



Council Chambers
200 H Street
Antioch, CA 94509

Closed Session - 6:00 P.M.
Regular Meeting - 7:00 P.M.

ANNOTATED AGENDA

for

JULY 22, 2014

**Antioch City Council
Regular Meeting**

**Including the Antioch City Council
acting as Successor Agency/
Housing Successor to the
Antioch Development Agency**

Wade Harper, Mayor
Mary Helen Rocha, Mayor Pro Tem
Gary Agopian, Council Member
Monica E. Wilson, Council Member
Tony Tiscareno, Council Member
Arne Simonsen, City Clerk
Donna Conley, City Treasurer
Steven Duran, City Manager
Lynn Tracy Nerland, City Attorney

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With Project Plans at: <http://ci.antioch.ca.us/CityGov/CommDev/PlanningDivision/docs/Project-Pipeline.pdf>

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Council meetings are televised live on Comcast Channel 24

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.

6:00 P.M. ROLL CALL for Closed Sessions – ***Council Members Wilson, Rocha, Tiscareno, and Mayor Harper (Council Member Agopian absent)***

PUBLIC COMMENTS for Closed Sessions – ***None***

CLOSED SESSIONS:

- 1) **CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Section is authorized by California Government Code Section 54957.6. City designated representatives: Michelle Fitzer, Denise Haskett, and Glenn Berkheimer; Employee organizations: Management Unit ***Direction given to Labor Negotiator***
- 2) **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to California Government Code section 54956.8; Property Owner: Charles and Donna Scott; Property Address – 415 O Street, Antioch CA; Agency Negotiators – City Manager, Public Works Director/City Engineer and City Attorney; Under negotiation: price and terms of payment ***Direction given to Real Property Negotiator***

7:02 P.M. ROLL CALL for Council Members/City Council Members acting as Successor Agency/ Housing Successor to the Antioch Development Agency – ***Council Member Wilson, Rocha, Tiscareno and Mayor Harper (Council Member Agopian absent)***

PLEDGE OF ALLEGIANCE

1. PROCLAMATION

STAFF REPORT

- In Honor of the 4th of July Committee

Approved, 4/0

Recommended Action: Motion to approve the proclamation

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

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

CITY COUNCIL COMMITTEE REPORTS

MAYOR'S COMMENTS

8:34 P.M. **ADJOURNED TO BREAK**

8:46 P.M. **ROLL CALL** for Council Members/City Council Members acting as Successor Agency/ Housing Successor to the Antioch Development Agency – **Council Member Wilson, Rocha, Tiscareno and Mayor Harper (Council Member Agopian absent)**

2. CONSENT CALENDAR for City /City as Successor Agency/ Housing Successor to the Antioch Development Agency

A. APPROVAL OF COUNCIL MINUTES FOR JUNE 24, 2014

Recommended Action: Motion to approve the minutes

Approved, 4/0

MINUTES

B. APPROVAL OF COUNCIL WARRANTS

Recommended Action: Motion to approve the warrants

Approved, 4/0

STAFF REPORT

C. APPROVAL OF TREASURER’S REPORT FOR MAY 2014

Recommended Action: Motion to approve the report

Approved, 4/0

STAFF REPORT

D. REJECTION OF CLAIM

1. Christian LeBaron 14/15-2178 (personal injury)

Recommended Action: Motion to reject the listed claim

STAFF REPORT

E. AWARD OF AGREEMENT FOR RENTAL OF CHRISTMAS TREE LOT LOCATED AT DELTA FAIR AND CENTURY BOULEVARDS

Recommended Action: Motion to approve Use Agreement

STAFF REPORT

F. RESPONSE TO GRAND JURY LETTER: “TRAINING PERSONNEL IN REPORTING CHILD ABUSE” (REPORT 1403)

Recommended Action: Motion to approve and authorize the Mayor to sign a response to the Grand Jury letter: “Training Personnel in Reporting Child Abuse”

Approved, 4/0

STAFF REPORT

G. RESPONSE TO GRAND JURY LETTER: “PUBLIC RECORDS REQUEST ACT” (REPORT 1405)

Recommended Action: Motion to approve and authorize the Mayor to sign a response to the Grand Jury letter: “Public Records Request Act”

Approved, 4/0

STAFF REPORT

H. RESOLUTION APPROVING COMPREHENSIVE CLASSIFICATION PLAN UPDATES FOR THE ANTIOCH POLICE OFFICERS’ ASSOCIATION (APOA) BARGAINING UNIT

Recommended Action: Motion to adopt the resolution

Reso No. 2014/62 adopted, 4/0

STAFF REPORT

CONSENT CALENDAR for City /City as Successor Agency/ Housing Successor to the Antioch Development Agency – Continued

I. RESOLUTION APPROVING THE POLICE TRAINEE CLASS SPECIFICATION

Reso No. 2014/63 adopted, 4/0

Recommended Action: Motion to adopt the resolution

STAFF REPORT

J. BAY DELTA CONSERVATION PLAN (BDCP) DRAFT ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL IMPACT STATEMENT (EIR/EIS) AND BDCP DRAFT IMPLEMENTING AGREEMENT COMMENT LETTERS

Received and filed, 4/0

Recommended Action: Motion to receive and file letters

STAFF REPORT

K. CONSIDERATION OF BIDS FOR THE COUNTRY HILLS DRIVE SANITARY SEWER MAIN REHABILITATION (P.W. 545-1)

Approved, 4/0

Recommended Action: Motion to award the project to the low bidder, Michels Corporation DBA Michels Pipeline Construction, in the amount of \$297,897

STAFF REPORT

L. CONSIDERATION OF BIDS FOR THE MAINTENANCE SERVICE CENTER FUELING SYSTEM IMPROVEMENTS (P.W. 143-Q)

Approved, 4/0

Recommended Action: Motion to award the project to the low bidder, GEMS Environmental Management Services, Inc. in the amount of \$136,705.15

STAFF REPORT

M. RESOLUTIONS AUTHORIZING THE FILING OF A GRANT APPLICATION TO MTC REQUESTING AN ALLOCATION OF THE ACTIVE TRANSPORTATION PROGRAM (ATP) CYCLE 1 PROJECT FUNDS FOR THE INSTALLATION OF CURB RAMPS IN THE DELTA ESTATES AREA AROUND TURNER SCHOOL

Reso No. 2014/64 and Reso No. 2014/65 adopted, 4/0

Recommended Action: Motion to adopt the Resolution of Local Support and the Resolution authorizing the filing of a grant application to MTC requesting an allocation of the Active Transportation Program (ATP) Cycle 1 project funds in the amount of \$330,000 for installation of curb ramps in the Delta Estates area around Turner Elementary School

STAFF REPORT

N. RESOLUTION OF LOCAL SUPPORT AND RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION TO MTC REQUESTING AN ALLOCATION OF THE ACTIVE TRANSPORTATION PROGRAM (ATP) CYCLE 1 PROJECT FUNDS FOR THE INSTALLATION OF THE TRAFFIC SIGNAL AT WILD HORSE ROAD AND FOLSOM DRIVE

Reso No. 2014/66 and Reso No. 2014/67 adopted, 4/0

Recommended Action: Motion to adopt the Resolution of Local Support and the Resolution authorizing the filing of a grant application to MTC requesting an allocation of the Active Transportation Program (ATP) Cycle 1 project funds in the amount of \$370,000 for installation of the traffic signal at Wild Horse Road and Folsom Drive

STAFF REPORT

CONSENT CALENDAR for City /City as Successor Agency/ Housing Successor to the Antioch Development Agency – Continued

- O.** RESOLUTION OF LOCAL SUPPORT AND RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION TO MTC REQUESTING AN ALLOCATION OF THE ACTIVE TRANSPORTATION PROGRAM (ATP) CYCLE 1 PROJECT FUNDS FOR THE INSTALLATION OF THE TRAFFIC SIGNAL AT CONTRA LOMA BOULEVARD AND LONGVIEW ROAD

Reso No. 2014/68 and Reso No. 2014/69 adopted, 4/0

Recommended Action: Motion to adopt the Resolution of Local Support and the Resolution authorizing the filing of a grant application to MTC requesting an allocation of the Active Transportation Program (ATP) Cycle 1 project funds in the amount of \$370,000 for installation of the traffic signal at Contra Loma Boulevard and Longview Road

STAFF REPORT

- P.** RESOLUTION ACCEPTING WORK AND AUTHORIZING THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE CAMBRIDGE BOOSTER PUMPING STATION UPGRADES (P.W. 365-T3)

Approved

Recommended Action: 1) Motion to authorize the Director of Finance to increase the existing contract with Koch & Koch, Inc. for this project by \$24,095.40
2) Motion to adopt the resolution accepting work, authorizing the Public Works Director/City Engineer to File a Notice of Completion and authorizing the Director of Finance to make a final payment of \$1,007 plus retention payment of \$33,802.57 to be paid 35 days after recordation of the Notice of Completion

Reso No. 2014/70 adopted, 4/0

STAFF REPORT

City of Antioch Acting as Successor Agency/Housing Successor to the Antioch Development Agency

- Q.** APPROVAL OF SUCCESSOR AGENCY WARRANTS

Approved, 4/0

Recommended Action: Motion to approve the warrants

STAFF REPORT

- R.** APPROVAL OF HOUSING SUCCESSOR WARRANTS

Approved, 4/0

Recommended Action: Motion to approve the warrants

STAFF REPORT

PUBLIC HEARING

- 3. PDP-14-02 – RIALTO PLACE PRELIMINARY DEVELOPMENT PLAN – SPPI- SOMERSVILLE REQUESTS THE REVIEW OF A PRELIMINARY DEVELOPMENT PLAN, WHICH IS NOT AN ENTITLEMENT, FOR THE DEVELOPMENT OF 93 SINGLE FAMILY HOMES AND A SELF STORAGE COMPLEX ON APPROXIMATELY 21.29 ACRES. THE PLANNING COMMISSION PROVIDED DIRECTION AND FEEDBACK AT A PUBLIC HEARING ON JUNE 18, 2014. THE PROJECT SITE IS LOCATED ON SOMERSVILLE ROAD APPROXIMATELY 1,200 FEET NORTH OF THE INTERSECTION OF SOMERSVILLE ROAD AND JAMES DONLON BOULEVARD. (APNS 076-010-030, -031, -032, AND -034)

No action taken – Feedback given to Applicant

Action: Provide feedback to the applicant and staff regarding the proposal and provide direction to the applicant for the Final Development Plan submittal

STAFF REPORT

- 4. PDP-14-01 – SORRENTO VILLAGE PRELIMINARY DEVELOPMENT PLAN – ALBERT D. SEENO CONSTRUCTION COMPANY REQUESTS THE REVIEW OF A PRELIMINARY DEVELOPMENT PLAN, WHICH IS NOT AN ENTITLEMENT, FOR THE DEVELOPMENT OF 93 SINGLE FAMILY HOMES ON APPROXIMATELY 20.24 ACRES. THE PLANNING COMMISSION PROVIDED DIRECTION AND FEEDBACK AT A PUBLIC HEARING ON JUNE 18, 2014. THE PROJECT SITE IS LOCATED AT THE INTERSECTION OF JAMES DONLON BOULEVARD AND PINTAIL DRIVE ON THE NORTH SIDE OF JAMES DONLON BOULEVARD. (APNS 076-021-010, -011, AND -013)

No action taken – Feedback given to Applicant

Action: Provide feedback to the applicant and staff regarding the proposal and provide direction to the applicant for the Final Development Plan submittal

STAFF REPORT

COUNCIL REGULAR AGENDA

- 5. FIRST AMENDMENT TO THE OUT OF AGENCY SERVICES AND PROJECT AGREEMENT BETWEEN THE CITY OF ANTIOCH AND NRG FOR THE MARSH LANDING GENERATING STATION (MLGS)

Reso No. 2014/71 adopted, 4/0

Recommended Action: Motion to adopt the resolution approving the First Amendment to the Out of Agency Service and Project Agreement between the City of Antioch and NRG for the Marsh Landing Generating Station (MLGS) and authorize the City Manager to execute the First Amendment with language substantially similar to the proposed language

STAFF REPORT

- 6. BINGO HALLS AND BINGO OPERATIONS URGENCY ZONING ORDINANCE

Ord. No. 2091-C-S adopted, 4/0

Recommended Action: Motion to adopt an interim urgency zoning ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or bingo operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof (four-fifths (4/5th) vote required)

STAFF REPORT

COUNCIL REGULAR AGENDA – Continued

7. BUSINESS LICENSE ORDINANCE AMENDMENTS

Recommendation: Consistent with the City Council's direction at its June 24, 2014 meeting, it is recommended that the City Council approve a:

- 1) Motion to read the ordinance by title only; and
To 08/12/14 for adoption, 4/0
- 2) Motion to introduce an ordinance amending Sections 3-1.108 and 3-1.209; adding Sections 3-1.129, 3-1.130, 3-1.131 and 3-1.132; and renumbering Sections 3-1.231 and 3-1.232 to Chapter 1, "Business Licensing," of Title 3 of the Antioch Municipal Code to address apportionment and other administrative and enforcement provisions under the business license ordinance

STAFF REPORT

PUBLIC COMMENT

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS

ADJOURNMENT – 10:01 p.m.



**IN RECOGNITION OF THE
CELEBRATE ANTIOCH 4TH OF JULY FIREWORKS
& EVENT COMMITTEE
JULY 22, 2014**

WHEREAS,

the Celebrate Antioch Committee has proven that a small group of dedicated volunteers CAN make a difference to the whole community; and

WHEREAS,

in 2010 the City of Antioch made the decision to not fund the 4th of July parade and fireworks due to a lack of funds brought about by the downturn in the economy; and

WHEREAS,

the Community has the desire to have celebratory events occur despite economic challenges; and

WHEREAS,

the Celebrate Antioch Committee has undertaken the task of raising funding through sponsorships, citizen contributions and grants to pay for a quality event and fireworks display to celebrate the day of the adoption of the Declaration of Independence; and

WHEREAS,

the 2014 successful event was enjoyed by many thousands of residents of Antioch and Eastern Contra Costa County.

NOW, THEREFORE, I, MAYOR WADE HARPER,

do hereby recognize and commend the Celebrate Antioch 4th of July Fireworks and Event Committee for their dedication to the community and a successful 2014 event.

July 22, 2014

WADE HARPER, Mayor

ANTIOCH

California



ALLAN CANTANDO
Chief of Police

CITY COUNCIL REPORT



Mid-Year 2014

PART 1 CRIME

PART 1 CRIME STATISTICS

January – June 2013 vs. 2014

	Jan-June 2013 Total	Jan-June 2014 Total	#Change 2013 - 2014	%Change 2013 - 2014
*HOMICIDE	7	3	-4	-57.1%
RAPE	6	30	24	400.0%
ROBBERY	177	148	-29	-16.4%
AGGRAVATED ASSAULT	307	238	-69	-22.5%
Total Violent Crime	497	419	-78	-15.7%
BURGLARY	721	701	-20	-2.8%
THEFT	892	921	29	3.3%
AUTO THEFT	458	509	51	11.1%
Total Property Crime	2071	2131	60	2.9%
TOTAL PART 1 Crime	2568	2550	-18	-0.7%
ARSON	30	23	-7	-23.3%
Adult Arrests	1494	1678	184	12.3%
Juvenile Arrests	405	350	-55	-13.6%
TOTAL ARRESTS	1899	2028	129	6.8%
*Murder & Nonnegligent Manslaughter as reported in FBI UCR tables				
Manslaughter by Negligence	0	1	1	**NC

UCR REPORTED PART 1 CRIME / CLEARANCES

2010 – 2014 (6 mo)

	2010	2011	2012	2013	2014 6mo	*2012 Nat'l Clearance Rate
HOMICIDE	13	5	10	12	3	
CLEARANCE	11	6	6	6	2	
Clearance Rate	85%	120%	60%	50%	67%	59.5%
RAPE	32	21	29	25	30	
CLEARANCE	24	11	12	9	9	
Clearance Rate	75%	52%	41%	36%	30%	36.1%
ROBBERY	313	290	372	352	148	
CLEARANCE	94	88	109	92	31	
Clearance Rate	30%	30%	29%	26%	21%	27.8%
AGR ASSAULT	506	502	657	557	238	
CLEARANCE	288	257	305	267	100	
Clearance Rate	57%	51%	46%	48%	42%	52.7%
BURGLARY	1,087	1,335	1,741	1351	701	
CLEARANCE	87	98	117	95	34	
Clearance Rate	8%	7%	7%	7%	5%	11.2%
THEFT	1,049	1,571	1,920	1872	921	
CLEARANCE	368	368	361	251	116	
Clearance Rate	35%	23%	19%	13%	13%	20.8%
MVTHEFT	960	967	1,094	1217	509	
CLEARANCE	108	103	112	129	71	
Clearance Rate	11%	11%	10%	11%	14%	10.0%
ARSON	37	56	51	61	23	
CLEARANCE	7	7	4	6	2	
Clearance Rate	19%	13%	8%	10%	9%	19.9%

* http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/25tabledatadecoverviewpdfs/table_25_percent_of_offenses_cleared_by_arrest_or_exceptional_means_by_population_group_2012.xls
 Cities (100,000 - 249,999)

BUREAU OF SUPPORT SERVICES

VOLUNTEER PROGRAM

January – June 2014

- APD Volunteers have worked a total of **4,896.04** hours

Field Services	4120.01
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Investigations	73.60
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Professional Standards	0.00
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Records	702.43
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- The value of the work provided is: ***\$114,031.10**

- Decoy Patrol Car Program is functioning 6 days a week.

