, they may think of cigarettes, cigars, and chewing tobacco, but there are other products communities may want to restrict. Our model language defines tobacco products broadly to include all products containing tobacco leaf (including hookah, snuff, snus, and dissolvables) as well as nicotine-only products such as electronic cigarettes. This definition is written to restrict emerging tobacco industry products without interfering with FDA-approved cessation devices—like nicotine patches.

What else can a tobacco retailer licensing law do?

While a tobacco retailer licensing law may be the best tool to prevent sales to minors, it can also promote other innovative policy solutions, controlling the location and density of tobacco retailers, imposing additional restrictions on the sale of other tobacco products like little cigars, and preventing the sale of drug paraphernalia.

Zoning:

location and density of retailers

Another common way to limit where tobacco retailers can locate is through land use laws, also known as zoning laws. For a comparison between land use laws and licensing laws, see ChangeLab Solutions' factsheet, *Licensing & Zoning: Tools for Public Health*, available at: www.changelabsolutions.org/publications/licensing-zoning.

Location and density of retailers

Local governments can use tobacco retailer licensing to control both the location and density of tobacco retailers in their communities. A licensing law could, for example, prohibit licenses for any businesses operating too close to a school or other area frequented by youth. Because tobacco sales near schools and child-oriented areas have been shown to increase youth smoking⁸, this policy can be used to keep tobacco retailers out of areas where youth typically congregate. A tobacco retailer licensing law also could cap the total number of licenses issued based on population, controlling the overall density of tobacco retailers in a community. California law limits alcohol licenses based on density, and this policy applies that same rationale to tobacco retailers.



Cigarillos in grape, strawberry and blueberry flavors, sold for under a dollar a piece.

Little cigars and cigarillos

A tobacco retailer licensing law can also prohibit the sale of individual or small packages of low-priced cigars, including little cigars and cigarillos. Due to their low prices and candy flavoring, these products are particularly appealing to youth, and though they are often similar to cigarettes, they are not subject to the same restrictions against selling the product individually or in small quantities. This policy allows communities to close this loophole and regulate a product that is increasingly used by youth. For more on this policy, see our fact sheet at: www.changelabsolutions.org/publications/limiting-teen-friendly-cigars.

Drug paraphernalia

Many communities are using tobacco retailer licensing laws to address the sale of drug paraphernalia in their neighborhoods. Through this provision, a retailer found to have violated state laws regarding drug paraphernalia will also be in violation of the local tobacco retailer license, and the penalties of the licensing ordinance will apply. In this way, the tobacco retailer licensing law becomes an additional tool for local law enforcement to combat sales of drug paraphernalia. For more information on this policy option, see our fact sheet on this topic at: www.changelabsolutions.org/publications/drug-paraphernalia.



Meth pipes for sale at a smoke shop in San Francisco, California.

These are just a few examples of cutting-edge policy solutions for tobacco control. These innovative policy solutions—referred to as “plug-in” provisions—can be incorporated into our model language for a tobacco retailer licensing law. For more information about plug-in provisions, including the ones mentioned here, see: www.changelabsolutions.org/publications/policy-provisions-trl.

Implementation and enforcement

It's up to individual communities to decide who will implement and enforce a tobacco retailer licensing law. Multiple agencies might be involved: one agency may issue the license (the city manager, for example, or the agency that issues general business licenses), while another agency, such as the environmental health or police department, may monitor compliance.

There is no one right way to implement and enforce a local tobacco retailer licensing program. That said, successful programs share some characteristics.

¹ In California, local tobacco retailer licensing laws are specifically authorized by the state tobacco retailer licensing law, which says that "[l]ocal licensing laws may provide for the suspension or revocation of the local license for any violation of a state tobacco control law." Cal. Bus. & Prof. Code § 22971.3.

² See generally McLaughlin I. *License to Kill?: Tobacco Retailer Licensing as an Effective Enforcement Tool*. Tobacco Control Legal Consortium, 2010. Available at: <http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-retailer-2010.pdf>

³ American Nonsmokers' Rights Foundation. *California Municipalities with Laws Restricting Youth Access to Tobacco*. 2011. Available at: www.changelabsolutions.org/publications/anrf-list (List includes only those laws which provide for suspension or revocation of a license).

⁴ The Center. *Table of Strong Local Tobacco Retailer Licensing Ordinances*. 2012. Available at: www.center4tobaccopolicy.org/local-policies-licensing.

⁵ The threat of license suspension creates a greater financial deterrent to retailers than a simple fine. For many stores, especially convenience stores, tobacco sales make up a substantial portion of their revenue. Losing the authority to sell tobacco products for a month can cost retailers far more than the largest fines that can be imposed under existing California laws, like Penal Code section 308 or the STAKE Act. See Cal. Penal Code § 308 (violators can be fined \$200, \$500, or \$1000 for first, second, or third violations, respectively); Cal. Bus. & Prof. Code 22958 (violators can be fined \$400-600 for a first violation and are subject to harsher penalties for each additional violation in a 5-year period).

⁶ Rogers T, Feighery EC, Haladjian HH. *Current Practices in Enforcement of California Laws Regarding Youth Access to Tobacco Products and Exposure to Secondhand Smoke*. Sacramento, CA: California Department of Public Health, 2008. Available at: www.cdph.ca.gov/programs/tobacco/Documents/CTCPEnforcementReport08-05.pdf.

⁷ The Center. *Tobacco Retailer Licensing Is Effective*. 2011. Available at: www.center4tobaccopolicy.org/CTPO/_files/_file/Tobacco%20Retailer%20Licensing%20is%20Effective%20March%202011.pdf.

⁸ Henriksen et al. "Is Adolescent Smoking Related to the Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?" *Preventative Medicine*, 47(210): 210-214, 2008. Abstract only is available at: www.sciencedirect.com/science/article/pii/S0091743508002089.

Photos: Lydia Daniller (cover, top of page 2), ChangeLab Solutions (bottom of page 2, top of page 3), SFCityAttorney on flickr.com (bottom of page 3), and Flickr Creative Commons DC Central Kitchen (page 4)

For one thing, they are overseen by a single government agency with dedicated staff members. They also plan early for enforcement that engages all the key players. And they require a license fee that is large enough to cover the full costs of administering and enforcing the program. To assist agencies in coordinating and planning, ChangeLab Solutions created a checklist that includes all the recommended elements of a successful program. The checklist is available at: www.changelabsolutions.org/publications/implementation-checklist-TRL.

To help understand the variety of local approaches to tobacco retailer licensing, in 2006 we studied four communities that are effectively enforcing their local tobacco retailer licensing laws: Contra Costa County, Santa Barbara County, the City of Willits, and the City of Los Angeles. We chose these communities because they were among the first in California to suspend the tobacco licenses of retail outlets that violated sales-to-youth or other tobacco control laws. Read our review of these programs (visit: www.changelabsolutions.org/publications/case-studies-local-trl-ords) to see how, despite their differences, they all achieve the goal of holding retailers accountable for violations of tobacco sales laws.

Licensing for healthy food retailers

Communities can use licensing to improve public health in other ways by ensuring that retailers are not only complying with existing laws but also benefiting the communities they serve. For example, in neighborhoods with limited access to fresh produce and staple foods, a licensing system could require food retailers to carry these items. For more information on healthy food retailer licensing, see our Model Licensing Ordinance for Healthy Food Retailers at: www.changelabsolutions.org/publications/HFR-licensing-ord.



For more information

For support with model language and legal issues:

ChangeLab Solutions
www.changelabsolutions.org

For support with campaign issues:

The Center for Tobacco Policy & Organizing, a project of the American Lung Association in California (The Center)
www.Center4TobaccoPolicy.org



changelabsolutions.org

This material was developed by ChangeLab Solutions with funds received from the California Department of Public Health, under contract #09-11182.

ChangeLab Solutions formerly existed under the name Public Health Law & Policy (PHLP), which included the Technical Assistance Legal Center (TALC).