* Based on \$23.29 an hour

SPECIAL OPERATIONS UNIT

January – June 2014

Search Warrants	9
Probation/Parole Searches	14
Clan Labs	0
Marijuana Grows	6
Marijuana (Plants) Seized	3406
Marijuana (Processed) Seized	13 lbs
Meth Seized	4.4 oz
Cocaine Seized	1 oz
Guns Seized	19
\$\$\$ Seized	\$85,321

FUGITIVE APPREHENSION

January – June 2014

TOTAL OPERATIONS: 4

Cases Involved: 4

Arrests: 4

Charges: 1 – PC 245(a)(2)
1 – Parolee at Large
1 – PC 187
1 – Warrant

SPECIALIZED UNITS INVESTIGATION CALL-OUTS January - June 2014

#CALL-OUTS – 5

CHARGES/REASON

3 – Homicide

1 – Robbery / Homicide

1 – OIS

BUREAU OF FIELD SERVICES

CALLS FOR SERVICE

2013 vs. 2014

January - June

PRIORITY	2013 – 6mo	2014 – 6mo	%CHANGE
1	4,482	4,120	-8.1%
2	20,516	18,899	-7.9%
3	12,219	13,041	6.7%
4	2,693	2,329	-13.5%
5	1,087	1,165	7.2
TOTALS	40,997	39,554	-3.5%

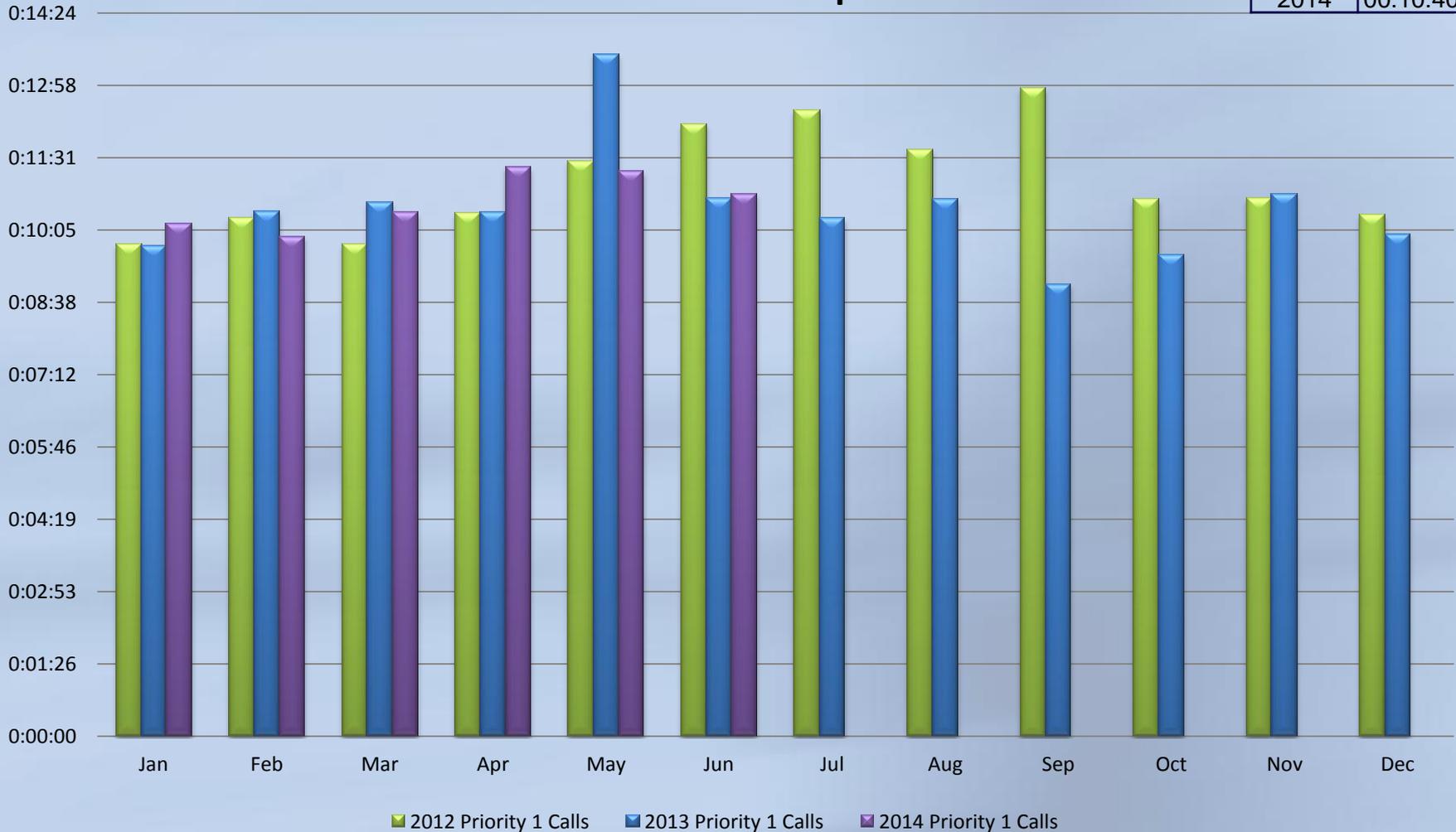
HOW REC'D	2013 – 6mo	2014 – 6mo	%CHANGE
OFFICER ON-VIEW	3,496	4,356	24.6%
PHONE	37,402	35,004	-6.4%
*OTHER	99	194	96.0%
TOTALS	40,997	39,554	-3.5%

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

CALL RECEIVED to OFFICER ARRIVED

Priority 1 Response Times Receive to Arrive 2012-2013-2014 Comparison

Year	AVG Rec'd to Arr
2012	00:11:04
2013	00:10:30
2014	00:10:40



TRAFFIC STATISTICS

2013 vs. 2014

January - June

<u>TRAFFIC CALLS FOR SERVICE</u>			
<u>CLOSE CLASS</u>	2013 – 6mo	2014 – 6mo	%CHANGE
ACCIDENT – NO INJURY	671	689	2.7%
ACCIDENT – WITH INJURY	101	107	5.9%
DUI - MISDEMEANOR	118	107	-9.3%
DUI - FELONY	3	2	-33.3%
OTHERS	13	20	53.8%
TOTAL	906	925	2.1%

	2013 – 6mo	2014 – 6mo	%CHANGE
<u>TRAFFIC FATALITIES</u>	3	1	-66.7%

VIOLENT CRIME – SHOOTINGS

January – June

2014

PC 245(A)(2), 187(A)

	Jan 14	Feb 14	Mar 14	Apr 14	May 14	Jun 14	Total
Sycamore Corridor	1	1	2	1	4	6	15
All Other Antioch	2	4	4	4	5	7	26
Total Antioch	3	5	6	5	9	13	41

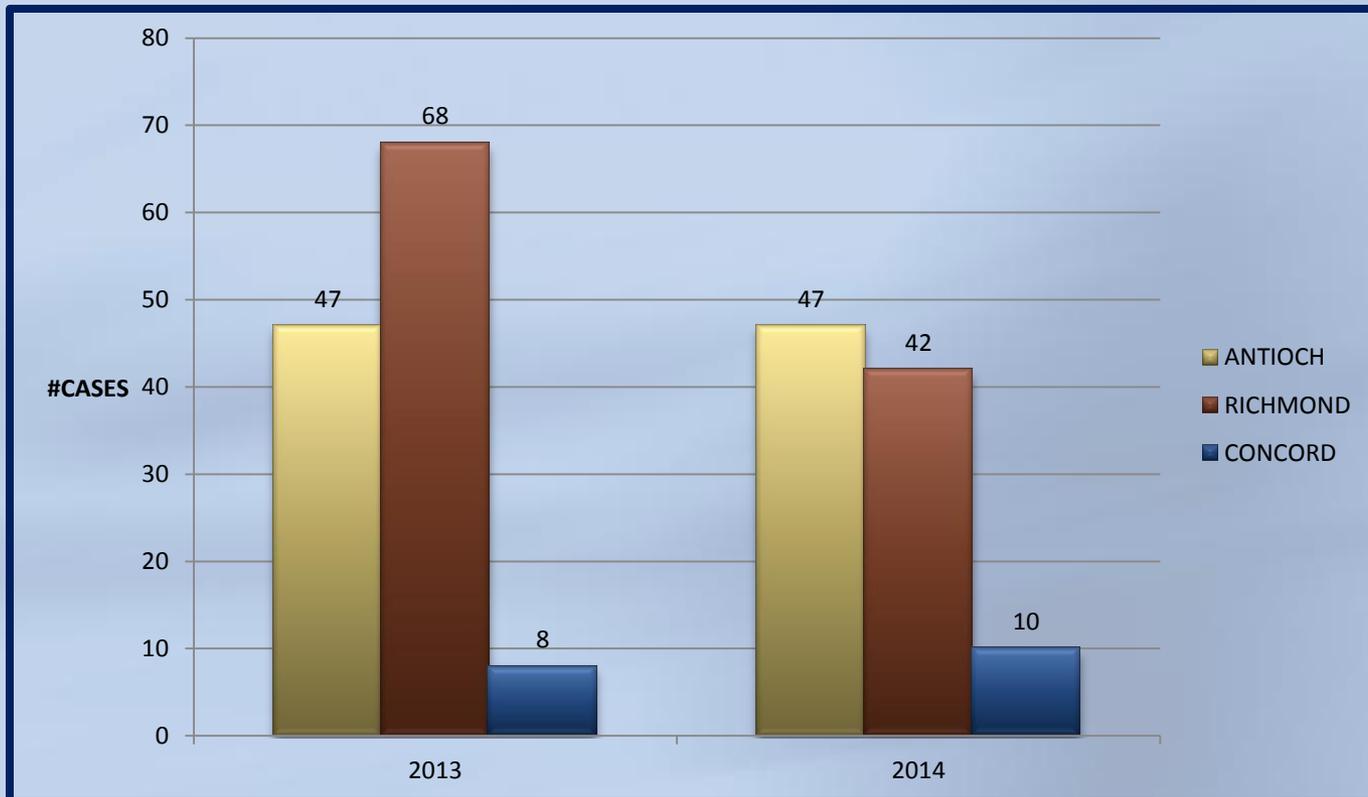
VIOLENT CRIME – SHOOTINGS

Jurisdiction Comparison

January 1 – July 7

2013 vs 2014

PC 245(A)(2), 187



CURRENT STAFFING LEVELS

STAFFING

- **97 Authorized Sworn positions including the Chief**
- **88 Full-time positions are filled.**
- **3 Officers are in FTO**
- **14 Sworn are unavailable for full duty due to injury / medical condition (on and off duty).**
- **2 Officers Off on Extended Leave**
- **69 Full-Duty Sworn positions**
- **6 Sworn vacancies which included 2 PERS Reciprocity Positions.**
- **3 Recruits Attending the Police Academy**
- **We currently have 2 police dispatcher vacancies.**

RECRUITMENTS AND HIRING

- **1 Lateral officer candidate is currently in background.**
- **4 Police Academy students are in background.**
- **We are in the process of planning a physical agility test for all pending police applicants.**
- **We are conducting oral boards for dispatchers and police applicants on July 23rd 2014.**
- **4 lateral police officers have been invited to the oral boards.**
- **2 Recruits are due to graduate from the Academy on August 22, 2014.**
- **1 Recruit is due to graduate from the Academy on November 7th 2014.**

POLICE DEPARTMENT RECRUITMENT

January – June 2014

Type of Recruitment	Number of Applicants	Applicants Invited to Physical Agility	Applicants Invited to Written Exam	Applicants Invited to Interviews	Applicants on Eligibility List	TOTAL No. of Hires	Percent of Applicants Hired
Lateral	82	14	0	30	18	3	3.66%
Academy Grad/Student	197	40	0	19	9	0	0.00%
Police Trainee *	1195	236	73	67	24	1	0.08%
Police Dispatcher – Lateral	83	0	0	9	9	4	4.82%
Total number of applications	1557	290	73	125	60	8	0.51%

** Applicants processed in this period include some applications submitted in the previous period.*

NEW DEVELOPMENTS

Violent Crime Reduction Plan

- Primary focus on weapons, gangs, and illegal drug activity
- Conduct weekly proactive crime suppression details
- Patrol team Beat Projects
- Partnership with CHP, CCCSO, Probation, and FBI
- Redirect investigative resources to increase Narcotics enforcement
- Increase foot patrol during regular shifts (tracked by event number)
- Quarterly progress reports

CRIME SUPPRESSION DETAILS

June 2014

#<u>OPERATIONS</u>	3
#<u>CASES</u> Involved	28
#<u>ARRESTED</u>	35
#<u>GUNS SEIZED</u>	7

Charges Included:

Auto Theft

Burglary Tools / Stolen Property

Drugs / Narcotics

DUI

Firearms / Weapons

Probation / Parole Violation

Resisting Arrest

Warrants

NEW HIRES



SPECIAL OLYMPICS TORCH RUN



Questions?

**CITY COUNCIL MEETING
INCLUDING THE ANTIOCH CITY COUNCIL
ACTING AS SUCCESSOR AGENCY
TO THE ANTIOCH DEVELOPMENT AGENCY**

**Special/Regular Meeting
6:30 P.M.**

**June 24, 2014
Council Chambers**

5:30 P.M. - CLOSED SESSION

1. **CONFERENCE WITH REAL ESTATE NEGOTIATORS** pursuant to California Government Code section 54956.8; Fulton Shipyard Lease (APN 065-010-010-0); Agency Negotiator – City Manager and City Attorney ; Parties – Drill Tech Drilling and Shoring, Inc.; Under negotiation: price and terms of payment.
2. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to California Government Code section 54956.8; Property – 1811 “C” Street (Bedford Center); Agency Negotiator –City Manager and City Attorney; Parties – Rehabilitation Services of Northern California; Under negotiation: price and terms of payment
3. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code section 54956.8; Delta 2000 Lease; Property-301 W. 10th Street; Agency Negotiator—City Manager and City Attorney; Parties– Delta 2000; Under negotiation: price and terms of payment
4. **CONFERENCE WITH LEGAL COUNSEL** – Existing Litigation pursuant to California Government Code §54956.9 (d)(1); City of Antioch v. John Majidi, Shahpur Rahimi et al., Contra Costa Superior Court Case No. C14-00485 (Humphrey’s Restaurant)

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH REAL ESTATE NEGOTIATORS**, Direction given to Real Estate Negotiator, **#2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS**, Direction given to Real Estate Negotiator, **#3 CONFERENCE WITH REAL PROPERTY NEGOTIATORS**, Direction given to Real Estate Negotiator, and; **#4 CONFERENCE WITH LEGAL COUNSEL**, No action was taken.

Mayor Harper called the meeting to order at 6:31 P.M., and City Clerk Simonsen called the roll.

Present: Council Members Wilson, Rocha, Tiscareno and Mayor Harper
Absent: Council Member Agopian

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Rocha led the Council and audience in the Pledge of Allegiance.

SPECIAL MEETING

1. LONG RANGE PROPERTY MANAGEMENT PLAN GUIDING FORMER REDEVELOPMENT AGENCY REAL PROPERTY ASSETS

City Manager Duran introduced the consulting team of Don Fraser, Isabel Domeyko and Allen Walken to make the presentation.

Don Fraser, Fraser & Associates, presented the staff report dated June 24, 2014 recommending the City as Successor Agency adopt a resolution approving the Long Range Management Plan for disposition of the former Redevelopment Agency's real property assets and authorize the Successor Agency Chair to execute the resolution.

Isabel Domeyko gave a power point presentation of the Long Range Property Management Plan.

Fred Hoskins, Antioch resident, expressed concern the City had a history of not implementing long range property plans for downtown and questioned how they planned to spend the grant for the downtown priority development area. He suggested the City actively seek out businesses interested in bringing economic development to Antioch.

SA RESOLUTION NO. 2014/13

On motion by Councilmember Rocha, seconded by Councilmember Wilson, the City Council unanimously adopted a resolution approving the Long Range Management Plan.

Mayor Harper adjourned the Special meeting at 6:48 P.M.

Mayor Harper called the meeting to order at 7:03 P.M., and City Clerk Simonsen called the roll.

Present: Council Members Wilson, Rocha, Tiscareno and Mayor Harper

Absent: Council Member Agopian

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Rocha led the Council and audience in the Pledge of Allegiance.

The Council acknowledged Councilmember Agopian's absence and stated they would keep him in their thoughts and prayers.

2. PROCLAMATIONS

In Honor of Linda Johnson

In Honor of Pastor Paul Taylor

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson, the Council unanimously approved the Proclamations.

Mayor Harper presented the proclamation to Linda Johnson who thanked the City Council for the proclamation. She introduced Tish Wezel who would be managing the business and co-op photographer, Rick Felix.

Mayor Harper announced the proclamation for Pastor and Mrs. Paul Taylor would be presented to them on June 29, 2014.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Wayne Harrison and members of the Celebrate Antioch Committee announced the 4th of July parade would be begin at 11:00 A.M. in downtown Antioch and would be followed by a day of festivities at the Antioch Fair Grounds. Contact information was given.

Mayor Harper encouraged the community to attend and support the 4th of July event.

Angel Luevano, and members of East County Democrats for Action of Contra Costa County, stated they were honoring Councilmember Agopian with a Humanitarian and Peace award for his dedication to the community.

Mayor Harper stated it was an honor for Councilmember Agopian to be a recipient of the award.

Diane Gibson-Gray, representing the Arts and Cultural Foundation of Antioch, announced the free summer concert series would be held from 6:00 – 8:00 P.M. every Saturday in July and August, at Waldie Plaza.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Simonsen announced the application deadline ended for the Economic Development Commission, Planning Commission and Parks and Recreation Commission and applications received were sent to Mayor Harper and City staff.

PUBLIC COMMENTS

Glen Courtney, Antioch resident, expressed concern regarding unsafe driving conditions caused by construction diverting commute traffic onto Gentrytown Drive. He requested assistance from the Council to improve safety in the area.

Mayor Harper urged residents to be patient and courteous while Somersville Road was under construction.

Fred Hoskins, Antioch resident, requested the City Council to make the restoration of the Hard House, a priority.

Chris Valenta, Antioch resident, announced the Antioch sign was on display at the museum. He suggested City owned properties display a sign identifying ownership. He stated the cat ordinance had been successful. He discussed noise impacts and suggested the City consider if homes were built too close to the area designated for acrobatic airplane use. He also requested the City research if they could be designated as a safety corridor which would require trains to slow down 35 MPH.

COUNCIL SUBCOMMITTEE REPORTS - None

MAYOR'S COMMENTS

Mayor Harper reported Tri-Delta Transit would be receiving the American Public Transportation Association Prestigious Award for being the best small transit system in America.

3. **COUNCIL CONSENT CALENDAR for City /City as Successor Agency to the Antioch Development Agency**
 - A. **APPROVAL OF COUNCIL MINUTES FOR JUNE 10, 2014**
 - B. **APPROVAL OF COUNCIL WARRANTS**
 - C. **ORDINANCE 2087-C-S AUTHORITY TO ENFORCE PARKING REGULATIONS**
 - D. **ORDINANCE 2088-C-S CANDIDATE FILING FEE**
 - E. **ORDINANCE 2089-C-S AND ORDINANCE 2090-C-S ADOPTION OF ORDINANCES AMENDING THE ZONING ORDINANCE AND MAP TO IMPLEMENT THE 2007 – 2014 HOUSING ELEMENT PROGRAM. ORDINANCES INTRODUCED ON JUNE 10, 2014.**
 - F. **RESOLUTION NO. 2014/55 REQUESTING CONSOLIDATION OF ELECTION; LIMITING THE CANDIDATE STATEMENT WORD COUNT; AND CLARIFYING COSTS FOR THE NOVEMBER 4, 2014 GENERAL ELECTION**
 - G. **RESPONSE TO GRAND JURY REPORT: "PLANNING FOR TECHNOLOGY" (REPORT 1404)**
 - H. **RESOLUTION NO. 2014/56 APPROVING COMPREHENSIVE CLASSIFICATION PLAN UPDATES FOR THE OPERATING ENGINEERS LOCAL 3 BARGAINING UNIT AND ASSIGNING SALARY RANGES AS APPROPRIATE (NO SALARY INCREASES)**
 - I. **RESOLUTION NO. 2014/57 APPROVING CLASSIFICATION PLAN UPDATES FOR ACCOUNTING TECHNICIAN, ADMINISTRATIVE ANALYST AND ADMINISTRATIVE ASSISTANT IN THE CONFIDENTIAL BARGAINING UNIT, AND REMOVING POLICE RECORDS TECHNCIAN FROM THE UNIT**

- J. RESOLUTION APPROVING THE CLASS SPECIFICATION OF LEAD WAREHOUSE WORKER IN THE LOCAL 1 BARGAINING UNIT AND ESTABLISHING A SALARY RANGE
- K. RESOLUTION NO. 2014/58 REMOVING REGISTERED VETERINARY TECHNICIAN AND SECRETARY I/II WEB SITE ASSISTANT FROM THE CLASSIFICATION PLAN
- L. CONSIDERATION OF BIDS FOR THE FISHING PIER PAVILION (P.W. 99-A5)
- M. CONSIDERATION OF BIDS FOR SANITARY SEWER MAIN REPLACEMENT AT VARIOUS LOCATIONS (P.W. 632-2)
- N. CONSIDERATION OF BIDS FOR THE CURB, GUTTER, AND SIDEWALK REPAIR, INCLUDING TREE REMOVAL AND STUMP GRINDING AND INSTALLATION OF CONCRETE CURB RAMPS AT MISCELLANEOUS LOCATIONS (2014-2015) (P.W. 507-15)
- O. WATER TREATMENT PLANT LITIGATION: SETTLEMENT AGREEMENT AND RELEASES
- P. RESOLUTION NO. 2014/59 ACCEPTING COMPLETED IMPROVEMENTS AND AUTHORIZING A FY14 PARK-IN-LIEU BUDGET AMENDMENT TO FUND FINAL PAYMENT FOR NELSON RANCH PARK IN NELSON RANCH SUBDIVISION 6893 (STANDARD PACIFIC HOMES) (PW 547-P)
- Q. RESOLUTION NO. 2014/60 AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT GRANT DEED OVER A PORTION OF CITY PROPERTY LOCATED EAST OF STATE ROUTE 4 BELOW THE LAUREL ROAD OVERPASS TO PACIFIC GAS & ELECTRIC COMPANY
- R. APPROVAL OF LEASE OF CITY-OWNED PROPERTY WITH MESA OUTDOOR (APN 074-080-029)

City of Antioch Acting as Successor Agency to the Antioch Development Agency

S. APPROVAL OF SUCCESSOR AGENCY WARRANTS

City Attorney Nerland announced the Council had received a supplemental staff report for Consent Calendar item O and copies were available in Council Chambers and on the City's website.

On motion by Councilmember Wilson, seconded by Councilmember Rocha, the City Council unanimously approved the Council Consent Calendar with the exception of items I and J, which were removed for further discussion.

Item I – Administrative Services Director Fitzer reported the City had been meeting with the bargaining unit and they had agreed to the classifications as presented in the staff report.

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha the Council unanimously approved item I.

Item J - Michael Davis and Todd Northum representing Local 1, stated they were in favor of the reclassification and requested an amendment of the resolution to keep the lead worker in the same salary range as other bargaining units.

Following discussion, Administrative Services Director Fitzer stated staff would support continuing the item to determine if the job title and pay range were appropriate.

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson the Council unanimously continued Item J.

COUNCIL REGULAR AGENDA

4. BUSINESS LICENSE TAX BALLOT MEASURE

City Manager Duran and City Attorney Nerland presented the staff report dated June 18, 2014 and the supplemental staff report dated June 24, 2014 recommending the City Council approve the Resolution: “Resolution of the City Council of the City of Antioch Calling for and Noticing a Municipal Election on November 4, 2014 to present to voters a measure to Update the Existing Business License Tax Ordinance to Include a Residential Landlord Business License Tax and to Confirm the Existing Business License Tax, with an increase in the Minimum Tax.”

City Attorney Nerland reported the City had received letters from Pahl & McCay on behalf of the California Apartment Association dated June 18, 2014 and June 24, 2014, which were available on the City’s website, with copies attached to a Supplemental Staff Report on the dais and in Council Chambers for the public.

Michael Davis, Local 1, suggested the City redefine their public safety strategy and focus on effectively managing the City’s revenue streams.

Marrus Thomson, FPI Management Inc., for the Twin Creek Apartments stated increasing property operating expenses would increase rental rates, making it more difficult to finance renovations to apartment buildings. He noted the tax burden should apply to all Antioch residents.

Amanda Thomson, FPI Management Inc., speaking on behalf of the owner of a senior community, voiced her opposition to the proposed residential rental business license tax. She stated she was not against paying a temporary tax levied on all property owners that expires as overall city revenues recovered.

Clifford Gatewood, Property Manager of the Riverstone Apartments, spoke in opposition to the proposed residential rental business license tax and urged the Council to not place the item on November ballot.

Mark Jordan, Antioch resident, stated he was the owner of rental property and supported the City placing the proposed residential rental business license tax on the November ballot. He believed it was important to let the voters decide this issue.

Theresa Karr, California Apartment Association, spoke in opposition to the proposed residential rental business license tax and requested the City Council vote no to placing the resolution on the November ballot. She gave a history of their efforts to work with the stakeholders.

Joshua Howard, Senior Vice President of Government Affairs for the California Apartment Association, reviewed the letters sent to the City Council in opposition to the proposed resolution. He urged the City Council to oppose the resolution and offered to reopen the dialog in an attempt to find a compromise.

Terry Ramus, Antioch resident, spoke in support of the proposed residential rental business license tax and stated if approved, he would urge the Council to be fair and equitable in distribution of the revenue generated.

Fred Hoskins, Antioch resident, spoke in support of the proposed residential rental business license tax. He urged Council to lower the minimum tax for businesses subject to the gross receipts tax formula and increase the home occupation business fee.

John Canning spoke in opposition to the proposed residential rental business license tax and urged the City Council to oppose the resolution.

In response to Council, City Manager Duran reported attempts over the past year to reach a reasonable compromise with representatives from the California Apartment Association had been unsuccessful. He provided information about the likely percentage of gross receipts that this proposed business license tax represents. For large complexes, on average, the tax represents approximately one percent (1%) of their gross receipts. As an example, a complex with 300 units, earning an average of \$1250 in monthly rental income is grossing \$4.5 million annually. The same complex will pay \$45,000 in the proposed business license tax. He also indicated that it can be easier from a staffing standpoint to administer a per unit tax formula as opposed to verifying gross revenues.

City Attorney Nerland stated the existing business license ordinance exempted all non-profit from paying the tax. Speaking to the letters from Pahl & McCay, she explained that the U.S. Constitution did not prohibit a City from charging a per unit business license tax on residential rentals or prevent the City from having a tax formula that taxes different businesses in different ways. In fact, many jurisdictions use a mix of "flat or per unit" tax formulas with a gross receipts formula and some jurisdictions have a tax formula generally based on the number of employees at the business with some "flat" or "per unit" formulas.

She clarified that the concept of apportionment was to ensure someone was not paying a business license if they were not doing business in that jurisdiction. Clearly property owners and residents in the City of Antioch benefit from services provided by the City of Antioch. She stated if directed by Council, she would bring forward a separate ordinance to further clarify the apportionment issue for the Council to consider at their next meeting and since it would apply to procedures for the entire business license tax, it would not require voter approval.

Following discussion, Council expressed concern that the California Apartment Association had not come forward with a reasonable compromise for the City to consider or provided information as to what members of the Apartment Association were paying for business license taxes in other jurisdictions. They voiced their support for placing the item on the November ballot.

City Attorney Nerland clarified if the resolution were approved, it would include that ballot arguments for or against need to be submitted by 5:00 P.M. on August 20, 2014.

RESOLUTION NO. 2014/61

On motion by Councilmember Wilson, seconded by Councilmember Rocha the Council unanimously approved the Resolution: "Resolution of the City Council of the City of Antioch Calling for and Noticing a Municipal Election on November 4, 2014 to present to voters a measure to Update the Existing Business License Tax Ordinance to Include a Residential Landlord Business License Tax and to Confirm the Existing Business License Tax, with an increase in the Minimum Tax."

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno the Council unanimously directed City Attorney Nerland to bring back an ordinance clarifying the apportionment issue in the business license tax ordinance for the July 22, 2014, City Council meeting.

Mayor Harper declared a recess at 8:42 P.M. The meeting reconvened at 8:56 P.M. with all Councilmembers present.

5. ONE PARTIAL-TERM APPOINTMENT FOR ONE VACANCY ON THE ECONOMIC DEVELOPMENT COMMISSION (EDC)

Mayor Harper recommended Joseph Adebayo to fill the one partial-term vacancy on the Economic Development Commission.

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson the Council unanimously appointed Joseph Adebayo to one partial-term appointment on the Economic Development Commission.

6. PG&E GAS PIPELINE PATHWAYS PROJECT

Tom Guerino introduced the item and Alicia gave an overhead presentation of the Pipeline Pathways Program.

In response to Councilmember Tiscareno, Mr. Guerino explained PG&E would reimburse the City for staff time for the tree-by-tree analysis.

Councilmember Wilson thanked Mr. Guerino for considering each city separately.

Councilmember Rocha stated she was pleased Mr. Guerino had indicated their desire to retain as many trees as possible and thanked him for offering to reimburse the City for staff time.

Mr. Guerino stated he fully supports staff's recommendation as outlined in the staff report.

Mayor Harper thanked Mr. Guerino for the presentation.

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno the Council unanimously 1) Received the presentation from Pacific Gas & Electric ("PG&E") regarding its Gas Pipeline Pathways Project and the staff report; 2) Authorized the City Manager to enter into a written agreement or otherwise obtain written assurances of the verbal commitments made by PG&E representatives not to remove or trim trees or contact private property owners until further discussions are held with City staff and other stakeholders and a resolution has been agreed upon; and 3) Provide other direction, particularly as to PG&E's replacement of removed trees and compliance with mitigation and other requirements under Antioch's Tree Preservation and Regulation Ordinance for "Protected Trees" (established indigenous trees, street trees, mature and landmark trees). With the expectation that PG&E would uphold the Antioch's Tree Preservation and Regulation Ordinance for "Protected Trees" and reimburse the City for the costs associated for the tree by tree analysis.

7. REQUEST FOR QUALIFICATIONS AND PROPOSALS FOR THE DEVELOPMENT OF CITY OWNED PARCELS IN DOWNTOWN ANTIOCH

City Manager Duran presented the staff report dated June 24, 2014 recommending the City Council approve the Request for Qualifications and Proposals to initiate the solicitation process for a development team to develop a residential transit oriented/infill project on sites owned by the City of Antioch. The sites are located on the east end of Antioch's Historic downtown and the development proposal is to include the construction of a new 10,000 square foot Senior Center on a City owned site to be determined.