The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

© 2012 ChangeLab Solutions

Antioch retailers May 2013.xlsx

License #	Taxpayer	DBA	Licensed Location
91285661	AHMAD WALID BARAKAT	VALERO W. 10TH ST	1800 W 10TH ST
91319289	PARMINDERJIT KAUR	CIGARETTE 4 LESS	2727 HILLCREST AVE
91230530	RALEY'S	RALEY'S #333	3632 LONE TREE WAY
91331888	TERESA SANCHEZ	FUEL N GO	924 W 10TH ST
91230282	DAVID U.SHIN	BIZI MART	3912 DELTA FAIR BLVD
91230665	SHEIKH A.RASHID	7-ELEVEN STORE 2232-32305A	4901 LONE TREE WAY
91330804	KAMAL HEISHAN	TOWER ZONE SMOKE SHOP	2717 CONTRA LOMA BLVD
91242369	GAS CITY, INC	GAS CITY	4198 LONE TREE WAY
91231054	MANJIT K. PARHAR	WINE & LIQUOR	2958 DELTA FAIR BLVD
91230214	ANTIOCH PUBLIC GOLF CORP.	LONE TREE GOLF COURSE	4800 GOLF COURSE RD
91206323	THRIFTY PAYLESS, INC.	RITE AID #5908	20 E 18TH ST
91206476	THRIFTY PAYLESS, INC.	RITE AID #5909	3353 DEER VALLEY RD
91206698	THRIFTY PAYLESS, INC.	RITE AID #6356	4100 LONE TREE WAY
91217152	AHMAD-ALI NIAKAN	LONE TREE PETROLEUM SERVICES	2843 LONE TREE WAY
91221406	SAVE MART SUPERMARKETS	SMART FOODS #212	3190 CONTRA LOMA BLVD
91221411	SAVE MART SUPERMARKETS	SMART FOODS #223	111 E 18TH ST
91222676	MANJEET SINGH BEDI	DISCOUNT CIGARETTE & CIGARS	1615 A ST
91224663	SUKHDEV SINGH	7-ELEVEN STORE #2232-29736 B	4355 HILLCREST AVE
91225505	WAL-MART STORES,INCORPORATED	WAL-MART STORE #2697	4893 LONE TREE WAY
91229647	WALGREEN CO.	WALGREENS #04724	3416 DEER VALLEY RD
91237645	DELTA FAIR	DELTA FAIR CHEVRON	3201 DELTA FAIR BLVD
91238692	SAFEWAY, INC.	SAFEWAY STORE 1259	3365 DEER VALLEY RD
91240899	BEVERAGES & MORE, INC	BEVERAGES & MORE, INC	5859 LONE TREE WAY STE C
91242982	BHALLA SERVICES, INC.	BHALLA SERVICES INC.	2610 CONTRA LOMA BLVD
91245632	RAJPAL,INC.	CHEVRON	2413 A ST
91245785	MANMOHAN SINGH SIDHU	CIGAR & LIQUOR	2725 LONE TREE WAY
91245873	SOOCH FAMILY CORPORATION	HILLCREST LIQUOR & FOOD STORE	1107 E 18TH ST
91246385	RAJPAL,INC.	LONE TREE SHELL	2838 LONE TREE WAY
91247408	BALPINDER S SANDHU	7-11, 2231/20039D	1101 E 18TH ST
91251177	AKWAL SINGH SANDHU	INTERNATIONAL WINE & LIQUOR	2540 SYCAMORE DR
91258744	KATHLEEN MARIE FINK	ABC RENDEVOUS	101 WALTER WAY
91265340	ROMIES LIQUORS, INC	ROMIES LIQUOR & FOOD	418 E 18TH ST
91266233	RAJINDER SINGH	JOHNNY'S MARKET	622 W 9TH ST
91269358	TAREK M.SHOMAN	UNION 76 GOLF COURSE	4649 GOLF COURSE RD
91270735	RABINDER SINGH HANS	RED N'GREEN FOOD MART	921 W 4TH ST
91277386	RAKESH KUMAR BALLEY	7-ELEVEN STORE 2232-18330C	2301 BUCHANAN RD
91328645	J & R SAHOTA, INC.	DAVE'S LIQUORS	1008 FITZUREN RD
91279549	BALDEV SINGH SANGHA	QUIK STOP MARKET# 8074	2760 W TREGALLAS RD
91287371	ADEL H. SALEH	7-ELEVEN STORE 2232-14185 G	2707 CONTRA LOMA BLVD
91287973	SAVE MART SUPERMARKETS	FOOD MAXX #482	4500 LONE TREE WAY
91288603	BHALLA SERVICES, INC.	CONTRA LOMA GAS SERVICE	2701 CONTRA LOMA BLVD
91290455	TESORO WEST COAST COMPANY LLC	USA SHELL #68103	1915 SOMERSVILLE RD
91293003	DHILLON STORE, INC	7-ELEVEN STORE 2365-17193D	3701 SUNSET LN
91294956	KAL	ANTIOCH VALERO	2101 SOMERSVILLE RD
91295341	ANABI HOLDINGS NORTH INC.	ANTIOCH SHELL	2701 HILLCREST AVE
91296446	CESAR FERNANDEZ GARCIA	DUTCH PRIDE GAS AND FOOD	507 E 18TH ST
91300219	NIEMA ROSE CORPORATION	A ST. DRIVE THRU	2302 A ST
91302905	SAFEWAY INCORPORATED	SAFEWAY INC-FUEL CENTER #1259	3431 DEER VALLEY RD

Antioch retailers May 2013.xlsx

License #	Taxpayer	DBA	Licensed Location
91303063	RAKESH KUMAR SAHNI	APNA BAZAAR	101 RAILROAD AVE
91307831	MIN J. ZHAO	GP MINI MART	1800 A ST
91310502	LONGS DRUG STORES CALIFORNIA LLC	LONGS DRUG STORES #9396	4444 LONE TREE WAY
91310503	LONGS DRUG STORES CALIFORNIA LLC	LONGS DRUG STORES #9772	2511 SOMERSVILLE RD
91311882	NAJJAR RATEB SADEDDIN	FUSION NOVELTIES	1336 SUNSET DR
91314574	YOUNG CHU IM	LONE TREE LIQUOR & VIDEO STATION	2748 W TREGALLAS RD
91316102	SALEH N. NASHER	SAM'S MARKET & LIQUOR	2 WILBUR AVE
91319356	SOS OIL INC.	HILLCREST CHEVRON	3400 HILLCREST AVE
91319357	KULWINDER SINGH	LONE TREE CHEVRON	4600 LONE TREE WAY
91325308	FAWZI NAGI NASHER NAGI	SYCAMORE SMOKE & MORE	1096 SYCAMORE DR
91327385	MISSION PETROLEUM, INC	7 ELEVEN #2369-39596A	3629 E 18TH ST
91327658	LONGS DRUG STORES CALIFORNIA LLC	CVS/PHARMACY #4326	4028 LONE TREE AVENUE
91328017	BALDEV SINGH	CIGARETTES 4 LESS	3142 CONTRA LOMA BLVD
91330996	LONE TREE CIGARETTES & MORE INC.	LONE TREE CIGARETTES & MORE INC.	4839 LONE TREE WAY STE C
91333152	NAZAR BANGAR, INC.	CIGARETTES 4 LESS	2549 SAN JOSE DR
91334143	DMR CONVENIENCE STORES, INC.	7-ELEVEN #2369-39488A	2700 HILLCREST AVE
91334964	KULWINDER K SAHOTA	SMOKE SHOP MINI MARKET	1515 A ST
91335310	HAMZA ISSAM AZZAM	NATE'S SMOKE SHOP	3608 DELTA FAIR BLVD
91335370	NAVDEEP KAUR KAMBOJ	SMOKE SHOP	4530 LONE TREE WAY
91342037	THIND ENTERPRISE INC.	SMOKE SHOP	2767 LONE TREE WAY
91338261	LINDA O LUM	AAA WIRELESS	2331B BUCHANAN RD
91339614	ZARINA PETROLEUM INC.	HILLCREST VALERO	1801 HILLCREST AVE
91340204	AMANJEET KAUR CHEEMA	QUIK STOP MARKET #8042	1108 SYCAMORE DR
91342163	TOUCHSTONE GOLF, LLC	RODDY RANCH GOLF COURSE	1 TOUR WAY
91342260	ANURADHA ENTERPRISES LLC	LONE TREE GAS AND FOOD	3720 LONE TREE WAY
91343676	CHAMKAUR SINGH	CIGARETTES 4 LESS	3708 LONE TREE WAY
91345104	ABBAS H ALSHADUD	ALMIGHTY DOLLAR STORE	4815 LONE TREE WAY STE A
91347055	LUIS CESAR TEJEDA	TF PETROLEUM	2310 A ST
91347988	ABDULLA SALEH MUFLIHI	LOS MEXICANO'S MARKET	1725 CAVALLO RD
91348026	SUPALKA INC.	BONFARE MUT 02	907 W 10TH ST
91348919	BLACK PEARL 91 INC	JOES LIQUOR & FOOD + GAS	1911 D ST



Antioch retailers May 2013.xlsx

City	Merged Address	State	Zip	+4	Area Code	Unincorporated
ANTIOCH	1800 W 10TH ST , ANTIOCH	CA	94509	1307	07031	
ANTIOCH	2727 HILLCREST AVE , ANTIOCH	CA	94531	6371	07031	
ANTIOCH	3632 LONE TREE WAY , ANTIOCH	CA	94509	6001	07031	
ANTIOCH	924 W 10TH ST , ANTIOCH	CA	94509	1565	07031	
ANTIOCH	3912 DELTA FAIR BLVD , ANTIOCH	CA	94509	4010	07031	
ANTIOCH	4901 LONE TREE WAY , ANTIOCH	CA	94531	8499	07031	
ANTIOCH	2717 CONTRA LOMA BLVD , ANTIOCH	CA	94509	4647	07031	
ANTIOCH	4198 LONE TREE WAY , ANTIOCH	CA	94531	6201	07031	
ANTIOCH	2958 DELTA FAIR BLVD , ANTIOCH	CA	94509	4164	07031	
ANTIOCH	4800 GOLF COURSE RD , ANTIOCH	CA	94531	8012	07031	
ANTIOCH	20 E 18TH ST , ANTIOCH	CA	94509	2400	07031	
ANTIOCH	3353 DEER VALLEY RD , ANTIOCH	CA	94531	6664	07031	
ANTIOCH	4100 LONE TREE WAY , ANTIOCH	CA	94531	6201	07031	
ANTIOCH	2843 LONE TREE WAY , ANTIOCH	CA	94509	4921	07031	
ANTIOCH	3190 CONTRA LOMA BLVD , ANTIOCH	CA	94509	5400	07031	
ANTIOCH	111 E 18TH ST , ANTIOCH	CA	94509	2428	07031	
ANTIOCH	1615 A ST , ANTIOCH	CA	94509	2334	07031	
ANTIOCH	4355 HILLCREST AVE , ANTIOCH	CA	94531	8225	07031	
ANTIOCH	4893 LONE TREE WAY , ANTIOCH	CA	94531	8553	07031	
ANTIOCH	3416 DEER VALLEY RD , ANTIOCH	CA	94531	6650	07031	
ANTIOCH	3201 DELTA FAIR BLVD , ANTIOCH	CA	94509	4067	07031	
ANTIOCH	3365 DEER VALLEY RD , ANTIOCH	CA	94531	6664	07031	
ANTIOCH	5859 LONE TREE WAY STE C , ANTIOCH	CA	94531	8601	07031	
ANTIOCH	2610 CONTRA LOMA BLVD , ANTIOCH	CA	94509	4227	07031	
ANTIOCH	2413 A ST , ANTIOCH	CA	94509	3721	07031	
ANTIOCH	2725 LONE TREE WAY , ANTIOCH	CA	94509	4960	07031	
ANTIOCH	1107 E 18TH ST , ANTIOCH	CA	94509	2187	07031	
ANTIOCH	2838 LONE TREE WAY , ANTIOCH	CA	94509	4922	07031	
ANTIOCH	1101 E 18TH ST , ANTIOCH	CA	94509	2155	07031	
ANTIOCH	2540 SYCAMORE DR , ANTIOCH	CA	94509	2909	07031	
ANTIOCH	101 WALTER WAY , ANTIOCH	CA	94509	2540	07031	
ANTIOCH	418 E 18TH ST , ANTIOCH	CA	94509	2435	07031	
ANTIOCH	622 W 9TH ST , ANTIOCH	CA	94509	1671	07031	
ANTIOCH	4649 GOLF COURSE RD , ANTIOCH	CA	94531	8375	07031	
ANTIOCH	921 W 4TH ST , ANTIOCH	CA	94509	1118	07031	
ANTIOCH	2301 BUCHANAN RD , ANTIOCH	CA	94509	4402	07031	
ANTIOCH	1008 FITZUREN RD , ANTIOCH	CA	94509	4756	07031	
ANTIOCH	2760 W TREGALLAS RD , ANTIOCH	CA	94509	4912	07031	
ANTIOCH	2707 CONTRA LOMA BLVD , ANTIOCH	CA	94509	4647	07031	
ANTIOCH	4500 LONE TREE WAY , ANTIOCH	CA	94531	7414	07031	
ANTIOCH	2701 CONTRA LOMA BLVD , ANTIOCH	CA	94509	4647	07031	
ANTIOCH	1915 SOMERSVILLE RD , ANTIOCH	CA	94509	2902	07031	
ANTIOCH	3701 SUNSET LN , ANTIOCH	CA	94509	6101	07031	
ANTIOCH	2101 SOMERSVILLE RD , ANTIOCH	CA	94509	4042	07031	
ANTIOCH	2701 HILLCREST AVE , ANTIOCH	CA	94531	6371	07031	
ANTIOCH	507 E 18TH ST , ANTIOCH	CA	94509	2743	07031	
ANTIOCH	2302 A ST , ANTIOCH	CA	94509	3720	07031	
ANTIOCH	3431 DEER VALLEY RD , ANTIOCH	CA	94531	6665	07031	

Antioch retailers May 2013.xlsx

City	Merged Address	State	Zip	+4	Area Code	Unincorporated
ANTIOCH	101 RAILROAD AVE , ANTIOCH	CA	94509	2529	07031	
ANTIOCH	1800 A ST , ANTIOCH	CA	94509	2602	07031	
ANTIOCH	4444 LONE TREE WAY , ANTIOCH	CA	94531	7413	07031	
ANTIOCH	2511 SOMERSVILLE RD , ANTIOCH	CA	94509	4408	07031	
ANTIOCH	1336 SUNSET DR , ANTIOCH	CA	94509	2853	07031	
ANTIOCH	2748 W TREGALLAS RD , ANTIOCH	CA	94509	4912	07031	
ANTIOCH	2 WILBUR AVE , ANTIOCH	CA	94509	1812	07031	
ANTIOCH	3400 HILLCREST AVE , ANTIOCH	CA	94531	8238	07031	
ANTIOCH	4600 LONE TREE WAY , ANTIOCH	CA	94531	8463	07031	
ANTIOCH	1096 SYCAMORE DR , ANTIOCH	CA	94509	3200	07031	
ANTIOCH	3629 E 18TH ST , ANTIOCH	CA	94509	8511	07031	
ANTIOCH	4028 LONE TREE AVENUE , ANTIOCH	CA	94509	0	07031	
ANTIOCH	3142 CONTRA LOMA BLVD , ANTIOCH	CA	94509	5400	07031	
ANTIOCH	4839 LONE TREE WAY STE C , ANTIOCH	CA	94531	8614	07031	
ANTIOCH	2549 SAN JOSE DR , ANTIOCH	CA	94509	4172	07031	
ANTIOCH	2700 HILLCREST AVE , ANTIOCH	CA	94531	6368	07031	
ANTIOCH	1515 A ST , ANTIOCH	CA	94509	2332	07031	
ANTIOCH	3608 DELTA FAIR BLVD , ANTIOCH	CA	94509	4006	07031	
ANTIOCH	4530 LONE TREE WAY , ANTIOCH	CA	94531	7414	07031	
ANTIOCH	2767 LONE TREE WAY , ANTIOCH	CA	94509	4960	07031	
ANTIOCH	2331B BUCHANAN RD , ANTIOCH	CA	94509	4402	07031	
ANTIOCH	1801 HILLCREST AVE , ANTIOCH	CA	94509	2857	07031	
ANTIOCH	1108 SYCAMORE DR , ANTIOCH	CA	94509	3202	07031	
ANTIOCH	1 TOUR WAY , ANTIOCH	CA	94531	9053	07031	
ANTIOCH	3720 LONE TREE WAY , ANTIOCH	CA	94509	6018	07031	
ANTIOCH	3708 LONE TREE WAY , ANTIOCH	CA	94509	6018	07031	
ANTIOCH	4815 LONE TREE WAY STE A , ANTIOCH	CA	94531	8517	07031	
ANTIOCH	2310 A ST , ANTIOCH	CA	94509	3720	07031	
ANTIOCH	1725 CAVALLO RD , ANTIOCH	CA	94509	1929	07031	
ANTIOCH	907 W 10TH ST , ANTIOCH	CA	94509	1564	07031	
ANTIOCH	1911 D ST , ANTIOCH	CA	94509	2571	07031	

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR
CONSIDERATION AT THE COUNCIL MEETING OF JULY 9, 2013**

FROM:  Jim Jakel, City Manager, and Lynn Tracy Nerland, City Attorney 

DATE: July 9, 2013

SUBJECT: **Urgency Item: Deadline for Ballot Arguments for the Sales Tax Ballot Measure**

Yesterday, the City Clerk received the attached letter (Attachment A) from Joseph Canciamilla, County Clerk-Recorder and Registrar of Voters. The letter indicates that despite numerous emails and phone calls between the County Elections Office and the City over the past several months regarding the July 9, 2013 deadline for ballot arguments on Antioch's sales tax ballot measure, Mr. Canciamilla determined yesterday that the City needed to accept ballot arguments until August 16, 2013.

Since yesterday, City staff has tried without success to understand Mr. Canciamilla's abrupt departure from long-standing past practice. Phone conversations with the County Elections Office provided few answers as to the motivation for changing procedures in the middle of an election cycle or to the logistical questions such as the fact that City Hall is closed on August 16. County Elections has admitted that this changed procedure was not communicated to Antioch previously. The email received today from County Elections (Attachment B) simply states that the County will not accept the City Council's resolution calling the election on the ballot measure. No legal analysis has been provided and County Counsel's Office has not responded to inquiries.

The City Clerk sent the attached letter (Attachment C) to which no response was received.

Given these issues and the desire to maintain the integrity of the elections process, the City Clerk's Office accepted ballot arguments today, as well as the City Attorney's Impartial Analysis, but has kept them under seal (not made them public).