Fred Hoskins, Antioch resident, stated he felt the City did not need to replace the Senior Center and noted there was a previous plan for townhouses on the property which had been denied by the City. He suggested building the infrastructure and marketing the property to determine who was interested in developing the parcel.

Kerry Motts, Antioch resident, stated public input should be considered prior to the Request for Qualifications and Proposals for the development of the parcels. He stated the property was unique and should be developed as a waterfront park.

Joette Bright, Antioch resident, discussed past plans for the property and the General Plan emphasis on access and views of river from the waterfront. She spoke in support of developing the parcel as a waterfront park.

Richard Stadtlander, Antioch resident, stated the proposal before Council was problematic and the parcel should be developed as waterfront park or memorial.

Joy Motts, Antioch resident, expressed concern regarding the proposal for high density housing. She stated the Rivertown Preservation Society met with City staff and were assured they would be part of the planning process, however they had not reached out to the community. She commented that the view of the Delta should be protected for the entire community and suggested a waterfront park be developed on the parcel. She urged Council not to support the development of the parcels until there had been outreach with the community members.

Mayor Harper reported he had received written comment from Antioch residents, Katie Cook and Connie Komar who indicated they were opposed to high density housing on the parcel.

Chris Valenta, Antioch resident, spoke in opposition to developing the property as residential and stated it should be developed as a waterfront park. He suggested building the residential project near the new Antioch marina.

John Reynolds, Antioch resident, spoke in opposition to development of the property and stated he would also support the project near the new Marina.

City Manager Duran explained General Plan zoning for the parcel was residential and it had gone through the CEQA process as well as the community input process for the ARCADIS plan. He recommended the Council move forward aggressively in order to take advantage of favorable market conditions and noted they would receive input from the entire community when the development of the property was considered.

Council Rocha expressed interest in including an open space area within the development.

Mayor Harper discussed the importance of developing and maintaining the character of the downtown area. He encouraged the community remain flexible and stated he would support continued community outreach as the project moved forward.

On motion by Councilmember Wilson, seconded by Councilmember Rocha the Council unanimously approved the Request for Qualifications and Proposals, with direction that community input should be sought in the development process.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Duran reported on his attendance at the Relay for Life event.

COUNCIL COMMUNICATIONS

Councilmember Tiscareno reported on his attendance at the Relay for Life event and thanked everyone who participated in the event.

Councilmember Rocha stated the City of Richmond may be increasing their train schedule and suggested the City review the impact of that schedule on Antioch's crossings.

Mayor Harper reported on his attendance at the Relay for Life event and announced its founder Judy Trapanese had passed away, however her legacy lived on. He stated his mother was a cancer survivor and he voiced his appreciation to those who were attempting to find a cure. He thanked everyone for their patience this evening and announced the next City Council meeting would be held on July 22, 2014.

ADJOURNMENT

With no further business, Mayor Harper adjourned the meeting at 10:07 P.M. to the next regular Council meeting on July 22, 2014.

Respectfully submitted:

Kitty Eiden
KITTY EIDEN, Minutes Clerk

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
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100 General Fund

Non Departmental

351519	KB HOME SOUTH BAY INC	TREATED WATER FEE REFUND	18,534.05
351553	SOLARCITY CORPORATION	CBSC FEE REFUND	5.60
351592	BURKE WILLIAMS AND SORENSEN LLP	LEGAL SERVICES	413.00
351602	CONTRA COSTA WATER DISTRICT	FACILITY RESERVE FEES	34,552.00
351603	CONTRA COSTA WATER DISTRICT	TREATED WATER CAPACITY FEE	7,849.66
351613	ECC REG FEE AND FIN AUTH	ECCRFFA-RTDIM	86,618.00
351630	KIMLEY HORN AND ASSOCIATES INC	ENGINEERING SERVICES	31,275.00
351693	BAUMANN, CARL & DANA	BARRICADE DEPOSIT REFUND	30.00
351701	CALIF BLDG STANDARDS COMMISSION	PERMIT FEES	999.99
351710	DELTA DENTAL	PAYROLL DEDUCTIONS	577.36
351711	DEPT OF CONSERVATION	PERMIT FEES	2,103.36
351790	GOLDEN PROPERTY DEVELOPMENT LLC	DEPOSIT REFUND	215.00

City Council

203462	NATURES BOUNTY	MEETING EXPENSE	23.40
203463	LONE TREE GOLF COURSE	MEETING EXPENSE	64.26
203464	RALEYS	MEETING EXPENSE	13.68
203465	BAGEL STREET CAFE	MEETING EXPENSE	35.00
203517	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	21.54
351580	ANTIOCH UNIFIED SCHOOL DIST	EVENT SERVICES	337.37

City Attorney

203466	RICHARDS WATSON AND GERSHON	MEETING EXPENSE	35.00
203517	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	2.57
351488	COLANTUONO AND LEVIN PC	LEGAL SERVICES	357.50
351572	WENDEL ROSEN BLACK AND DEAN	LEGAL SERVICES	5,504.29
351592	BURKE WILLIAMS AND SORENSEN LLP	LEGAL SERVICES	2,430.50
351628	JARVIS FAY AND DOPORTO LLP	LEGAL SERVICES	381.78
351636	LEXISNEXIS	ONLINE LEGAL RESEARCH	76.50
351746	UNITED PARCEL SERVICE	SHIPPING	17.93
351768	COLANTUONO AND LEVIN PC	LEGAL SERVICES	1,072.00
351836	WENDEL ROSEN BLACK AND DEAN	LEGAL SERVICES	12,004.54

City Manager

351568	VERIZON WIRELESS	DATA USAGE	38.01
351593	CA SHOPPING CART RETRIEVAL CORP	SHOPPING CART RETRIEVAL	477.00
922317	KARSTE CONSULTING INC	CONSULTING SERVICES	1,350.00

City Clerk

351614	EIDEN, KITTY J	MINUTES CLERK	931.00
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City Treasurer

351732	PFM ASSET MGMT LLC	ADVISORY SERVICES	7,300.83
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Human Resources

203517	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	47.73
351606	DEE, WILLIAM F	TUITION REIMBURSEMENT	800.00
351648	OFFICE MAX INC	OFFICE SUPPLIES	382.29
351653	PINCKARD, JOSEPH	EMPLOYMENT RECOGNITION	300.00

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Economic Development

351530 MUNICIPAL RESOURCE GROUP LLC	CONSULTING SERVICES	4,128.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	331.82

Finance Administration

351648 OFFICE MAX INC	OFFICE SUPPLIES	102.94
351764 BANK OF AMERICA	ANNUAL FEE	45.00

Finance Accounting

351574 ACCOUNTEMPS	TEMPORARY ACCOUNTING HELP	1,708.00
351752 ACCOUNTEMPS	TEMPORARY ACCOUNTING HELP	854.00
351762 AT AND T MCI	BITECH PHONE LINE	479.75

Finance Operations

203517 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	20.33
351746 UNITED PARCEL SERVICE	WEEKLY PRINTER SERVICE FEE	19.30
351832 UNITED PARCEL SERVICE	WEEKLY PRINTER SERVICE FEE	4.00

Non Departmental

203518 HEARING SERVICES OF ANTIOCH	BUS LIC APP FEE REFUND	30.00
351569 WAGeworks	PAYROLL DEDUCTIONS	150.00
351700 BNSF RAILWAY COMPANY INC	PLATFORM LEASE	3,711.82
351735 PERS	PAYROLL DEDUCTIONS	1,203.43
351804 MUNICIPAL POOLING AUTHORITY	PREMIUM SUPPLEMENT	16,089.08
351811 PARS	VALUATION SERVICES	1,350.00
922222 RETIREE	MEDICAL AFTER RETIREMENT	1,658.84

Public Works Maintenance Administration

203504 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	18.00
351568 VERIZON WIRELESS	DATA PLAN SERVICES	76.02
351807 OFFICE MAX INC	OFFICE SUPPLIES	126.05

Public Works General Maintenance Services

351807 OFFICE MAX INC	OFFICE SUPPLIES	40.49
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Public Works Street Maintenance

351481 CENTER FOR HEARING HEALTH INC	HEARING TESTS	54.00
351558 SUBURBAN PROPANE	PROPANE	242.68
351568 VERIZON WIRELESS	DATA PLAN SERVICES	76.02
351685 ACE HARDWARE, ANTIOCH	SUPPLIES	5.98
351689 ANTIOCH BUILDING MATERIALS	ASPHALT MATERIALS	1,937.14
351723 LOWES COMPANIES INC	SUPPLIES	80.70
351733 PITTS, BRYAN J	SAFETY BOOTS REIMBURSEMENT	207.62
351753 ACE HARDWARE, ANTIOCH	SUPPLIES	59.78
351779 COUNTY ASPHALT	ASPHALT	1,014.94
351784 FASTENAL CO	SUPPLIES	28.55
351807 OFFICE MAX INC	OFFICE SUPPLIES	52.22
922326 GRAINGER INC	SUPPLIES	863.59

Public Works-Signal/Street Lights

351601 CONTRA COSTA COUNTY	TRAFFIC SIGNAL MAINTENANCE	57,608.88
351682 WESCO RECEIVABLES CORP	STREET LIGHTS	5,337.99
351729 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	380.88
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	4,900.74

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
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922150	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	242.59
922230	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,028.56
922327	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	12,764.20
Public Works-Striping/Signing			
351568	VERIZON WIRELESS	DATA PLAN SERVICES	76.02
351688	ANTIOCH AUTO PARTS	FITTINGS	33.25
351794	INTERSTATE SALES	BITUMINOUS GLUE	470.67
351803	MB COMPANIES INC	CHECK VALVE	228.15
Public Works-Facilities Maintenance			
351468	ACE HARDWARE, ANTIOCH	SUPPLIES	10.27
351532	OAKLEYS PEST CONTROL	PEST CONTROL SERVICES	100.00
351545	REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	360.23
351568	VERIZON WIRELESS	DATA PLAN SERVICES	38.01
351649	OMEGA INDUSTRIAL SUPPLY	SUPPLIES	433.95
351717	HONEYWELL INTERNATIONAL INC	EMERGENCY REPAIRS	5,009.45
351723	LOWES COMPANIES INC	SUPPLIES	255.12
351751	WESCO RECEIVABLES CORP	SUPPLIES	101.92
351810	PACIFIC GAS AND ELECTRIC CO	GAS	10,951.18
922149	HAMMONS SUPPLY COMPANY	SUPPLIES	117.10
922150	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	585.68
922153	LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	2,494.82
922326	GRAINGER INC	SUPPLIES	427.20
922327	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	653.91
Public Works-Parks Maint			
351495	DELTA LOCK KEY AND SAFE	LOCK REPAIR	85.00
351537	PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	3,125.00
351557	STEWARTS TREE SERVICE INC	TREE SERVICES	1,100.00
351672	STEWARTS TREE SERVICE INC	TREE SERVICES	250.00
351755	AMERICAN PLUMBING INC	PLUMBING SERVICES	195.09
351808	PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	37,932.17
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	558.26
351820	ROGERS ROOFING	VANDALISM REPAIR	4,995.00
922151	JOHN DEERE LANDSCAPES PACHECO	IRRIGATION CONTROLLERS	43,493.78
922329	JOHN DEERE LANDSCAPES PACHECO	SPRINKLER UPGRADES	2,074.00
Public Works-Median/General Land			
351514	HUNT AND SONS INC	FUEL	103.68
351575	ACE HARDWARE, ANTIOCH	PVC GLUE	6.37
351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	384.00
351650	PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	14,318.00
351672	STEWARTS TREE SERVICE INC	TREE SERVICES	3,535.00
351753	ACE HARDWARE, ANTIOCH	PVC FITTINGS	34.43
351784	FASTENAL CO	SUPPLIES	7.54
351808	PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	3,300.00
351809	PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	2,845.25
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	1,416.82
351828	STEWARTS TREE SERVICE INC	TREE SERVICES	3,350.00

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
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Police Administration

203405 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	8.12
203406 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	29.23
203514 MALIK, NASEER	ALARM PERMIT REFUND	36.00
203515 DILLON, CLEMENTINE	ALARM PERMIT REFUND	36.00
351581 ARROWHEAD 24 HOUR TOWING INC	TOWING SERVICES	90.00
351600 COMMERCIAL SUPPORT SERVICES	CAR WASHES	525.00
351614 EIDEN, KITTY J	MINUTES CLERK	450.00
351622 HUNT AND SONS INC	FUEL	208.61
351632 LC ACTION POLICE SUPPLY	SUPPLIES	467.61
351648 OFFICE MAX INC	OFFICE SUPPLIES	965.38
351657 PURSUIT NORTH	VEHICLE BUILD PARTS	4,725.03
351704 COMCAST	CABLE SERVICES	34.60
351708 CSI FORENSIC SUPPLY	SUPPLIES	308.53
351742 TRAINING INNOVATIONS INC	ANNUAL RENEWAL	600.00
351747 UNITED STATES POSTAL SERVICE	POSTAGE	2,000.00
351754 ACME SECURITY SYSTEMS	SECURITY ACCESS CARDS	175.65
351760 ARROWHEAD 24 HOUR TOWING INC	TOWING SERVICES	202.50
351761 ASR - BRICKER MINCOLA	UNIFORMS	258.28
351765 BARNETT MEDICAL SERVICES INC	WASTE DISPOSAL	110.00
351777 COSTCO	BUSINESS EXPENSE	183.98
351783 EIDEN, KITTY J	TRANSCRIPTION SERVICES	300.00
351795 JACKSON LEWIS LLP	PROFESSIONAL SERVICES	3,882.78
351798 LC ACTION POLICE SUPPLY	SUPPLIES	8,499.80
351814 PORAC LEGAL DEFENSE FUND	RESERVE DUES	30.00
351815 PORAC LEGAL DEFENSE FUND	LEGAL DEFENSE FUND	40.50
351822 SHRED IT INC	SHRED SERVICES	265.78
351826 STATE OF CALIFORNIA	FINGERPRINTING	32.00
922228 HUNTINGTON COURT REPORTERS INC	TRANSCRIPTION SERVICES	1,167.64
922318 MOBILE MINI LLC	STORAGE CONTAINERS	1,031.33
922328 IMAGE SALES INC	BADGES	86.35

Police Prisoner Custody

351631 LAMOTHE CLEANERS	DRY CLEANING	210.00
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Police Community Policing

203405 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	39.40
203406 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	15.00
351514 HUNT AND SONS INC	FUEL	7,884.44
351585 EMPLOYEE	PENSION PAYMENT	4,159.00
351656 PERS	PAYROLL DEDUCTIONS	315.73
351709 D PREP LLC	TUITION-NISSEN	338.00

Police Investigations

203406 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	30.00
351514 HUNT AND SONS INC	FUEL	126.59
351677 VERIZON WIRELESS	AIR CARDS	76.02
351750 VERIZON WIRELESS	AIR CARDS	76.02
351772 CONTRA COSTA COUNTY	RENDITION FEES	350.00