Unless contrary information is received from the County Clerk, it is recommended that:

1. By 2/3 vote, declare that an urgency item be placed on the City Council's agenda that was not known to the City until receipt of the letter from County Clerk Joseph Canciamilla dated and received July 8, 2013 and the July 9, 2013 email from the County Elections staff and there is a need to act immediately given the election deadlines; and
2. Adopt the attached resolution (Attachment D) indicating that as directed by the County Clerk-Recorder that the City Clerk's Office will accept ballot arguments on the Sales Tax Ballot Measure until **5:00 p.m. on Friday, August 16, 2013** and that the City Clerk will keep any ballot arguments received sealed (confidential) until that date, along the Impartial Analysis. The City Clerk will make arrangements to keep City Hall opened on the furlough day of August 16, 2013.

Pursuant to Elections Code Section 9163, any ballot arguments already submitted can be changed up to 5:00 p.m. on Friday, August 16, 2013.

ATTACHMENTS:

- A. Letter dated July 8, 2013 from Joseph Canciamilla, County Clerk-Recorder and Registrar of Voters
- B. Email dated July 9, 2013 from the County Elections Division
- C. Letter dated July 9, 2013 from City Clerk Arne Simonsen to Joseph Canciamilla
- D. Proposed Resolution of the City Council of the City of Antioch Amending Section 8 of City Council Resolution No. 2013/33 to Extend the Date for Filing Ballot Arguments from July 9, 2013 to 5:00 p.m. on Friday, August 16, 2013 for the Ballot Measure on Restoring Antioch Services Sales Tax

Attachment – City Council Resolution No. 2013/33: “Resolution of the City Council of the City of Antioch Declaring a Fiscal Emergency; Calling for and Noticing a Municipal Election on November 5, 2013 to Present to Voters a Measure to Adopt a Temporary One-half Cent Transactions and Use (Sales) Tax to Fund all essential Antioch City Services including Police, Code Enforcement and Economic Development”

Section

A

JOSEPH E. CANCIAMILLA
COUNTY CLERK-RECORDER
AND REGISTRAR OF VOTERS



SCOTT KONOPASEK
ASSISTANT REGISTRAR

CONTRA COSTA COUNTY

ELECTION DIVISION
555 ESCOBAR ST
MARTINEZ, CALIFORNIA 94553
(925) 335-7800

July 8, 2013

Arne Simonsen, City Clerk
City of Antioch
P.O. Box 5007
Antioch, CA 94531-5007

Dear Arne: *Arne*

It has been brought to our attention that in connection with the measure the City intends to place on the November 5, 2013 ballot, the City has published a deadline of July 9, 2013 for the submission of arguments for and against the measure. At the present time, we are not in receipt of a resolution to the Board of Supervisors requesting this election be consolidated on the November 5, Election Day. The deadline for this resolution is August 9, 2013.

If it is the intent of the City to consolidate the election for the proposed measure with the election this office will be conducting on November 5, 2013, the deadline for arguments is set by this office for all participating cities and districts in accordance with EC 9163 and is August 16, 2013. The provisions of EC 9286 do not apply when the City's election is consolidated with another election.

Please update the information published by the City to reflect these requirements if the intent is to consolidate with our November 5, 2013 election.

If you have any questions, please contact Scott O. Konopasek, Assistant Registrar of Voters, scott.konopasek@vote.cccounty.us or 925-335-7808.

Sincerely,

Joe Canciamilla
Joseph E. Canciamilla
County Clerk- Recorder and Registrar of Voters

cc: Lynn Tracy Nerland, City Attorney
Jim Jakel, City Manager

SOK:jm

Section

B

Nerland, Lynn Tracy

From: Rosa Mena [Rosa.Mena@vote.cccounty.us]
Sent: Tuesday, July 09, 2013 10:41 AM
To: Garcia, Christina; Scott Konopasek; Joe Canciamilla; Tomasita Ocasio
Cc: Simonsen, Arne; Nerland, Lynn Tracy
Subject: FW: 11/05/13 Election Ballot Measure: Sales Tax

In clarification to the email below, please **amend** Section 8 in the Resolution and email along with hardcopies in the mail.

Thanks,

Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Rosa Mena
Sent: Tuesday, July 09, 2013 10:29 AM
To: 'Garcia, Christina'; Scott Konopasek; Joe Canciamilla; Tomasita Ocasio
Cc: Simonsen, Arne; Nerland, Lynn Tracy
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Good morning Christina, I am in receipt of the above documents.
Please be advised that we can't accept the wording in Section 8 of Resolution 2013/33 due to the fact that the County Elections Official is not in concurrence with the deadline for submitting arguments.

Thanks,

Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Garcia, Christina [<mailto:cgarcia@ci.antioch.ca.us>]
Sent: Tuesday, July 09, 2013 9:39 AM
To: Rosa Mena
Cc: Simonsen, Arne; Nerland, Lynn Tracy
Subject: 11/05/13 Election Ballot Measure: Sales Tax

Good morning Rosa,

Please find attached the Measure Fact Sheet along with Resolution No. 2013/33 Calling for, Noticing, and Consolidating with the elections to be held on November 5, 2013, for your review. The originals were faxed over to you this morning and they will be mailed out to your office today. I have also attached both Resolution No. 2013/33 and (Exhibit 1) Ord. No. 2068-C-S in Word format.

Please confirm receipt.

As always, thank you for your assistance. Have a great week!

Sincerely,

Christina Garcia
Deputy City Clerk
City Clerk's Office
200 "H" Street
P. O. Box 5007
Antioch, CA 94531-5007
(925) 779-7009 ext. 2046
(925) 779-7007 -Fax

The City Clerk's Office is closed every Friday. Thank you for your understanding.

From: Rosa Mena [<mailto:Rosa.Mena@vote.cccounty.us>]
Sent: Monday, July 01, 2013 4:15 PM
To: Garcia, Christina
Cc: Simonsen, Arne
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Sorry...

Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Garcia, Christina [<mailto:cgarcia@ci.antioch.ca.us>]
Sent: Monday, July 01, 2013 4:13 PM
To: Rosa Mena
Cc: Simonsen, Arne
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Hi Rosa,

Thank you for your response. However, there was no attachment to your e-mail.

Again, thank you. Have a great week!

Sincerely,

Christina Garcia
Deputy City Clerk
City Clerk's Office
200 "H" Street
P. O. Box 5007
Antioch, CA 94531-5007

(925) 779-7009 ext. 2046
(925) 779-7007 -Fax

The City Clerk's Office is closed every Friday. Thank you for your understanding.

From: Rosa Mena [<mailto:Rosa.Mena@vote.cccounty.us>]
Sent: Monday, July 01, 2013 4:06 PM
To: Garcia, Christina
Cc: Simonsen, Arne
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Good afternoon Christina attached is a copy of the a "Notice to the County Elections Official – Measure Fact Sheet" and answers to your questions (in blue font)..

Thanks,
Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Garcia, Christina [<mailto:cgarcia@ci.antioch.ca.us>]
Sent: Monday, July 01, 2013 12:01 PM
To: Rosa Mena
Cc: Simonsen, Arne
Subject: 11/05/13 Election Ballot Measure: Sales Tax

Hi Rosa,

I hope all is well.

A few questions for you please:

- 1) On page 4 of the Local Measure Information Guide, it states when submitting a measure resolution, we must complete a "Notice to the County Elections Official – Measure Fact Sheet". Can you please send us one?
Attached
- 2) The resolution to consolidate attached, will be mailed to your office after receipt of the Measure Fact Sheet (above). OK thanks.
- 3) I know last year you wanted us to fax over the arguments for/against the measure on the deadline date at 5:01 p.m. as we were very close to your election deadline dates last year. Being that we are a bit earlier this year, would you still like the arguments for/against at 5:01 p.m. on the deadline date of 07/09/13? I say yes as I would like to be early, but prefer your clarification for all (our office). If we are earlier in the process we have a bit more time, I would recommend you fax them over ASAP but not expect you to stay after work to so.

As always, thank you for your assistance. Have a great week!

Sincerely,

Christina Garcia
Deputy City Clerk
City Clerk's Office

200 "H" Street
P. O. Box 5007
Antioch, CA 94531-5007
(925) 779-7009 ext. 2046
(925) 779-7007 -Fax

The City Clerk's Office is closed every Friday. Thank you for your understanding.

Section

C



July 9, 2013

Joseph E. Canciamilla
County-Clerk Recorder and Registrar of Voters
Contra Costa County
Elections Division
555 Escobar Street
Martinez, CA 94553

(by regular mail and email to Jeanine.Mangewala@vote.cccounty.us)

Re: Ballot Argument Deadline

Dear Mr. Canciamilla:

This letter is in response to your letter dated July 8, 2013 (enclosed), conversations with you and Scott Konopasek on July 8, 2013, and the email from County Elections staff on July 9, 2013 (enclosed). In these communications, it was indicated that despite numerous emails and phone calls between the County Elections Office and the City over the past several months regarding the July 9, 2013 deadline for ballot arguments on Antioch's sales tax ballot measure, that you had just determined yesterday that the City must accept ballot arguments until August 16, 2013. The County Elections Office reached this conclusion despite the City's newspaper publication and notification of the July 9, 2013 deadline and the confusion that this last-minute determination was causing.

This abrupt departure from long-standing past practice and our understanding of procedures from master municipal clerks in other counties undermines the public's confidence in the integrity of the elections process, which should be a goal of both the County and the City. As Antioch City Clerk, I know that is my goal. At the minimum, a "heads up call" to allow some discussion of the matter and exchange of legal analysis would have been helpful in determining the best course of action.

Since yesterday, City staff has tried without success to understand the legal and policy position of the County Elections Office. As discussed with you and your staff, Antioch notified County Elections early of the possibility of a ballot measure and sought to work cooperatively with the County, as we had done historically and hope to do so in the future despite this recent issue. For example, in April, the County sent a timetable that indicated that the City Council needed to adopt a resolution requiring ballot arguments and impartial analysis be filed 14 days after the call

**Office of the City Clerk
200 H Street
P. O. Box 5007
Antioch CA 94531-5007
(925) 779-7009**

of the election. (I have not attached all of the emails between the City and County as I believe you have them, but can provide copies if you desire.)

A draft resolution was sent to County Elections for review in May, which included a June date for submission of the ballot arguments and impartial analysis. The County raised no concerns at that point regarding the timing of the ballot arguments.

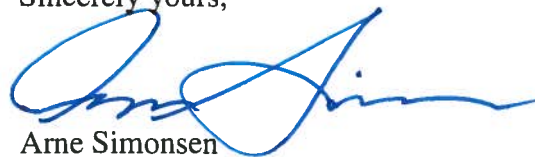
Another email from County Elections in May included a spreadsheet stating that August 16 was the "LAST DAY" for the City to establish the deadline for the ballot arguments. There was still no indication that the deadline for arguments could not be before August 16 (which by the way is a furlough day for Antioch as we remain on weekly furloughs here due to extreme budget cuts reducing staff by 40%).

Accordingly, Antioch called its election on June 25, 2013 and set a July 9, 2013 deadline for the submission of ballot arguments and the impartial analysis.

It was not until July 8, 2013, yesterday, that you indicated that the City must accept ballot arguments until August 16, 2013. This morning, County Elections returned the City's resolution and refused to accept it, unless the deadline for the ballot arguments was amended.

I believe the City and County have worked cooperatively on elections procedures in the past, as ultimately we all want a fair process that the electorate trusts. I respect that the County's procedures may change to the extent within your authority and not the City's, which is the subject of another discussion. However, we are aware of no legal impediment to the County honoring the City's deadline of July 9, 2013 and I believe that public policy reasons dictate that outcome.

Sincerely yours,



Arne Simonsen
City Clerk of the City of Antioch

Enc.

C: Scott Konopasek, Assistant Registrar (Scott.Konopasek@vote.cccounty.us)
Sharon Anderson, County Counsel (sande@cc.cccounty.us)

Mayor and City Council
Jim Jakel, City Manager
Lynn Tracy Nerland, City Attorney
Christina Garcia, Deputy City Clerk

JOSEPH E. CANCIAMILLA
COUNTY CLERK-RECORDER
AND REGISTRAR OF VOTERS



SCOTT KONOPASEK
ASSISTANT REGISTRAR

CONTRA COSTA COUNTY

ELECTION DIVISION
555 ESCOBAR ST
MARTINEZ, CALIFORNIA 94553
(925) 335-7800

July 8, 2013

Arne Simonsen, City Clerk
City of Antioch
P.O. Box 5007
Antioch, CA 94531-5007

Dear Arne: *Arne*

It has been brought to our attention that in connection with the measure the City intends to place on the November 5, 2013 ballot, the City has published a deadline of July 9, 2013 for the submission of arguments for and against the measure. At the present time, we are not in receipt of a resolution to the Board of Supervisors requesting this election be consolidated on the November 5, Election Day. The deadline for this resolution is August 9, 2013.

If it is the intent of the City to consolidate the election for the proposed measure with the election this office will be conducting on November 5, 2013, the deadline for arguments is set by this office for all participating cities and districts in accordance with EC 9163 and is August 16, 2013. The provisions of EC 9286 do not apply when the City's election is consolidated with another election.

Please update the information published by the City to reflect these requirements if the intent is to consolidate with our November 5, 2013 election.

If you have any questions, please contact Scott O. Konopasek, Assistant Registrar of Voters, scott.konopasek@vote.cccounty.us or 925-335-7808.

Sincerely,

Joseph E. Canciamilla
Joseph E. Canciamilla
County Clerk- Recorder and Registrar of Voters

cc: Lynn Tracy Nerland, City Attorney
Jim Jakel, City Manager

SOK:jm

Nerland, Lynn Tracy

From: Rosa Mena [Rosa.Mena@vote.cccounty.us]
Sent: Tuesday, July 09, 2013 10:41 AM
To: Garcia, Christina; Scott Konopasek; Joe Canciamilla; Tomasita Ocasio
Cc: Simonsen, Arne; Nerland, Lynn Tracy
Subject: FW: 11/05/13 Election Ballot Measure: Sales Tax

In clarification to the email below, please **amend** Section 8 in the Resolution and email along with hardcopies in the mail.

Thanks,

Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Rosa Mena
Sent: Tuesday, July 09, 2013 10:29 AM
To: 'Garcia, Christina'; Scott Konopasek; Joe Canciamilla; Tomasita Ocasio
Cc: Simonsen, Arne; Nerland, Lynn Tracy
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Good morning Christina, I am in receipt of the above documents.
Please be advised that we can't accept the wording in Section 8 of Resolution 2013/33 due to the fact that the County Elections Official is not in concurrence with the deadline for submitting arguments.

Thanks,

Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Garcia, Christina [<mailto:cgarcia@ci.antioch.ca.us>]
Sent: Tuesday, July 09, 2013 9:39 AM
To: Rosa Mena
Cc: Simonsen, Arne; Nerland, Lynn Tracy
Subject: 11/05/13 Election Ballot Measure: Sales Tax

Good morning Rosa,

Please find attached the Measure Fact Sheet along with Resolution No. 2013/33 Calling for, Noticing, and Consolidating with the elections to be held on November 5, 2013, for your review. The originals were faxed over to you this morning and they will be mailed out to your office today. I have also attached both Resolution No. 2013/33 and (Exhibit 1) Ord. No. 2068-C-S in Word format.

Please confirm receipt.

As always, thank you for your assistance. Have a great week!

Sincerely,

Christina Garcia
Deputy City Clerk
City Clerk's Office
200 "H" Street
P. O. Box 5007
Antioch, CA 94531-5007
(925) 779-7009 ext. 2046
(925) 779-7007 -Fax

The City Clerk's Office is closed every Friday. Thank you for your understanding.

From: Rosa Mena [<mailto:Rosa.Mena@vote.cccounty.us>]
Sent: Monday, July 01, 2013 4:15 PM
To: Garcia, Christina
Cc: Simonsen, Arne
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Sorry...

Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Garcia, Christina [<mailto:cgarcia@ci.antioch.ca.us>]
Sent: Monday, July 01, 2013 4:13 PM
To: Rosa Mena
Cc: Simonsen, Arne
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Hi Rosa,

Thank you for your response. However, there was no attachment to your e-mail.

Again, thank you. Have a great week!

Sincerely,

Christina Garcia
Deputy City Clerk
City Clerk's Office
200 "H" Street
P. O. Box 5007
Antioch, CA 94531-5007

(925) 779-7009 ext. 2046
(925) 779-7007 -Fax

The City Clerk's Office is closed every Friday. Thank you for your understanding.

From: Rosa Mena [<mailto:Rosa.Mena@vote.cccounty.us>]
Sent: Monday, July 01, 2013 4:06 PM
To: Garcia, Christina
Cc: Simonsen, Arne
Subject: RE: 11/05/13 Election Ballot Measure: Sales Tax

Good afternoon Christina attached is a copy of the a "Notice to the County Elections Official – Measure Fact Sheet" and answers to your questions (in blue font)..

Thanks,
Rosa M. Mena
Elections Processing Supervisor
Contra Costa County Elections Division
555 Escobar Street
Martinez, CA 94553
925.335.7806
Rosa.Mena@vote.cccounty.us

From: Garcia, Christina [<mailto:cgarcia@ci.antioch.ca.us>]
Sent: Monday, July 01, 2013 12:01 PM
To: Rosa Mena
Cc: Simonsen, Arne
Subject: 11/05/13 Election Ballot Measure: Sales Tax

Hi Rosa,

I hope all is well.

A few questions for you please:

- 1) On page 4 of the Local Measure Information Guide, it states when submitting a measure resolution, we must complete a "Notice to the County Elections Official – Measure Fact Sheet". Can you please send us one?
Attached
- 2) The resolution to consolidate attached, will be mailed to your office after receipt of the Measure Fact Sheet (above). OK thanks.
- 3) I know last year you wanted us to fax over the arguments for/against the measure on the deadline date at 5:01 p.m. as we were very close to your election deadline dates last year. Being that we are a bit earlier this year, would you still like the arguments for/against at 5:01 p.m. on the deadline date of 07/09/13? I say yes as I would like to be early, but prefer your clarification for all (our office). If we are earlier in the process we have a bit more time, I would recommend you fax them over ASAP but not expect you to stay after work to so.