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351773 CONTRA COSTA COUNTY	SART EXAMS	1,000.00
351774 CONTRA COSTA COUNTY	LAB TESTING	36,252.50
351829 T MOBILE USA INC	PHONE RECORDS	50.00
351830 THOMSON WEST	ONLINE DATABASE	652.92
Police Special Operations Unit		
351674 TOYOTA FINANCIAL SERVICES	VEHICLES LEASE	1,546.94
Police Communications		
351583 AT AND T MOBILITY	HIGH SPEED WIRELESS	4,580.40
351692 AT AND T MCI	PHONE	372.05
351756 AMERICAN TOWER CORPORATION	TOWER RENTAL	219.17
351789 GLOBALSTAR	TELECOMMUNICATIONS SERVICES	86.63
922225 HUBB SYSTEMS LLC DATA 911	MAINTENANCE AGREEMENT	171,345.10
Police Community Volunteers		
351614 EIDEN, KITTY J	TRANSCRIPTION SERVICES	91.00
351783 EIDEN, KITTY J	TRANSCRIPTION SERVICES	126.00
351823 SIGN A RAMA INC	BANNER	83.93
Police Facilities Maintenance		
351545 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	311.38
351661 RANGE MAINTENANCE SERVICES LLC	FIRING RANGE REPAIRS	2,550.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	11,224.11
922153 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	4,411.17
922187 COMPUTERLAND	LOBBY PHONE	834.78
Community Development Land Planning Services		
203532 CONTRA COSTA COUNTY	RECORDING FEE	23.00
203533 CONTRA COSTA COUNTY	NOD-HOUSING ELEMENT	50.00
351475 BAY AREA NEWS GROUP	LEGAL AD	238.80
351519 KB HOME SOUTH BAY INC	GEN PLAN MAINT FEE REFUND	178.00
351614 EIDEN, KITTY J	TRANSCRIPTION SERVICES	42.00
351638 LOEWKE PLANNING ASSOCIATES	CONSULTING SERVICES	2,702.50
351817 RANEY PLANNING & MANAGEMENT INC	PROFESSIONAL SERVICES	2,856.39
CD Code Enforcement		
203534 CONTRA COSTA COUNTY	LIEN RELEASES	75.00
351626 INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	4,895.00
351738 SOUZA, RENEE R	EXPENSE REIMBURSEMENT	46.34
351745 TURNAGE II, KEN	ABATEMENT SERVICES	500.71
PW Engineer Land Development		
351514 HUNT AND SONS INC	FUEL	132.91
351716 HANSEN, KRAIG E	SAFETY BOOTS REIMBURSEMENT	196.18
922322 TESTING ENGINEERS INC	SOIL TESTING	396.00
Community Development Building Inspection		
351519 KB HOME SOUTH BAY INC	PLAN CHECK FEE REFUND	3,435.56
351553 SOLARCITY CORPORATION	ENERGY INSPECTION FEE REFUND	220.10
351648 OFFICE MAX INC	OFFICE SUPPLIES	221.77
Capital Imp. Administration		
203445 DS WATERS OF AMERICA	WATER DISPENSER	86.36
351648 OFFICE MAX INC	OFFICE SUPPLIES	492.43

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Community Development Engineering Services

203517 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	7.50
351715 FEDEX	SHIPPING	24.58
351766 BAY AREA NEWS GROUP	LEGAL AD	81.88

212 CDBG Fund

CDBG

351475 BAY AREA NEWS GROUP	LEGAL AD	138.80
351486 CITY DATA SERVICES	CDBG SERVICES	675.00
351490 CONTRA COSTA COUNTY	CDBG SERVICES	4,083.02
351551 SHELTER INC	CDBG SERVICES	2,760.16
351608 DIGITAL SERVICES	WEBSITE DEVELOPMENT	1,250.00
351626 INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	41,922.50
351648 OFFICE MAX INC	OFFICE SUPPLIES	32.37
351715 FEDEX	SHIPPING	27.05
351775 CONTRA COSTA COUNTY	HOUSING REHAB ADMINISTRATION	7,323.40
351782 DIGITAL SERVICES	WEBSITE DEVELOPMENT	1,250.00
922316 HOUSE, TERI	CONSULTING SERVICES	9,425.00

CDBG NSP

351813 PMC	PROFESSIONAL SERVICES	562.50
922316 HOUSE, TERI	CONSULTING SERVICES	3,087.50

213 Gas Tax Fund

Streets

351589 BNSF RAILWAY COMPANY INC	WILBUR AVE PROJECT	58,970.43
351641 MARK THOMAS AND CO INC	PROFESSIONAL SERVICES	320.00
351729 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	45.07
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	23,628.11
351825 STATE CONTROLLERS OFFICE	STREET REPORT PREP	1,562.99
922155 PROVEN MANAGEMENT INC	WILBUR AVE PROJECT	424,768.64
922332 PARSONS BRINCKERHOFF INC	PROFESSIONAL SERVICES	36,054.06
922333 TESTING ENGINEERS INC	TESTING SERVICES	2,350.00

214 Animal Control Fund

Animal Control

351503 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	2,242.98
351559 SUTHERLAND, ANDREA E	EXPENSE REIMBURSEMENT	30.50
351712 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	3,385.24
351720 KOEFRAN SERVICES INC	ANIMAL DISPOSAL SERVICES	1,850.00
351726 MWI VETERINARY SUPPLY CO	VETERINARY SUPPLIES	234.85
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	590.74
922149 HAMMONS SUPPLY COMPANY	SUPPLIES	428.13
922153 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	435.75
922315 HAMMONS SUPPLY COMPANY	SUPPLIES	306.94

Maddie's Fund Grant

351503 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	700.90
351712 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	6,650.35

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215 Civic Arts Fund

Civic Arts

351545 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	67.60
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216 Park-In-Lieu Fund

Parks & Open Space

203555 GENERAL PLUMBING SUPPLY CO	SUPPLIES	60.73
351519 KB HOME SOUTH BAY INC	PARK ACQUISITION FEE REFUND	1,050.00
351723 LOWES COMPANIES INC	SUPPLIES	258.26
351739 STANDARD PACIFIC CORP	NELSON RANCH FINAL PYMT	875,864.62

219 Recreation Fund

Non Departmental

203582 LLOYD, ALAN	CLASS REFUND	36.00
203583 CARON, KRISTEN	DEPOSIT REFUND	75.00
351480 BRENTWOOD COMMUNITY UMC	DEPOSIT REFUND	500.00
351485 CHAVEZ, MARTHA	DEPOSIT REFUND	1,000.00
351582 ASH, PAULETTE	DEPOSIT REFUND	500.00
351617 FREDENBURG, JAMARI	DEPOSIT REFUND	500.00
351690 ASH, PAULETTE	DEPOSIT REFUND	500.00
351793 HURTADO, ROSALBA	DEPOSIT REFUND	1,000.00

Recreation Admin

351545 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	94.64
351696 BELUS CONSTRUCTION	REPAIR SERVICES	1,000.00
351810 PACIFIC GAS AND ELECTRIC CO	GAS	1,631.85

Senior Programs

351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	1,087.90
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Recreation Classes/Prog

203434 GALLACHER, KATHY	CLASS REFUND	58.00
203436 AYALA, JULIA	CLASS REFUND	67.00
203437 LEWIS, REBECCA	CLASS REFUND	67.00
203439 LUGO, CHRISTLE	CLASS REFUND	74.00
203440 CAIN, TOM	CLASS REFUND	56.00
203581 WALKER, JAQUILLA	CLASS REFUND	52.00
351477 BIG SKY LOGOS AND EMBROIDERY	CAMP SHIRTS	1,656.61
351500 DISCOUNT SCHOOL SUPPLY	SUPPLIES	179.88
351501 DUGAND, KARINA	DROP IN FEES	804.00
351504 EDUCATION TO GO	CONTRACTOR PAYMENT	403.50
351521 KOVALICK, LUANNE	CONTRACTOR PAYMENT	750.69
351527 MUIR, ROXANNE	CONTRACTOR PAYMENT	312.84
351536 ORTIZ, CHERYL	DROP IN FEES	257.40
351584 AUBURN JOURNAL INC	BROCHURE PRINTING	4,800.49
351620 HAMLIN, ALLISON	CLASS REFUND	185.00
351637 LIPPE, PATRICIA	CONTRACTOR PAYMENT	307.80
351640 MAGDALENO, JOANNE	CLASS REFUND	185.00
351648 OFFICE MAX INC	OFFICE SUPPLIES	25.59

Recreation Camps

203433 TARGET STORES	SUPPLIES	6.86
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203435 STAPLES	SUPPLIES	13.61
Recreation Sports Programs		
203584 GAJETON, JUNITA	DEPOSIT REFUND	55.00
203585 GRAHAM, SUNIQUA	DEPOSIT REFUND	75.00
351584 AUBURN JOURNAL INC	BROCHURE PRINTING	4,800.52
351591 BSN SPORTS	SUPPLIES	258.09
351723 LOWES COMPANIES INC	SUPPLIES	368.51
351805 MUSCO LIGHTING	LAMPS	511.44
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	1,610.56
Recreation-New Comm Cntr		
203438 NEOPOST	POSTAGE MACHINE	61.97
203531 UNLIMITED GRAPHIC & SIGN NETWORK	NAME PLATES	65.40
351469 ACME SECURITY SYSTEMS	ALARM MONITORING	300.00
351538 PACIFIC GAS AND ELECTRIC CO	GAS	10,193.81
351545 REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	405.00
351584 AUBURN JOURNAL INC	BROCHURE PRINTING	4,800.54
351586 BAY BUILDING MAINTENANCE INC	JANITORIAL SERVICES	995.00
351598 COLE SUPPLY CO INC	SUPPLIES	220.14
351648 OFFICE MAX INC	OFFICE SUPPLIES	215.36
351723 LOWES COMPANIES INC	SUPPLIES	135.99
351771 COMCAST	CONNECTION SERVICES	4,923.30
351778 COSTCO	SUPPLIES	48.42
351801 LSA ASSOCIATES INC	MONITORING SERVICES	697.04
922145 CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	566.82
220 Traffic Signalization Fund		
Traffic Signals		
351519 KB HOME SOUTH BAY INC	TRAFFIC SIGNAL FEE REFUND	382.00
222 Measure C/J Fund		
Streets		
351476 BAY CITIES PAVING AND GRADING	LONE TREE PROJECT	113,473.48
351601 CONTRA COSTA COUNTY	TRAFFIC SIGNAL MAINTENANCE	7,067.18
351785 FEDERAL ADVOCATES INC	ADVOCACY SERVICES	10,000.00
226 Solid Waste Reduction Fund		
Solid Waste		
203419 TRI DELTA TRANSIT	SUMMER YOUTH PASS	50.00
351519 KB HOME SOUTH BAY INC	WASTE MGMT FEE REFUND	35.00
351598 COLE SUPPLY CO INC	SUPPLIES	997.83
351626 INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	16,472.50
228 Abandoned Vehicles Fund		
Abandoned Vehicles		
351626 INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	5,325.00
229 Pollution Elimination Fund		
Channel Maintenance Operation		
351548 RMC WATER AND ENVIRONMENT	CONSULTING SERVICES	32,061.45
351664 RMC WATER AND ENVIRONMENT	CONSULTING SERVICES	10,791.35
351687 ANKA BEHAVIORAL HEALTH INC	LANDSCAPE SERVICES	2,702.50

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351713	ECORP CONSULTING INC	PROFESSIONAL SERVICES	1,649.79
351758	ANKA BEHAVIORAL HEALTH INC	LANDSCAPE SERVICES	4,864.50
Storm Drain Administration			
351715	FEDEX	SHIPPING	24.70
351804	MUNICIPAL POOLING AUTHORITY	UNMET LIABILITY DEDUCTIBLE	19,827.20
238 PEG Franchise Fee Fund			
Non Departmental			
351648	OFFICE MAX INC	OFFICE SUPPLIES	304.36
251 Lone Tree SLLMD Fund			
Lonetree Maintenance Zone 1			
351533	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	2,800.00
351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	192.00
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	629.31
Lonetree Maintenance Zone 2			
351533	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	5,000.00
351808	PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	3,800.00
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	616.44
Lonetree Maintenance Zone 3			
351650	PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	1,452.00
351729	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	90.51
351808	PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	3,800.00
351809	PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	2,420.00
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	1,036.03
Lonetree Maintenance Zone 4			
351557	STEWARTS TREE SERVICE INC	TREE SERVICES	400.00
351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	873.00
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	310.36
252 Downtown SLLMD Fund			
Downtown Maintenance			
351513	HILLCREST TOPSOIL	BARK	452.71
351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	384.00
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	315.69
351828	STEWARTS TREE SERVICE INC	TREE SERVICES	600.00
253 Almondridge SLLMD Fund			
Almondridge Maintenance			
351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	1,223.00
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	182.45
254 Hillcrest SLLMD Fund			
Hillcrest Maintenance Zone 1			
351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	460.80
351809	PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	3,428.00
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	518.54
Hillcrest Maintenance Zone 2			
351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	960.00
351650	PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	9,418.00
351808	PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	3,780.00

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351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	629.48
Hillcrest Maintenance Zone 4		
351537 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	2,160.00
351647 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	307.20
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	535.58
255 Park 1A Maintenance District Fund		
Non Departmental		
351537 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	160.00
Park 1A Maintenance District		
351647 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	460.80
351672 STEWARTS TREE SERVICE INC	TREE SERVICES	1,060.00
351692 AT AND T MCI	PHONE	16.97
351729 PACIFIC GAS AND ELECTRIC CO	GAS	32.37
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	69.64
256 Citywide 2A Maintenance District Fund		
Citywide 2A Maintenance Zone 3		
351808 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	540.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	65.72
Citywide 2A Maintenance Zone 4		
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	240.93
Citywide 2A Maintenance Zone 5		
351808 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	840.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	355.67
Citywide 2A Maintenance Zone 6		
351647 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	384.00
351808 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	1,500.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	196.99
Citywide 2A Maintenance Zone 8		
351808 PACHECO BROTHERS GARDENING INC	LANDSCAPE SERVICES	1,020.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	248.30
Citywide 2A Maintenance Zone 9		
351647 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	307.20
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	411.66
Citywide 2A Maintenance Zone10		
351647 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	793.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	103.54
257 SLLMD Administration Fund		
SLLMD Administration		
203504 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	5.00
351481 CENTER FOR HEARING HEALTH INC	HEARING TESTS	27.00
351514 HUNT AND SONS INC	FUEL	395.08
351568 VERIZON WIRELESS	DATA PLAN SERVICES	152.04
351807 OFFICE MAX INC	OFFICE SUPPLIES	18.46
922151 JOHN DEERE LANDSCAPES PACHECO	CONTROLLER REPAIR	67,166.36
922156 QUENVOLDS	SAFETY SHOES-BURGESS	222.15
922329 JOHN DEERE LANDSCAPES PACHECO	IRRIGATION SUPPLIES	256.33

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259 East Lone Tree SLLMD Fund

Zone 1-District 10

351647 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	1,248.00
351729 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	56.78
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	24.95
922151 JOHN DEERE LANDSCAPES PACHECO	CONTROLLER REPAIR	215.88

311 Capital Improvement Fund

Measure WW

922317 KARSTE CONSULTING INC	CONSULTING SERVICES	360.00
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Streets

351518 JD PARTNERS CONCRETE	SIDEWALK REPAIR PROJECT	119,873.47
351766 BAY AREA NEWS GROUP	LEGAL AD	395.16

319 Residential Dev Alloc Fund

Non Departmental

351519 KB HOME SOUTH BAY INC	RDA FEE REFUND	7,000.00
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376 Lone Diamond Fund

Non Departmental

351482 CENTRAL SELF STORAGE ANTIOCH	MONTHLY STORAGE FEES	154.00
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Assessment District

351476 BAY CITIES PAVING AND GRADING	LONE TREE PROJECT	213,777.77
351519 KB HOME SOUTH BAY INC	GRAVITY FLOW FEE REFUND	652.00
351548 RMC WATER AND ENVIRONMENT	CONSULTING SERVICES	4,984.91
351601 CONTRA COSTA COUNTY	TRAFFIC SIGNAL MAINTENANCE	11,050.83
351664 RMC WATER AND ENVIRONMENT	CONSULTING SERVICES	30,576.17
351713 ECORP CONSULTING INC	PROFESSIONAL SERVICES	1,474.77
922320 PARSONS BRINCKERHOFF INC	PROFESSIONAL SERVICES	21,533.17
922322 TESTING ENGINEERS INC	TESTING SERVICES	2,120.00

416 Honeywell Capital Lease Fund

Non Departmental

351763 BANK OF AMERICA	LOAN PAYMENT	43,050.08
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569 Vehicle Replacement Fund

Equipment Maintenance

351652 PETERSON	EQUIPMENT	47,033.50
351799 LEHR AUTO ELECTRIC	VEHICLE PARTS	4,170.28
351838 WONDRIES FLEET GROUP	VEHICLE	27,072.59

570 Equipment Maintenance Fund

Non Departmental

351622 HUNT AND SONS INC	FUEL	8,294.65
351792 HUNT AND SONS INC	FUEL	33,991.96

Equipment Maintenance

203505 ALL STAR FORD	BRAKE PADS	59.95
351474 ANTIOCH AUTO PARTS	OIL PUMP	857.60
351478 BILL BRANDT FORD	BRAKE ROTORS	307.51
351492 CONTROLLED ENVIRONMENTAL SVCS	GAS PUMP	1,860.00
351544 PURSUIT NORTH	VEHICLE PARTS	3,210.17
351561 TRED SHED, THE	TIRES	2,405.04