As always, thank you for your assistance. Have a great week!

Sincerely,

Christina Garcia
Deputy City Clerk
City Clerk's Office

200 "H" Street
P. O. Box 5007
Antioch, CA 94531-5007
(925) 779-7009 ext. 2046
(925) 779-7007 -Fax

The City Clerk's Office is closed every Friday. Thank you for your understanding.

Section

D

RESOLUTION NO. 2013/

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AMENDING SECTION 8 OF CITY COUNCIL RESOLUTION NO. 2013/33
TO EXTEND THE DATE FOR FILING BALLOT ARGUMENTS FROM JULY 9, 2013
TO 5:00 P.M. FRIDAY, AUGUST 16, 2013 FOR THE BALLOT MEASURE ON
RESTORING ANTIOCH SERVICES SALES TAX**

WHEREAS, on June 25, 2013, the City Council adopted Resolution No. 2013/33, which is attached as Attachment A and includes Exhibit 1 (Ordinance) and is incorporated into this Resolution; and

WHEREAS, City Council Resolution No. 2013/33 declared a fiscal emergency and called for a municipal election on November 5, 2013 to present to the voters a measure to adopt a temporary one-half cent transactions and use (sales) tax to fund all essential City services including police, code enforcement and economic development; and

WHEREAS, City Council Resolution No. 2013/33 established 5:00 p.m. on Tuesday, July 9, 2013 as the deadline for the filing of any ballot arguments and the Impartial Analysis; and

WHEREAS, despite numerous prior communications with the County Elections Office, which also reviewed the draft of Resolution No. 2013/33, on July 8, 2013 Joseph Canciamilla, County Clerk-Recorder and Registrar of Voters, decided that the City of Antioch must extend the deadline for ballot arguments until 5:00 p.m. on Friday, August 16, 2013;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANTIOCH DOES RESOLVE AS FOLLOWS that:

1. Section 8 of Resolution No. 2013/33, "Submission of Ballot Arguments" is amended in its entirety to read as follows:

"The City Clerk's Office, at the direction of the County Clerk-Recorder and Registrar of Voters, has fixed 5:00 p.m. Friday, August 16, 2013 as the deadline for submittal of arguments for or against the measure.

The direct arguments shall not exceed three hundred (300) words, and shall not be signed by more than five (5) persons. The City Council does not adopt the provisions of Elections Code Section 9285(a); there shall be no rebuttal arguments."

2. The City Clerk shall keep any ballot arguments and the Impartial Analysis confidential until 5:00 p.m. on Friday, August 16, 2013 at which time they will be provided to the County Elections Office. Pursuant to Elections Code section 9163, any ballot arguments that are submitted early may be changed up to 5:00 p.m. on Friday, August 16, 2013.
3. All other provisions of Resolution No. 2013/33 remain in effect.
4. The City Clerk shall make arrangements to have City Hall opened on Friday, August 16, 2013 to accept any ballot arguments.

* * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a regular meeting thereof, held on the ____ day of _____, 2013, by the following vote:

AYES: Councilmembers

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

RESOLUTION NO. 2013/33

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
DECLARING A FISCAL EMERGENCY;
CALLING FOR AND NOTICING A MUNICIPAL ELECTION ON NOVEMBER 5, 2013
TO PRESENT TO VOTERS A MEASURE TO ADOPT
A TEMPORARY ONE-HALF CENT TRANSACTIONS AND USE (SALES) TAX
TO FUND ALL ESSENTIAL ANTIOCH CITY SERVICES
INCLUDING POLICE, CODE ENFORCEMENT AND ECONOMIC DEVELOPMENT**

WHEREAS, the Antioch City Council desires to place a ballot measure before the voters at the November 5, 2013 election to adopt a temporary Transactions and Use (Sales) Tax Ordinance, as authorized by California Revenue and Taxation Code section 7285.9 and attached as Exhibit 1; and

WHEREAS, the State's dissolution of redevelopment agencies including the Antioch Development Agency has exacerbated a fiscal emergency in the City caused by State takeaways, the economic recession and significant decreases in property values, reducing the City's General Fund revenues by almost \$13 million since 2007; and

WHEREAS, this drastic reduction in the City's General Fund required severe cuts to City services, including reduced Police services with the elimination of School Resource Officers and Traffic Enforcement, virtual elimination of Code Enforcement, reduced street repairs and maintenance, reduced services at the Animal Shelter and Recreation Programs and less access to the public given the weekly closures of City Hall; and

WHEREAS, providing pre-recession service levels and access would require at least \$11.3 million in additional revenues annually, plus \$3.6 million to address the current deficit; \$1.3 million to restore an operating reserve to protect the City in the event of catastrophe; and \$1.5 million to repay a loan from the City's equipment replacement funds; and

WHEREAS, the City has already taken extreme and painful measures to mitigate the increasing budget shortfalls, including: reducing staffing by 40%; decreasing management salaries and employee work hours through furloughs; reducing overtime; increasing employee contributions to retirement costs and drastically reducing post-employment medical benefits for new employees; eliminating employee cost of living increases; reducing supply and equipment costs and deferring equipment maintenance; and

WHEREAS, violent crime increased 30.6 % and property crime increased 22.8% in Antioch compared to 2011, with Police Department staffing down to 87 officers (from 102 currently authorized and 126 at peak staffing) and average response time to Priority 1 calls increased over 2 minutes; an average of 25 calls per week for Code Enforcement services cannot be timely returned; and needed street rehabilitation and maintenance with an estimated cost of \$52 million is unfunded; and

WHEREAS, confirming existing business license taxes and imposing a residential landlord business license tax as general taxes, the revenues of which are legally required to stay in Antioch to maintain local services for general governmental purposes vital to the preservation of the public health, safety and welfare; and

WHEREAS, the City Council is authorized to request and order that this election be consolidated with other elections to be held on the same day and in the same territory (California Elections Code 10400 *et seq.*); and

WHEREAS, it is urgent that the Special Municipal Election be consolidated with the elections to be held on November 5, 2013 and desirable that within the City, the precincts, polling places, and election officers for the two elections be the same; that the Board of Supervisors canvass the returns of the City ballot measure election; and said City election and the November 5, 2013 general election be held in all respects as if there were only one election;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANTIOCH DOES RESOLVE AS FOLLOWS:

Section 1. Call for Election

Pursuant to California Constitution Article XIII, Section 2, Government Code Section 53724, and Elections Code Section 9222, the City Council of the City of Antioch hereby calls an election and hereby submits to the qualified voters of the City a measure that, if approved, would adopt a temporary general transactions and use tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the Contra Costa County Elections Department. Pursuant to Election Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 5, 2013.

Section 2. Ballot Language

The question to be presented to the voters shall be as follows:

<p><u>RESTORING ANTIOCH SERVICES SALES TAX.</u> To fund all essential city services including increased police staffing to reduce crime and gang activities and improve 911 emergency response time; restored code enforcement to clean up blighted properties; and local economic development and job creation, shall the City of Antioch adopt a one-half cent transactions and use (sales) tax, expiring in seven years, with mandatory annual audits and independent citizens' oversight and for local Antioch use only?</p>	YES	
	NO	

The measure shall be designated on the ballot by a letter printed on the left margin of the square containing the description of the measure, as provided in California Election Code section 13116.

Section 3. Fiscal Emergency Findings

Pursuant to Cal. Constitution Article XIII, Section 2(b), increases in general taxes must be submitted to the voters at a regularly scheduled general election of the City, except in cases of emergency declared by a unanimous vote of the City Council. The City may expend the proceeds of the taxes to be imposed by this measure for any lawful purpose of the City. Therefore, this

Resolution, including the submission of the proposed Ordinance (attached as Exhibit 1) must be approved by a unanimous vote of the City Council. This Resolution shall become effective immediately upon its passage and adoption. The City Council's emergency findings are set forth below.

In accordance with California Constitution Article XIII C, Section 2(b), the City Council finds that emergency conditions exist necessitating the placement of this tax measure on the November 5, 2013 ballot to replenish the City's general fund as soon as possible to avoid peril to the community, which already suffers more than most due to increasing crime rates, stark declines in housing prices causing a great number of foreclosures with the resultant detriment to the community, disturbing truancy and high school drop-out rates and high unemployment rates.

In particular, the City Council makes the following findings in addition to the discussions that occurred at City Council meetings on February 26, March 12, March 26, May 14, May 28, June 11 and June 25, 2013 (those staff reports and attachments are incorporated into the City Council's findings and can be found on the City's website at <http://www.ci.antioch.ca.us/citygov/agendas/default.asp>), and the significant amount of information related to the City's fiscal emergency set forth in the budget staff report being considered on June 25, 2013 (this staff report is incorporated into the City Council's findings and can be found on the City's website at <http://www.ci.antioch.ca.us/citygov/agendas/default.asp>):

1. Extreme and Painful Measures already taken to address Antioch's Fiscal Emergency. The City has taken extreme and painful measures to address the \$13 million decrease in General Fund revenues since 2007 and to mitigate increasing budget shortfalls, including:

- operating at 40% staffing reduction through layoffs, retirements and not filling vacancies including the elimination of code enforcement staff, community services officers (CSOs), school resource officers, traffic and other special police units;
- reducing management salaries and employee work hours through furloughs and reduced overtime for all employees since July 2009;
- increasing employee contributions to retirement costs and drastically reducing post-retirement medical benefits for new employees;
- eliminating employee cost of living increases from 2009 to 2011;
- reducing supply and equipment costs and deferring vehicle and equipment maintenance; and
- reducing services at the Animal Shelter and in Recreation Programs.

2. Serious Budget Issues Remain. Despite these painful measures, serious budget issues remain:

- The City's General Fund revenues (primarily funded property and sales taxes) have dropped almost \$13M since 2007 (excluding one-time monies). This required severe cuts to City services and less access to the public given the weekly closures of City Hall. Providing pre-recession service levels and access would require at least \$11.3 million in additional revenues annually.
- In Fiscal Year 2014, the City is projected to spend \$3.6 million more than it receives in revenues. This results in an "unbalanced" budget and deficit spending, which forces the City to use reserves to fund a minimum level of services. Deficit spending is projected to increase to \$4.7 million in Fiscal Year 2015 nearly exhausting the City's reserves.
- Sound financial practice, recommended by the Government Finance Officers Association (GFOA) requires a fund balance of at least two months' operating expenditures to provide financial stability in the face of such uncertainties as economic crisis, catastrophic incidents and litigation costs. This is similar to a personal savings account consumers are recommended to have to cover mortgage, insurance, utilities, etc. in times of financial instability due to catastrophic events like job loss, disability, recession, etc. In fiscal year 2014, the City should have at least \$6.6 million in reserves. However under current projections, the City will be approximately \$1.3 million short.
- In Fiscal Year 2010, the City's General Fund transferred \$1.5 million in funds identified to replace the City's aging vehicles and computer systems. Three years later, these funds have still not been re-paid. Repayment of these funds would cause an immediate \$1.5 million loss in General Fund balance/reserves, further reducing the City's operating reserve. As a result of this borrowing, replacement of aging vehicles and computer equipment has been deferred, increasing the need for continued maintenance costs to extend the useful lives as long as possible.
- The City continues to fund post-retirement medical benefits and supplementary retirement plan benefits on a pay as you go basis, creating a net Other Post Employment Benefit (OPEB) obligation of \$1.054 million as of June 30, 2012 and an unfunded actuarial accrued liability of \$30.1 million (as of July 1, 2011 valuation date) as to the post-retirement medical benefits; a Net Pension Obligation of \$354,764 as of June 30, 2012 and an unfunded actuarial accrued liability of \$1.7 million (as of June 30, 2011 valuation date) as to supplementary retirement benefits; and although the City continues to pay the full actuarial required contribution for PERS, massive investment losses in the CalPERS system over the last several years have contributed to the City having an unfunded pension liability of \$45 million (as of June 30, 2011 valuation date).

3. The State's Elimination of Redevelopment and Grab of Local Funds Has Exacerbated the City's Fiscal Condition. The State's elimination of redevelopment agencies, and particularly the Antioch Development Agency, has exacerbated the City's precarious fiscal status. On December 29, 2011, the California Supreme Court in *California Redevelopment Association v. Matosantos* ordered the immediate dissolution of all redevelopment agencies including the Antioch Development Agency. This undercut the City's ability to redevelop its older downtown Riverfront area, maintain the Marina and waterfront and placed an additional burden on the General Fund for capital improvement projects. Over the past ten years the Redevelopment Agency spent \$10.8 million on public works projects. Through its General Fund, the City must fund a minimal maintenance program for capital improvements, exposing the City to higher replacement costs in the near future. Further, under the "claw back" provision of AB 1x26, other City funds may be forced to transfer an estimated \$790,958 to the redevelopment successor agency, and ultimately the State.

The elimination of redevelopment has also impacted the City's ability to attract and retain businesses, which further reduces General Fund revenue. Business and economic development activities provide local jobs, generating income to be spent locally, creating sales tax revenue for the City. These activities also enhance property values increasing available property tax revenue to the City. With the loss of redevelopment funds, any future business and economic development activities must be paid by the General Fund.

4. Increased Crime Rate and Decreased Police Staffing are Undermining Public Health, Safety and Welfare of the Antioch Community. Violent crime in Antioch increased 30.6 % compared to 2011 and property crime saw a 22.8% increase in that time. The City's overall Part 1 crime (i.e. serious felonies) saw a 24.2% increase in 2012. There have been 6 homicides to date compared to 10 in all of 2012. The average response time to Priority 1 calls increased by more than 2 minutes from 2011 (from 8:57 minutes to 11:04 minutes). The City last had as few as 89 sworn Police Officers in 1995 when the City population was 74,925 instead of the current 103,833; and when calls for service numbered 47,677 far less than the recent number of annual calls for service of 81,572. The City Council views the protection of the public health as an urgent priority. Several funding sources for the Police Department are expiring and there is no other replacement funding source to address increasing crime rates. Police staffing must be increased. In addition, staffing levels must be increased to investigate serious crimes such as homicides and the increasingly sophisticated gangs and drug traffickers.

Realignment under Assembly Bill 109 places additional, non-anticipated strain on the City's public safety services. Now, those most recently convicted of a non-violent, non-serious, and non-sex related crimes (as defined) are jailed locally rather than sent to prison, regardless of prior convictions or risk of re-offending. AB 109 also transfers the housing responsibility for parole and Post Release Community Supervision revocations to local jails. Many of these reoffend when they get out of jail. Finally, AB 109 allows for the early discharge of parolees. All this adds up to overcrowding at the jail, early release of many offenders, no supervision by parole or in most cases probation, and an increase in crime that puts additional strain on police resources. There is no state money for local police agencies to compensate for this added work load. All the new State funds are devoted to the County Jail, Probation, District Attorney's Office and Health Services. A California Department of

Corrections 2010 study revealed that California's recidivism rate is 67.5%, and the San Francisco area recidivism rate is among the highest in the state at 78.3%.

Realignment under AB 109 started October 1, 2011. Since then, 175 criminals have been released to Antioch, with East Contra Costa County having the highest percentage (42%) of the Post Release Community Supervision (PRCS) population in the County and Antioch having the highest number in East County. According to the County Probation Department, there are 34 outstanding warrants for the PRCS population in East County with Antioch having 47% of them. This does not take into account the crimes that suspects subject to realignment under AB 109 may have committed which law enforcement has not yet identified and the cost to investigate those crimes. This is very early in the realignment process so that number may increase dramatically and the City expects it to greatly affect Antioch's Police resources.

5. Lack of Code Enforcement Services is Undermining Public Health, Safety and Welfare in the Antioch Community. The City virtually eliminated the 11-member Code Enforcement Division due to the fiscal crisis and now receives an average of 25 calls per week for Code Enforcement services that cannot be timely returned.

6. Lack of Street Repairs and Maintenance is Undermining Public Health, Safety and Welfare in the Antioch Community. A 2011 Pavement Management Program Budget Options Report (Pavement Management Update) indicated that the City's approximately 670 miles of streets has a backlog of needed street rehabilitation and maintenance costing \$52 million. The Streets Division of the Public Works Department has been reduced from 19 to 10 workers, resulting in more deferred maintenance, slower response to citizen requests for service, and elimination of some programs. Spending less today on maintenance means more money will be needed for street and infrastructure repairs and replacements later.

7. Drastic Reduction in All City Services is Undermining the Public Health, Safety and Welfare of the Antioch Community. Other City services have been reduced too. All Recreation activities, including senior and youth services, require a subsidy from the City's general fund to cover costs. Funding for Recreation services has decreased by approximately \$674,000 since fiscal year 2008 requiring cuts to important programs to the most needy in the community. Without an immediate revenue increase, these programs face further reductions or elimination. Further reductions could mean that seniors, many of whom rely on the Senior Center for daily meals and social interaction, would be increasingly isolated and undernourished. Further reduction of youth recreation programs may lead to more truancy and crime. According to the local public school district, truancy has averaged at approximately 40% over the last several years. Delayed building inspections and reduced programs to encourage due to the lack of staffing also impair the City's ability to ensure public safety.

8. Significant Challenges Face the Antioch Community and the Needs are Immediate. The housing market collapse and national economic recession caused median housing prices in Antioch to fall by 36% to 68% between 2006 and 2010, with over 500 Antioch homeowners receiving notices of default each month for several years. Although there has been some decline in unemployment rates from the peak of 12.6% in 2010, per the California Employment Development Department, the

unemployment rate was still over 10% in 2012. The high school drop-out rates for the public school system were 6.9% in 2008-09, 16.7% in 2009-10 and 17.3% in 2010-11. ABAG (Association of Bay Area Governments) Projections 2009 indicated that the number of persons per household was higher in Antioch than the rest of Contra Costa County due to a larger percentage of households with children, which can strain the public school district and City recreational programs.