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351563 TUTTS TRUCK OUTFITTERS	NON SLIP COATING	2,435.00
351568 VERIZON WIRELESS	DATA PLAN SERVICES	76.02
351570 WALNUT CREEK FORD	SEAT COVERS	1,176.09
351579 ANTIOCH AUTO PARTS	TOOLS	558.90
351596 CHUCKS BRAKE AND WHEEL SERVICE	SUPPLIES	111.59
351634 LEHR AUTO ELECTRIC	AUTO PARTS	3,605.12
351673 SUPERIOR AUTO PARTS	BATTERY	108.95
351679 WALNUT CREEK FORD	BRAKE PADS	108.03
351683 WESTERN TRUCK FAB	CYLINDER LOCKS	164.96
351746 UNITED PARCEL SERVICE	SHIPPING	15.00
351759 ANTIOCH AUTO PARTS	BRAKE PARTS	769.89
351766 BAY AREA NEWS GROUP	LEGAL AD	382.70
351767 CHUCKS BRAKE AND WHEEL SERVICE	BATTERIES	2,557.81
351806 OCCUPATIONAL HEALTH CENTERS	MEDICAL TESTING	170.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	405.79
351816 PURSUIT NORTH	VEHICLE SERVICES	3,971.73
351831 TUTTS TRUCK OUTFITTERS	TOOL BOX	1,298.19
351835 WALNUT CREEK FORD	AUTO PARTS STOCK	563.13
351838 WONDRIES FLEET GROUP	VEHICLE	37,484.53
922141 A1 TRANSMISSION	REBUILD TRANSMISSION	1,904.24
922148 GRAINGER INC	SMALL TOOLS	529.62
922152 KIMBALL MIDWEST	SUPPLIES	573.74
922326 GRAINGER INC	SUPPLIES	14.41
922334 UNLIMITED GRAPHIC & SIGN NETWORK	DECALS	1,907.50

573 Information Services Fund

Information Services

351834 VERIZON WIRELESS	AIR CARD	78.36
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Network Support & PCs

351599 COMCAST	ISP SERVICES	124.03
351770 COMCAST	CONNECTION SERVICES	152.76
351771 COMCAST	CONNECTION SERVICES	3,000.00
351782 DIGITAL SERVICES	WEBSITE MAINTENANCE	3,135.00

Telephone System

203521 AMERICAN MESSAGING	PAGER	39.49
351691 AT AND T MCI	PHONE	25.38
351692 AT AND T MCI	PHONE	2,360.22

577 Post Retirement Medical-Police Fund

Non Departmental

351509 RETIREE	MEDICAL AFTER RETIREMENT	1,067.00
351588 RETIREE	MEDICAL AFTER RETIREMENT	1,067.00
351618 RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
351633 RETIREE	MEDICAL AFTER RETIREMENT	918.69
351667 RETIREE	MEDICAL AFTER RETIREMENT	252.36
351670 RETIREE	MEDICAL AFTER RETIREMENT	80.44
351675 RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
351680 RETIREE	MEDICAL AFTER RETIREMENT	184.84

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351684	RETIREE	MEDICAL AFTER RETIREMENT	470.94
351735	PERS	MEDICAL AFTER RETIREMENT	4,803.81
922159	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922160	RETIREE	MEDICAL AFTER RETIREMENT	252.36
922164	RETIREE	MEDICAL AFTER RETIREMENT	23.19
922166	RETIREE	MEDICAL AFTER RETIREMENT	1,244.18
922169	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922170	RETIREE	MEDICAL AFTER RETIREMENT	1,244.18
922180	RETIREE	MEDICAL AFTER RETIREMENT	1,217.90
922182	RETIREE	MEDICAL AFTER RETIREMENT	830.00
922185	RETIREE	MEDICAL AFTER RETIREMENT	495.46
922188	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922198	RETIREE	MEDICAL AFTER RETIREMENT	1,225.13
922203	RETIREE	MEDICAL AFTER RETIREMENT	1,163.16
922204	RETIREE	MEDICAL AFTER RETIREMENT	830.00
922205	RETIREE	MEDICAL AFTER RETIREMENT	252.36
922218	RETIREE	MEDICAL AFTER RETIREMENT	175.97
922221	RETIREE	MEDICAL AFTER RETIREMENT	252.36
922224	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922226	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922227	RETIREE	MEDICAL AFTER RETIREMENT	256.70
922235	RETIREE	MEDICAL AFTER RETIREMENT	175.97
922251	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922253	RETIREE	MEDICAL AFTER RETIREMENT	623.72
922264	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922265	RETIREE	MEDICAL AFTER RETIREMENT	804.48
922266	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922268	RETIREE	MEDICAL AFTER RETIREMENT	995.08
922278	RETIREE	MEDICAL AFTER RETIREMENT	623.72
922288	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922290	RETIREE	MEDICAL AFTER RETIREMENT	185.67
922294	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922299	RETIREE	MEDICAL AFTER RETIREMENT	623.72
922309	RETIREE	MEDICAL AFTER RETIREMENT	623.72
922311	RETIREE	MEDICAL AFTER RETIREMENT	267.70
922312	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922330	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44

578 Post Retirement Medical-Misc Fund

Non Departmental

351587	RETIREE	MEDICAL AFTER RETIREMENT	235.69
351595	RETIREE	MEDICAL AFTER RETIREMENT	228.67
351605	RETIREE	MEDICAL AFTER RETIREMENT	235.69
351607	RETIREE	MEDICAL AFTER RETIREMENT	117.69
351610	RETIREE	MEDICAL AFTER RETIREMENT	435.44
351612	RETIREE	MEDICAL AFTER RETIREMENT	590.38
351621	RETIREE	MEDICAL AFTER RETIREMENT	118.65

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351629	RETIREE	MEDICAL AFTER RETIREMENT	235.69
351643	RETIREE	MEDICAL AFTER RETIREMENT	235.69
351658	RETIREE	MEDICAL AFTER RETIREMENT	117.69
351663	RETIREE	MEDICAL AFTER RETIREMENT	590.38
351666	RETIREE	MEDICAL AFTER RETIREMENT	117.69
351668	RETIREE	MEDICAL AFTER RETIREMENT	117.69
351678	RETIREE	MEDICAL AFTER RETIREMENT	117.69
351735	PERS	MEDICAL AFTER RETIREMENT	6,059.02
922161	RETIREE	MEDICAL AFTER RETIREMENT	208.36
922162	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922163	RETIREE	MEDICAL AFTER RETIREMENT	179.21
922165	RETIREE	MEDICAL AFTER RETIREMENT	435.44
922168	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922174	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922176	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922178	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922186	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922189	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922192	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922194	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922197	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922200	RETIREE	MEDICAL AFTER RETIREMENT	175.97
922202	RETIREE	MEDICAL AFTER RETIREMENT	250.00
922207	RETIREE	MEDICAL AFTER RETIREMENT	175.97
922210	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922211	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922213	RETIREE	MEDICAL AFTER RETIREMENT	257.98
922214	RETIREE	MEDICAL AFTER RETIREMENT	171.80
922220	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922223	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922231	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922234	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922237	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922239	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922242	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922245	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922247	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922250	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922260	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922261	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922270	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922273	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922277	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922282	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922292	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922295	RETIREE	MEDICAL AFTER RETIREMENT	208.36

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922297	RETIREE	MEDICAL AFTER RETIREMENT	23.64
922298	RETIREE	MEDICAL AFTER RETIREMENT	175.97
922302	RETIREE	MEDICAL AFTER RETIREMENT	709.38
922308	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922310	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922313	RETIREE	MEDICAL AFTER RETIREMENT	117.69

579 Post Retirement Medical-Mgmt Fund

Non Departmental

351597	RETIREE	MEDICAL AFTER RETIREMENT	894.90
351604	RETIREE	MEDICAL AFTER RETIREMENT	175.69
351616	RETIREE	MEDICAL AFTER RETIREMENT	117.69
351619	RETIREE	MEDICAL AFTER RETIREMENT	235.69
351623	RETIREE	MEDICAL AFTER RETIREMENT	400.00
351627	RETIREE	MEDICAL AFTER RETIREMENT	590.38
351635	RETIREE	MEDICAL AFTER RETIREMENT	354.38
351644	RETIREE	MEDICAL AFTER RETIREMENT	755.38
351651	RETIREE	MEDICAL AFTER RETIREMENT	117.69
351662	RETIREE	MEDICAL AFTER RETIREMENT	208.36
351735	PERS	MEDICAL AFTER RETIREMENT	9,237.70
922167	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922172	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922173	RETIREE	MEDICAL AFTER RETIREMENT	269.65
922175	RETIREE	MEDICAL AFTER RETIREMENT	175.70
922177	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922179	RETIREE	MEDICAL AFTER RETIREMENT	894.90
922183	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922190	RETIREE	MEDICAL AFTER RETIREMENT	535.72
922191	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922193	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922195	RETIREE	MEDICAL AFTER RETIREMENT	470.38
922196	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922199	RETIREE	MEDICAL AFTER RETIREMENT	208.36
922206	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922208	RETIREE	MEDICAL AFTER RETIREMENT	894.90
922209	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922212	RETIREE	MEDICAL AFTER RETIREMENT	829.31
922216	RETIREE	MEDICAL AFTER RETIREMENT	512.29
922217	RETIREE	MEDICAL AFTER RETIREMENT	358.38
922219	RETIREE	MEDICAL AFTER RETIREMENT	470.94
922229	RETIREE	MEDICAL AFTER RETIREMENT	293.13
922232	RETIREE	MEDICAL AFTER RETIREMENT	720.38
922233	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922236	RETIREE	MEDICAL AFTER RETIREMENT	208.36
922238	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922240	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922241	RETIREE	MEDICAL AFTER RETIREMENT	354.38

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922243	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922244	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922246	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922248	RETIREE	MEDICAL AFTER RETIREMENT	161.41
922249	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922252	RETIREE	MEDICAL AFTER RETIREMENT	587.40
922254	RETIREE	MEDICAL AFTER RETIREMENT	175.97
922255	RETIREE	MEDICAL AFTER RETIREMENT	208.36
922257	RETIREE	MEDICAL AFTER RETIREMENT	179.21
922258	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922259	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922262	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922263	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922267	RETIREE	MEDICAL AFTER RETIREMENT	1,366.44
922269	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922271	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922272	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922274	RETIREE	MEDICAL AFTER RETIREMENT	235.69
922275	RETIREE	MEDICAL AFTER RETIREMENT	179.21
922276	RETIREE	MEDICAL AFTER RETIREMENT	375.69
922279	RETIREE	MEDICAL AFTER RETIREMENT	894.90
922280	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922281	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922283	RETIREE	MEDICAL AFTER RETIREMENT	208.36
922284	RETIREE	MEDICAL AFTER RETIREMENT	535.72
922286	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922287	RETIREE	MEDICAL AFTER RETIREMENT	590.38
922289	RETIREE	MEDICAL AFTER RETIREMENT	755.38
922291	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922296	RETIREE	MEDICAL AFTER RETIREMENT	208.36
922300	RETIREE	MEDICAL AFTER RETIREMENT	1,321.08
922301	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922303	RETIREE	MEDICAL AFTER RETIREMENT	354.38
922304	RETIREE	MEDICAL AFTER RETIREMENT	1,653.13
922305	RETIREE	MEDICAL AFTER RETIREMENT	117.69
922306	RETIREE	MEDICAL AFTER RETIREMENT	1,388.00
922307	RETIREE	MEDICAL AFTER RETIREMENT	208.36

611 Water Fund

Non Departmental

351576	ALL PRO PRINTING SOLUTIONS	ENVELOPES	1,060.90
351594	CALIFORNIA PRINTING CONSULTANTS	WATER BILL FORMS	2,721.94
351665	ROBERTS AND BRUNE CO	SUPPLIES	3,432.14
351694	BAY AREA BARRICADE	SUPPLIES	3,041.10
351698	BISHOP CO	SUPPLIES	2,640.06
351703	COLE SUPPLY CO INC	SUPPLIES	64.63
351737	ROBERTS AND BRUNE CO	SUPPLIES	14,728.04

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351769	COLE SUPPLY CO INC	SUPPLIES	676.64
922147	GOLDEN WEST BETTERWAY UNIFORMS	SUPPLIES	122.70
922148	GRAINGER INC	SUPPLIES	3,087.38
922149	HAMMONS SUPPLY COMPANY	SUPPLIES	1,357.70
922215	HAMMONS SUPPLY COMPANY	SUPPLIES	1,349.99
922314	GOLDEN WEST BETTERWAY UNIFORMS	SUPPLIES	289.43
Water Supervision			
351516	INFOSEND INC	ENVELOPE PRINTING	1,944.00
351519	KB HOME SOUTH BAY INC	WATER METER FEE REFUND	672.94
351522	KRUGER INC	VORTEX KIT	4,451.86
351550	RT LAWRENCE CORP	LOCKBOX PROCESSING FEE	760.89
351568	VERIZON WIRELESS	DATA PLAN SERVICES	152.04
351727	OFFICE MAX INC	OFFICE SUPPLIES	203.39
351807	OFFICE MAX INC	OFFICE SUPPLIES	465.26
Water Production			
203238	RICKS ON SECOND	MEETING EXPENSE	40.00
203475	LONE TREE GOLF COURSE	REMOTE SERVICE	37.98
203476	FERGUSON ENTERPRISES INC	ADAPTOR	40.71
203504	CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	30.51
351468	ACE HARDWARE, ANTIOCH	SUPPLIES	36.10
351472	ALLIED CRANE INC	HOIST INSPECTION	295.00
351479	BORGES AND MAHONEY	CHLORINATOR PARTS	1,357.31
351506	FLOW SCIENCE INCORPORATED	PROFESSIONAL SERVICES	5,069.96
351507	FOSTER, GARY A	CERTIFICATE REIMBURSEMENT	105.00
351511	HACH CO	EQUIPMENT	9,204.90
351514	HUNT AND SONS INC	FUEL	353.31
351523	LAW OFFICE OF MATTHEW EMRICK	LEGAL SERVICES	3,679.50
351568	VERIZON WIRELESS	DATA PLAN SERVICES	76.02
351571	WALTER BISHOP CONSULTING	CONSULTING SERVICES	2,200.00
351575	ACE HARDWARE, ANTIOCH	SUPPLIES	186.54
351578	ANDERSON, DUANE A	RENEWAL REIMBURSEMENT	105.00
351615	FISHER SCIENTIFIC COMPANY	LAB SUPPLIES	448.12
351622	HUNT AND SONS INC	FUEL	5,639.09
351639	LOZANO SMITH LLP	LEGAL SERVICES	16,072.55
351642	MCCAMPBELL ANALYTICAL INC	TESTING SERVICES	628.00
351650	PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	2,571.00
351654	POWELL ELECTRIC SYSTEMS INC	WIRELESS COMMUNICATIONS	25,000.00
351665	ROBERTS AND BRUNE CO	SUPPLIES	1,207.15
351671	STATE OF CALIFORNIA	HAZARDOUS WASTE FEES	225.00
351685	ACE HARDWARE, ANTIOCH	TUBING	92.96
351692	AT AND T MCI	PHONE	66.66
351697	BHS MARKETING LLC	FLUORIDE	13,213.97
351715	FEDEX	SHIPPING	30.53
351723	LOWES COMPANIES INC	SUPPLIES	547.19
351736	RED WING SHOE STORE	SAFETY SHOES-CALLAHAN	189.05
351737	ROBERTS AND BRUNE CO	SUPPLIES	936.01