The City of Antioch needs every tool at its disposal, as soon as possible, to successfully fund its general municipal services, including but not limited to public safety and crime prevention, code enforcement and the elimination of blight, repair of streets and all other public infrastructure, job creation, youth and senior services, efforts to increase home ownership and retail opportunities. Accordingly, the City Council finds and declares that, because of the severe fiscal challenges facing the City of Antioch combined with the serious needs such as public safety, code enforcement and street maintenance, an emergency exists mandating a prompt election to consider adopting a temporary one-half cent sales tax to help the City serve its citizens. Even a delay of twelve months means hundreds of thousands of dollars that will not be available to meet these immediate needs of the Antioch community. Any delay means that the Police Department may not be able to prevent or investigate serious crimes; that blight may go unabated; that timely maintenance and construction of streets and public infrastructure may not occur; that seniors may not have a place to meet for meals and companionship; that the youth services program will be unable to assist school-age residents of Antioch on their way to a good life; and that all other ordinary and usual purposes of city government will be adversely affected.

9. Antioch Cannot Delay the Sales Tax Measure and the City Council declares an Emergency. The next regularly scheduled election for members of the City Council will not occur until November 2014. Based on the foregoing findings, the City will face continued financial difficulties before November 2014. Delaying this tax measure until the November 2014 ballot would mean that the City would not begin to see any financial returns from any adopted increase until the spring of 2015. The City's budget projections for fiscal year 2014-2015 already show the budget shortfall increasing from \$3.6 to \$4.7 million. Accordingly, the City Council finds and declares that because of the severe fiscal challenges facing the City of Antioch, combined with the serious needs particularly in the area of public safety, code enforcement and street maintenance; an emergency exists mandating an immediate election to consider a temporary one-half cent sales tax to enable the City to serve its citizens. The City Council determines that because of the great need in Antioch, any delay is unacceptable; and that an emergency exists to impose the taxes set forth in this ordinance prior to November 2014 if the City is to meet its expenses necessary to provide the services not only required by law but necessary for the immediate preservation of the public peace, health and safety of the City.

Section 4. Proposed Ordinance

The Ordinance authorizing the general tax to be approved by the voters is as set forth in Exhibit 1. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 5, 2013 election, as required by Revenue and Taxation Code section 7285.9. The Ordinance specifies that the rate of the transactions tax shall be one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail

in the City. It specifies that the rate of the use tax shall be one-half of one percent (0.5%) of the sales price of tangible personal property stored, used or otherwise consumed in the City, and that the tax shall be in effect for seven years. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

The full text of the "Ordinance of the City of Antioch Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization," which adds Article 4 to Chapter 5 of Title 3 of the Antioch Municipal Code enacting a one-half cent Transactions and Use (Sales) Tax for seven years to fund Antioch city services, is available at no cost from the City Clerk's Office at 925-779-7009 or on the City's website: www.ci.antioch.ca.us. A statement about how to obtain the full text of the Ordinance will be included in the Voter Information Pamphlet below the Impartial Analysis. Only the ballot question, Impartial Analysis and Arguments are to be printed in the Voter Information Pamphlet.

Section 5. Request to Consolidate, Conduct Election and Canvass Returns

The Board of Supervisors of the County of Contra Costa is hereby requested to authorize the County Clerk/Recorder/Registrar of Voters to render all services necessary and proper for the conduct of the special municipal election called by this Resolution. Pursuant to California Elections Code section 10403, the City Council hereby requests that the Contra Costa County Board of Supervisors consolidate that election with the election to be conducted on November 5, 2013 and order the special municipal election to be conducted by the Registrar of Voters. The Contra Costa County Elections department is authorized to canvass the returns of the special election, and the election shall be held in all respects as only one election.

The City Clerk's Office is authorized, instructed and directed to work with the County Elections Division as needed to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 6. Time and Place of Election

The polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. that same day, when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California. The notice of the time and place of holding the election is hereby given, and the City Clerk is authorized to give further notice of the election, as required by law.

Section 7. Publication of Measure

The City Clerk's Office is hereby directed to cause notice of the measure to be published once in accordance with Section 12111 of the Elections Code.

Section 8. Submission of Ballot Arguments

The City Clerk's Office, with the concurrence of the County Elections Official, has fixed 5:00 p.m. Tuesday, July 9, 2013 as the deadline for submittal of arguments for or against the measure.

The direct arguments shall not exceed three hundred (300) words, and shall not be signed by more than five (5) persons. The City Council does not adopt the provisions of Elections Code Section 9285(a); there shall be no rebuttal arguments.

Section 9. Council Preparation of Argument In Support of Measure

The City Council hereby authorizes the Mayor or Mayor Pro Tem to prepare and file the written primary argument in support of the ballot measure described above, pursuant to Article 4 of Chapter 3 of Division 9 of the California Elections Code. At the discretion of the Mayor and Mayor Pro Tem, the argument may also be signed by other members of the City Council, bona fide associations of citizens, or by individual voters who are eligible to vote.

Section 10. Impartial Analysis

Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk's Office to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division by no later than 5:00 p.m. on Tuesday, July 9, 2013.

Section 11. Implementation.

The City Clerk's Office is directed to file with the Board of Supervisors and the Registrar of Voters certified copies of this resolution.

The City will reimburse the County for the actual cost incurred in conducting the election upon receipt of a bill stating the amount due as determined by the Election Official.

Section 12. Jurisdictional Boundaries

The jurisdictional boundaries of the City of Antioch have not changed since the last general municipal election.

Section 13. CEQA

The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060 review under CEQA is not required.

Section 14. Passage of this Resolution.

This tax is a general tax requiring the approval of a majority of qualified electors casting votes. While the measure lists several of the various municipal purposes to be funded, the list is illustrative only and the Council retains complete discretion to expend the tax proceeds for any lawful purpose

of the City of Antioch. Accordingly, this Resolution, including the submission of the proposed Ordinance (attached as Exhibit 1) must be approved by a unanimous vote of the City Council.

This Resolution shall become effective immediately upon its passage and adoption.

* * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a regular meeting thereof, held on the 25th day of June, 2013, by the following vote:

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

NOES: None

ABSENT: None



ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

ORDINANCE NO. 2068-C-S

**AN ORDINANCE OF THE CITY OF ANTIOCH
IMPOSING A TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

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

SECTION 1. ADDITION TO THE MUNICIPAL CODE. Article 4 is added to Chapter 5 of Title 3 of the Antioch Municipal Code to read as follows:

ARTICLE 4: TRANSACTIONS AND USE TAX

Section 3-5.401. TITLE. This article shall be known as the "Antioch Transactions and Use Tax Ordinance." The city of Antioch hereinafter shall be called "City." This article shall be applicable in the incorporated territory of the City.

Section 3-5.402. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance.

Section 3-5.403. PURPOSE. This article is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this article.

Section 3-5.404. CONTRACT WITH STATE. Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax article; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 3-5.405. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half of one percent (.50%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this article.

Section 3-5.406. PLACE OF SALE. For the purposes of this article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 3-5.407. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this article for storage, use or other consumption in said territory at the rate of one-half of one percent (.50%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 3-5.408. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this article and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein.

Section 3-5.409. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this article.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 3-5.410. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this article.

Section 3-5.411. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee

at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this article.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this article.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this article, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this article.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this article.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this article may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 3-5.412. AMENDMENTS.

A. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this article, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this article.

B. Pursuant to California Elections Code section 9217 or any successor statute, the City Council of the City of Antioch may amend or repeal this article, but not increase or extend the rate of tax imposed by the article, without the approval of the voters of the City of Antioch voting on such question.

Section 3-5.413. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this article, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 3-5.414. USE OF TAX PROCEEDS. All proceeds of the tax levied and imposed under this article shall be paid into the General Fund for use by the City of Antioch.

Section 3-5.415. ANNUAL AUDIT. By no later than December 31st of each year, the City's independent auditors shall complete a financial audit report to include the revenue raised and expended by this tax to be reflected in the City's budget.

Section 3-5.416. CITIZENS' OVERSIGHT COMMITTEE. A Citizens' Oversight Committee shall be established to review the receipt and expenditure of the revenue from this transactions and use tax, including the annual auditor's report. The Committee's review shall be completed in conjunction with the City's budget process. The Committee's report on its review, whether oral or written, shall be considered by the City Council at a public meeting. Any written report shall be a matter of public record. The Committee shall consist of seven members who shall be Antioch residents. The terms of the Committee members may be staggered but no term shall be less than two years. The City Council may adopt a resolution regarding the appointment of the Committee members and more specific duties of the Committee.

Section 3-5.417. TERMINATION DATE. The authority to levy the tax imposed by this article shall expire seven (7) years from the Operative Date.

SECTION 2. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 3. CEQA. This transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment. Therefore, under CEQA Guidelines section 15060, review under CEQA is not required.

SECTION 4. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City's transactions and use taxes and shall not take effect until approved by the majority of the voters voting at the general municipal election to be held on November 5, 2013.

SECTION 5. CERTIFICATION; PUBLICATION. Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law and transmitted to the Board of Equalization.

* * * * *