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351746 UNITED PARCEL SERVICE	SHIPPING	66.51
351757 ANIMAL DAMAGE MANAGEMENT	ANIMAL CONTROL	125.00
351787 FISHER SCIENTIFIC COMPANY	LAB SUPPLIES	162.52
351796 KARL NEEDHAM ENTERPRISES INC	EQUIPMENT RENTAL	26,639.98
351806 OCCUPATIONAL HEALTH CENTERS	MEDICAL TESTING	654.00
351809 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	857.00
351810 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	112,197.15
351812 PLEWS SHADLEY RACHER & BRAUN LLP	LEGAL SERVICES	547.85
351818 REINHOLDT ENGINEERING CONSTR	INSPECTION SERVICES	750.00
351824 SPAULDING, ANN B	CONSULTING SERVICES	1,718.75
351827 STATE OF CALIFORNIA	HAZARDOUS WASTE FEES	457.50
922144 CHEMTRADE CHEMICALS US LLC	ALUM	15,187.26
922145 CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	73.75
922146 EUROFINS EATON ANALYTICAL INC	MONITORING	200.00
922153 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	658.60
922158 VINCENT ELECTRIC MOTOR CO	ASSEMBLY AND TESTING	9,724.10
922181 CDW GOVERNMENT INC	COMPUTER EQUIPMENT	385.39
922184 CHEMTRADE CHEMICALS US LLC	ALUM	11,528.70
922201 EUROFINS EATON ANALYTICAL INC	MONITORING	200.00
922230 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,112.88
922256 NTU TECHNOLOGIES INC	POLYMER	2,700.00
922285 SIERRA CHEMICAL CO	CHLORINE	4,073.79
922293 TRANSDYN INC	PROFESSIONAL SERVICES	9,490.00
922324 AIRGAS SPECIALTY PRODUCTS	AMMONIA	4,324.50
922327 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	892.08
922331 OLIN CHLOR ALKALI PRODUCTS	CAUSTIC	11,527.13
Water Distribution		
203351 CWEA SFBS	CERT RENEWAL-CONNELLY	82.00
203503 MITCHS CERTIFIED CLASSES	TRAINING	100.00
203504 CITY OF ANTIOCH	EXPENSE REIMBURSEMENT	11.00
351468 ACE HARDWARE, ANTIOCH	SUPPLIES	19.37
351481 CENTER FOR HEARING HEALTH INC	HEARING TESTS	135.00
351494 DELTA DIABLO	RECYCLED WATER	8,806.23
351502 EAST BAY WELDING SUPPLY	SUPPLIES	62.77
351514 HUNT AND SONS INC	FUEL	491.70
351516 INFOSEND INC	PRINT/MAIL SERVICES	1,992.93
351526 MT DIABLO LANDSCAPE CENTERS INC	CONCRETE MIX	101.81
351549 ROBERTS AND BRUNE CO	SUPPLIES	51.19
351564 ULLMANN, RODNEY	EXPENSE REIMBURSEMENT	134.34
351568 VERIZON WIRELESS	DATA PLAN SERVICES	750.09
351625 INFOSEND INC	PRINT/MAIL SERVICES	1,381.20
351665 ROBERTS AND BRUNE CO	PIPE & FITTINGS	4,321.97
351682 WESCO RECEIVABLES CORP	SUPPLIES	899.64
351685 ACE HARDWARE, ANTIOCH	SUPPLIES	21.54
351689 ANTIOCH BUILDING MATERIALS	CRUSHED ROCK	384.55
351707 COUNTY ASPHALT	ASPHALT	653.82

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351723	LOWES COMPANIES INC	SUPPLIES	310.39
351736	RED WING SHOE STORE	SAFETY SHOES-CELONI	215.93
351737	ROBERTS AND BRUNE CO	PIPE & FITTINGS	7,703.88
351746	UNITED PARCEL SERVICE	SHIPPING	57.87
351781	CWEA SFBS	MEMBERSHIP RENEWAL	148.00
351784	FASTENAL CO	SMALL TOOLS	149.29
351786	FINTA ENTERPRISES INC	EXCAVATION SERVICES	14,687.50
351800	LONE TREE TRUCKING INC	SAND	962.25
351802	LUCERO, ARTHUR S	CERT RENEWAL REIMBURSEMENT	70.00
351807	OFFICE MAX INC	SUPPLIES	72.04
351819	ROBERTS AND BRUNE CO	PIPE & FITTINGS	2,176.95
351821	ROYAL BRASS INC	HOSE FITTINGS	33.20
351828	STEWARTS TREE SERVICE INC	TREE SERVICES	850.00
351832	UNITED PARCEL SERVICE	SHIPPING	159.56
922187	COMPUTERLAND	COMPUTER SUPPLIES	32.51
922317	KARSTE CONSULTING INC	CONSULTING SERVICES	90.00
922326	GRAINGER INC	SUPPLIES	867.20
Water Meter Reading			
351568	VERIZON WIRELESS	DATA PLAN SERVICES	76.02
Public Buildings & Facilities			
351520	KIMLEY HORN AND ASSOCIATES INC	CONSULTING SERVICES	11,322.95
351590	BROWN AND CALDWELL INC	PROFESSIONAL SERVICES	15,491.02
351719	KOCH AND KOCH INC	TANK EXPANSION UPGRADES	314,917.78
351725	MUNICIPAL FINANCIAL SERVICES	PROFESSIONAL SERVICES	3,185.00
Warehouse & Central Stores			
351746	UNITED PARCEL SERVICE	WEEKLY PRINTER SERVICE FEE	19.30
351832	UNITED PARCEL SERVICE	WEEKLY PRINTER SERVICE FEE	4.00
612 Water Line Expansion Fund			
Water Systems			
351519	KB HOME SOUTH BAY INC	WATER CAPACITY FEE REFUND	4,914.82
351611	DSS COMPANY DBA KNIFE RIVER	WATER MAIN PROJECT	79,953.10
621 Sewer Fund			
Non Departmental			
351594	CALIFORNIA PRINTING CONSULTANTS	WATER BILL FORMS	2,721.94
Sewer-Wastewater Supervision			
351484	CHALK, BRANDON S	EXPENSE REIMBURSEMENT	84.53
351514	HUNT AND SONS INC	FUEL	54.39
351568	VERIZON WIRELESS	DATA PLAN SERVICES	228.06
351660	RAMADA INN	MOTEL ROOMS FOR DISPLACED	1,633.50
351807	OFFICE MAX INC	OFFICE SUPPLIES	111.51
Sewer-Wastewater Collection			
351481	CENTER FOR HEARING HEALTH INC	HEARING TESTS	54.00
351514	HUNT AND SONS INC	FUEL	451.23
351516	INFOSEND INC	PRINT/MAIL SERVICES	1,992.93
351528	MUNICIPAL MAINT EQUIPMENT INC	SUPPLIES	6,860.99
351547	RIVERA CONSULTING GROUP INC	ENGINEERING SERVICES	2,475.00

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351550	RT LAWRENCE CORP	LOCKBOX PROCESSING FEE	760.88
351568	VERIZON WIRELESS	DATA PLAN SERVICES	456.12
351609	DKF SOLUTIONS GROUP LLC	CONSULTING SERVICES	3,240.00
351625	INFOSEND INC	PRINT/MAIL SERVICES	1,381.19
351642	MCCAMPBELL ANALYTICAL INC	WATER SAMPLE TESTING	288.00
351665	ROBERTS AND BRUNE CO	PIPE & FITTINGS	245.25
351681	WECO INDUSTRIES INC	SUPPLIES	130.84
351707	COUNTY ASPHALT	ASPHALT	653.82
351723	LOWES COMPANIES INC	SUPPLIES	62.11
351725	MUNICIPAL FINANCIAL SERVICES	PROFESSIONAL SERVICES	3,185.00
351786	FINTA ENTERPRISES INC	EXCAVATION SERVICES	14,687.50
351800	LONE TREE TRUCKING INC	SAND	962.25
922171	BIG SKY ENTERPRISES INC	TIRE DISPOSAL	193.20
922181	CDW GOVERNMENT INC	COMPUTER EQUIPMENT	385.38
922321	QUENVOLDS	SAFETY SHOES-PORTER	214.02

622 Sewer Facilities Expansion Fund

Wastewater Collection

351519	KB HOME SOUTH BAY INC	CONNECTION FEE REFUND	2,280.78
351664	RMC WATER AND ENVIRONMENT	CONSULTANT SERVICES	1,349.95
351766	BAY AREA NEWS GROUP	LEGAL AD	395.16

631 Marina Fund

Marina Administration

351492	CONTROLLED ENVIRONMENTAL SVCS	PUMP REPAIR	315.00
351545	REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	65.62
351723	LOWES COMPANIES INC	SUPPLIES	610.49
351810	PACIFIC GAS AND ELECTRIC CO	GAS	2,245.70

Marina Maintenance

351647	ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	938.00
922153	LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	1,355.14

Major Projects

351743	TRANSYSTEMS CORPORATION	PROFESSIONAL SERVICES	3,000.00
351746	UNITED PARCEL SERVICE	SHIPPING	13.95

641 Prewett Water Park Fund

Non Departmental

351560	THE LEARNER CENTERED SCHOOL	DEPOSIT REFUND	500.00
351659	QUESADA, KATHLEEN	DEPOSIT REFUND	500.00

Recreation Aquatics

203150	SOLAK, ROXANNE	CLASS REFUND	49.75
203560	STAPLES	SUPPLIES	40.41
351483	CHACON, RICK	CLASS REFUND	193.00
351510	GARCIA, RACHEL	DEPOSIT REFUND	193.00
351531	NICHOLS, CAELEY	CLASS REFUND	193.00
351724	MUIR, ROXANNE	AEROBICS INSTRUCTOR	70.00
351797	KRAMES STAYWELL LLC	SUPPLIES	327.87

Recreation Water Park

203551	COMCAST	DMX SERVICE	48.52
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Prepared by: Georgina Meek
 Finance Accounting

7/17/2014

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 JUNE 13 - JULY 10, 2014
 FUND/CHECK #

203552	GARDA CL WEST INC	ARMORED CAR PICK UP	95.40
203553	CONSOLIDATED ELECTRICAL DIST INC	FREIGHT	12.48
203554	PRAXAIR DISTRIBUTION INC	CYLINDER RENTAL	34.95
203556	DOLLAR TREE STORES	SUPPLIES	51.00
203557	FAR WEST SANITATION & STORAGE INC	BARRICADE RENTAL	35.61
203559	GARDA CL WEST INC	ARMORED CAR PICK UP	44.85
351470	ADORETEX INC	GOGGLES	456.71
351473	AMERICAN PLUMBING INC	PLUMBING SERVICES	187.50
351487	CITY MECHANICAL INC	BOILER REPAIR	3,222.25
351493	CRESCO EQUIPMENT RENTALS	EQUIPMENT RENTAL	332.72
351498	DEMPSEY, STACEY A	EXPENSE REIMBURSEMENT	193.29
351505	FAR WEST SANITATION & STORAGE INC	BARRICADE RENTAL	133.53
351525	MEDTECH WRISTBANDS	WRISTBANDS	329.34
351532	OAKLEYS PEST CONTROL	PEST CONTROL SERVICES	150.00
351541	PITCHER, JUSTIN WILLIAM	EXPENSE REIMBURSEMENT	94.09
351542	PRAXAIR DISTRIBUTION INC	OXYGEN	145.32
351545	REAL PROTECTION INC	FIRE ALARM SYSTEM TEST	196.87
351546	RICO VISUALS	BROCHURE	562.50
351565	UNIVAR USA INC	CHEMICALS	3,989.29
351577	AMERICAN PLUMBING INC	PLUMBING SERVICES	1,375.00
351598	COLE SUPPLY CO INC	SUPPLIES	736.01
351655	PRECISION LEAK DETECTION INC	LEAK DETECTION	375.00
351695	BAY BUILDING MAINTENANCE INC	JANITORIAL SERVICES	1,500.00
351703	COLE SUPPLY CO INC	SUPPLIES	524.67
351714	FAST SIGNS	VARIOUS DIRECTIONAL SIGNAGE	6,244.73
351721	LINCOLN EQUIPMENT INC	LIFE JACKETS	3,259.38
351723	LOWES COMPANIES INC	SUPPLIES	1,433.70
351810	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	5,726.96
351833	UNIVAR USA INC	CHEMICALS	1,391.58
922325	CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	441.59
922326	GRAINGER INC	SUPPLIES	190.32

Rec Prewett Concessions

203558	CASH AND CARRY WAREHOUSE	SUPPLIES	44.79
351512	HEINZ DISPENSING SOLUTIONS	CONSESSION SUPPLIES	340.08
351541	PITCHER, JUSTIN WILLIAM	EXPENSE REIMBURSEMENT	35.71
351567	US FOODSERVICE INC	CONSESSION SUPPLIES	2,749.08
351598	COLE SUPPLY CO INC	SUPPLIES	13.00
351624	ICEE COMPANY, THE	CONSESSION SUPPLIES	687.32
351676	US FOODSERVICE INC	CONSESSION SUPPLIES	927.16
351702	COCA COLA BOTTLING CO	CONSESSION SUPPLIES	2,912.12
351703	COLE SUPPLY CO INC	SUPPLIES	260.00
351749	US FOODSERVICE INC	CONSESSION SUPPLIES	3,264.96
351778	COSTCO	SUPPLIES	207.04
351837	WHIRLEY INDUSTRIES INC	SUPPLIES	4,849.61
922145	CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	592.52
922325	CONSOLIDATED ELECTRICAL DIST INC	SUPPLIES	365.37

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 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
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721 Employee Benefits Fund

Non Departmental

351467	24 HOUR FITNESS SPORT	PAYROLL DEDUCTIONS	29.99
351489	CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	400.00
351491	CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	626.51
351496	DELTA PARK ATHLETIC CLUB	PAYROLL DEDUCTIONS	37.00
351497	DELTA VALLEY ATHLETIC CLUB	PAYROLL DEDUCTIONS	54.00
351499	DIAMOND HILLS SPORT CLUB	PAYROLL DEDUCTIONS	59.00
351515	IN SHAPE HEALTH CLUBS	PAYROLL DEDUCTIONS	918.00
351517	INTERNAL REVENUE SERVICE	PAYROLL DEDUCTIONS	60.00
351524	LINA	PAYROLL DEDUCTIONS	4,891.36
351529	MUNICIPAL POOLING AUTHORITY	PAYROLL DEDUCTIONS	2,546.39
351534	OPERATING ENGINEERS LOCAL NO 3	PAYROLL DEDUCTIONS	2,662.00
351535	OPERATING ENGINEERS TRUST FUND	PAYROLL DEDUCTIONS	5,353.73
351539	PARS	PAYROLL DEDUCTIONS	5,443.04
351540	PERS LONG TERM CARE	PAYROLL DEDUCTIONS	72.02
351543	PUBLIC EMPLOYEES UNION LOCAL 1	PAYROLL DEDUCTIONS	2,147.57
351552	SOLAR SWIM AND GYM	PAYROLL DEDUCTIONS	27.00
351554	STANDARD LIFE INSURANCE	PAYROLL DEDUCTIONS	950.10
351555	STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	200.00
351556	STATE OF FLORIDA DISBURSE UNIT	PAYROLL DEDUCTIONS	275.00
351562	RECIPIENT	PAYROLL DEDUCTIONS	112.15
351566	US DEPT OF EDUCATION	PAYROLL DEDUCTIONS	252.09
351573	XTREME FITNESS	PAYROLL DEDUCTIONS	104.00
351656	PERS	PAYROLL DEDUCTIONS	302,815.03
351686	AFLAC	PAYROLL DEDUCTIONS	7,772.08
351699	BLUE SHIELD LIFE	PAYROLL DEDUCTIONS	2,348.69
351705	CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	400.00
351706	CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	484.85
351710	DELTA DENTAL	PAYROLL DEDUCTIONS	27,539.67
351718	INTERNAL REVENUE SERVICE	PAYROLL DEDUCTIONS	60.00
351728	OPERATING ENGINEERS TRUST FUND	PAYROLL DEDUCTIONS	5,594.99
351730	PARS	PAYROLL DEDUCTIONS	6,120.44
351731	PERS LONG TERM CARE	PAYROLL DEDUCTIONS	72.02
351734	PERS	PAYROLL DEDUCTIONS	299,456.46
351735	PERS	PAYROLL DEDUCTIONS	290,600.12
351740	STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	200.00
351741	STATE OF FLORIDA DISBURSE UNIT	PAYROLL DEDUCTIONS	275.00
351744	RECIPIENT	PAYROLL DEDUCTIONS	112.15
351748	US DEPT OF EDUCATION	PAYROLL DEDUCTIONS	391.00
351780	CSAC EXCESS INSURANCE AUTHORITY	PAYROLL DEDUCTIONS	2,792.00
922142	ANTIOCH PD SWORN MGMT ASSOC	PAYROLL DEDUCTIONS	626.75
922143	APOA	PAYROLL DEDUCTIONS	12,643.67
922154	NATIONWIDE RETIREMENT SOLUTIONS	PAYROLL DEDUCTIONS	49,072.42
922157	VANTAGEPOINT TRANSFER AGENTS	PAYROLL DEDUCTIONS	3,184.26
922319	NATIONWIDE RETIREMENT SOLUTIONS	PAYROLL DEDUCTIONS	22,656.51

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7/17/2014

CITY OF ANTIOCH
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922323 VANTAGEPOINT TRANSFER AGENTS	PAYROLL DEDUCTIONS	2,534.13
755 Fire Protection Fund		
<i>Non Departmental</i>		
351519 KB HOME SOUTH BAY INC	FIRE PROTECTION FEE REFUND	605.00
351776 CCC FIRE PROTECTION DISTRICT	FIRE STATION REIMBURSEMENT	68,971.35



STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE COUNCIL MEETING OF JULY 22, 2014

SUBMITTED BY: Donna Conley, City Treasurer

DATE: July 2, 2014

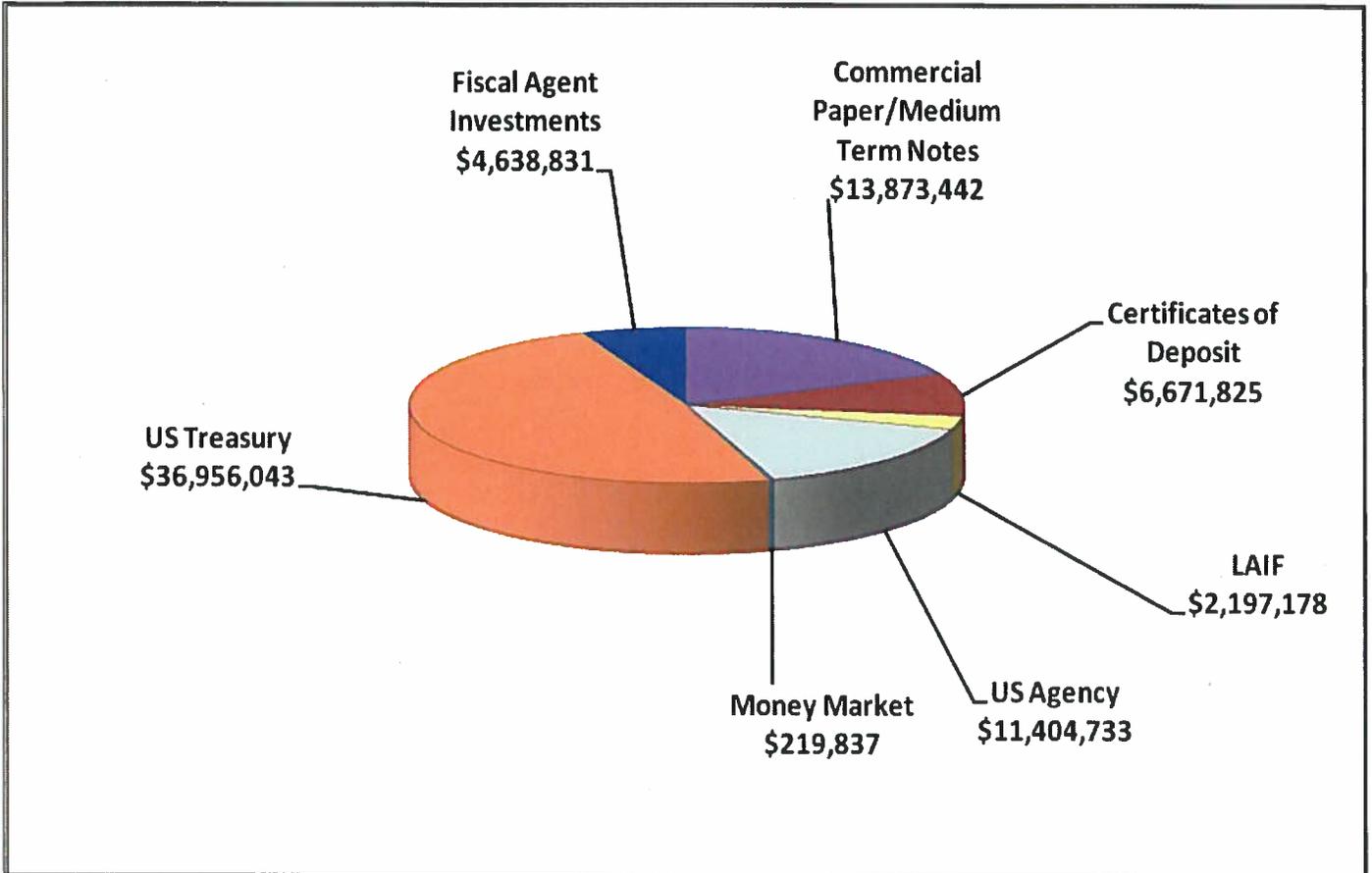
SUBJECT: Treasurer's Report – MAY 2014

RECOMMENDATION: Review and file.

7-22-2014

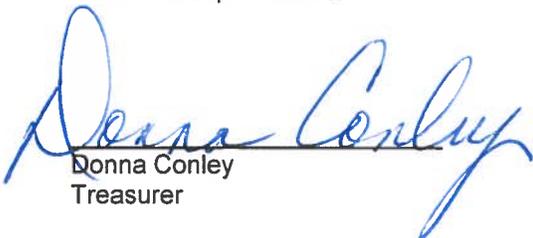
CITY OF ANTIOCH
SUMMARY REPORT ON THE CITY'S INVESTMENTS

MAY 31, 2014



Total of City and Fiscal Agent Investments = \$75,961,889

All City investments are shown above and conform to the City Investment Policy. All investment transactions during this period are included in this report. As Treasurer of the City of Antioch and Finance Director of the City of Antioch, we hereby certify that sufficient investment liquidity and anticipated revenue are available to meet the next six (6) months' estimated expenditures.


Donna Conley
Treasurer


Dawn Merchant
Finance Director

**Summary of Fiscal Agent Balances by
Debt Issue**

	<u>Amount</u>
Antioch Public Financing Authority 2002 Lease Revenue Bonds	285,564
Antioch Public Financing Authority 1998 Reassessment Revenue Bonds	3,774,506
Antioch Development Agency 2000 Tax Allocation Bonds	2
Antioch Development Agency 2009 Tax Allocation Bonds	146,059
ABAG Lease Revenue Bonds	<u>432,700</u>
	<u><u>\$4,638,831</u></u>



For the Month Ending May 31, 2014

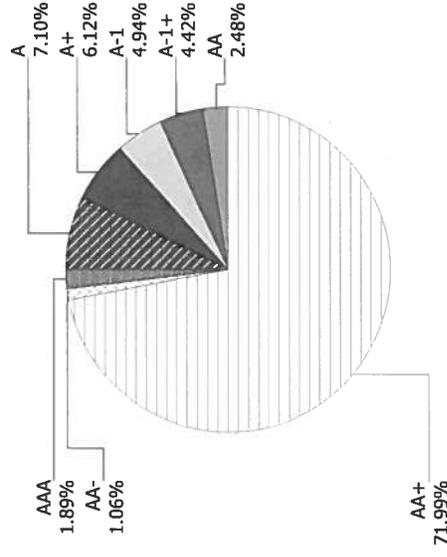
Managed Account Issuer Summary

CITY OF ANTIOCH, CA - 04380500

Issuer Summary

Credit Quality (S&P Ratings)

Issuer	Market Value of Holdings	Percent
AMERICAN HONDA FINANCE	590,517.14	0.86
APPLE INC	2,084,103.74	3.03
BANK OF NEW YORK	1,068,758.39	1.55
BERKSHIRE HATHAWAY INC	937,540.44	1.36
CA ST DEPT OF WATER REV BONDS	501,185.00	0.73
CATERPILLAR INC	251,948.00	0.37
CREDIT SUISSE GROUP	1,702,147.10	2.47
DEERE & COMPANY	453,040.20	0.66
FANNIE MAE	3,489,135.68	5.07
FEDERAL HOME LOAN BANKS	2,700,503.78	3.92
FREDDIE MAC	2,072,221.15	3.01
GENERAL ELECTRIC CO	2,216,533.03	3.22
JP MORGAN CHASE & CO	2,668,715.85	3.88
MET WATER DISTRICT OF SOUTHERN CA	801,631.75	1.16
RABOBANK NEDERLAND	1,692,210.60	2.46
SKANDINAVISKA ENSKIDA BANKEN AB	1,696,498.00	2.46
STATE OF CALIFORNIA	1,512,975.00	2.20
TOYOTA MOTOR CORP	729,389.88	1.06
UNITED STATES TREASURY	37,020,352.02	53.75
UNIVERSITY OF CALIFORNIA	366,004.70	0.53
WAL-MART STORES INC	401,563.60	0.58
WELLS FARGO & COMPANY	2,552,574.45	3.71
WESTPAC BANKING CORP NY	1,352,010.15	1.96
Total	\$68,861,559.65	100.00%



PFM Asset Management LLC



For the Month Ending May 31, 2014

Managed Account Detail of Securities Held

CITY OF ANTIOCH, CA - 04380500

Security Type/Description	Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note											
US TREASURY NOTES	DTD 08/02/2010 1.750% 07/31/2015	912828NP1	AA+	Aaa	10/23/12	10/26/12	337,098.63	0.39	1,901.07	330,119.36	331,081.05
US TREASURY NOTES	DTD 08/02/2010 1.750% 07/31/2015	912828NP1	AA+	Aaa	08/22/12	08/23/12	483,418.36	0.39	2,719.99	472,334.21	473,700.59
US TREASURY NOTES	DTD 08/02/2010 1.750% 07/31/2015	912828NP1	AA+	Aaa	09/06/12	09/10/12	3,772,832.03	0.33	21,204.25	3,684,827.29	3,692,827.15
US TREASURY NOTES	DTD 08/02/2010 1.750% 07/31/2015	912828PJ3	AA+	Aaa	11/29/12	12/05/12	2,199,967.38	0.35	80.21	2,167,658.54	2,172,029.44
US TREASURY NOTES	DTD 11/30/2010 1.375% 11/30/2015	912828PS3	AA+	Aaa	03/04/14	03/05/14	949,756.25	0.30	6,150.28	945,975.72	946,557.64
US TREASURY NOTES	DTD 01/31/2011 2.000% 01/31/2016	912828B41	AA+	Aaa	02/04/14	02/07/14	4,655,994.14	0.31	5,828.56	4,655,043.44	4,659,444.15
US TREASURY NOTES	DTD 01/31/2014 0.375% 01/31/2016	912828OF0	AA+	Aaa	03/27/13	03/28/13	997,277.34	0.38	1,652.17	979,323.82	980,058.95
US TREASURY NOTES	DTD 05/02/2011 2.000% 04/30/2016	912828VG2	AA+	Aaa	04/08/14	04/11/14	259,969.53	0.51	600.00	259,971.62	260,589.16
US TREASURY NOTES	DTD 06/17/2013 0.500% 06/15/2016	912828KZZ	AA+	Aaa	05/10/13	05/15/13	2,394,218.75	0.41	30,022.10	2,329,467.65	2,329,593.20
US TREASURY NOTES	DTD 06/30/2009 3.250% 06/30/2016	912828KZZ	AA+	Aaa	05/22/13	05/24/13	3,204,783.20	0.44	40,256.91	3,121,224.84	3,123,772.70
US TREASURY NOTES	DTD 06/30/2009 3.250% 06/30/2016	912828KZZ	AA+	Aaa	05/24/13	05/31/13	3,574,570.31	0.53	45,033.15	3,485,746.97	3,494,389.80
US TREASURY NOTES	DTD 06/30/2009 3.250% 06/30/2016	912828RF9	AA+	Aaa	08/29/13	08/30/13	1,106,015.63	0.82	2,779.89	1,104,515.54	1,113,148.30
US TREASURY NOTES	DTD 08/31/2011 1.000% 08/31/2016	912828RF9	AA+	Aaa	02/27/14	03/03/14	4,050,468.75	0.49	10,108.70	4,045,539.80	4,047,812.00
US TREASURY NOTES	DTD 08/31/2011 1.000% 08/31/2016	912828RU6	AA+	Aaa	11/27/13	12/03/13	3,136,726.56	0.58	74.35	3,132,341.46	3,133,325.00
US TREASURY NOTES	DTD 11/30/2011 0.875% 11/30/2016										



PFM Asset Management LLC



Managed Account Detail of Securities Held

For the Month Ending **May 31, 2014**

CITY OF ANTIOCH, CA - 04380500

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note										
US TREASURY NOTES DTD 11/30/2011 0.875% 11/30/2016	912828RU6	AA+	Aaa	10/31/13	11/01/13	3,476,683.59	0.62	82.48	3,471,681.94	3,475,875.00
US TREASURY NOTES DTD 03/31/2012 1.000% 03/31/2017	912828SM3	AA+	Aaa	03/19/14	03/21/14	1,102,535.16	0.92	1,863.39	1,102,372.84	1,108,593.20
US TREASURY NOTES DTD 11/30/2012 0.625% 11/30/2017	912828UA6	AA+	Aaa	05/06/14	05/09/14	1,667,328.13	1.18	29.03	1,667,897.69	1,677,554.69
Security Type Sub-Total						37,369,643.74	0.50	170,386.53	36,956,042.73	37,020,352.02
Municipal Bond / Note										
METRO WTR DIST AUTH, CA TXBL REV BONDS	59266THP9	AAA	Aa1	06/21/12	06/28/12	575,000.00	0.62	1,475.83	575,000.00	575,178.25
UNTIV OF CAL TXBL REV BONDS DTD 06/28/2012 0.616% 07/01/2014	91412GSW6	AA	Aa2	09/26/13	10/02/13	230,000.00	0.53	53.97	230,000.00	230,386.40
METRO WTR DIST AUTH, CA TXBL REV BONDS	59266THO7	AAA	Aa1	06/21/12	06/28/12	225,000.00	0.94	884.06	225,000.00	226,453.50
CA ST DEPT OF WATER TXBL REV BONDS DTD 06/28/2012 0.943% 07/01/2015	13066KX87	AAA	Aa1	09/19/12	09/27/12	500,000.00	0.65	1,625.00	500,000.00	501,185.00
CA ST TXBL GO BONDS DTD 09/27/2012 0.650% 12/01/2015	13063BN73	A	A1	03/13/13	03/27/13	551,859.00	0.93	1,925.00	551,094.19	553,712.50
UNTIV OF CAL TXBL REV BONDS DTD 03/27/2013 1.050% 02/01/2016	91412GSX4	AA	Aa2	09/26/13	10/02/13	135,000.00	0.91	54.42	135,000.00	135,618.30
CA ST TAXABLE GO BONDS DTD 10/02/2013 0.907% 05/15/2016	13063CFD7	A	A1	10/22/13	11/05/13	954,455.50	1.09	989.58	953,613.10	959,262.50
CA ST TAXABLE GO BONDS DTD 11/05/2013 1.250% 11/01/2016										
Security Type Sub-Total						3,171,314.50	0.85	7,007.86	3,169,707.29	3,181,796.45
Federal Agency Bond / Note										



PFM Asset Management LLC



Managed Account Detail of Securities Held

For the Month Ending **May 31, 2014**

CITY OF ANTIOCH, CA - 04380500

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Federal Agency Bond / Note										
FANNIE MAE GLOBAL NOTES DTD 04/19/2012 0.500% 05/27/2015	3135G0KM4	AA+	Aaa	04/17/12	04/19/12	1,027,023.30	0.59	57.22	1,029,045.99	1,033,774.95
FREDDIE MAC GLOBAL NOTES DTD 07/11/2012 0.500% 08/28/2015	3134G3ZA1	AA+	Aaa	07/30/12	07/31/12	1,827,129.78	0.46	2,306.60	1,825,865.21	1,831,615.63
FHLB (CALLABLE) GLOBAL NOTES DTD 12/30/2013 0.375% 12/30/2015	3130A0GK0	AA+	Aaa	12/12/13	12/30/13	1,374,587.50	0.39	2,162.76	1,374,673.75	1,374,111.75
FANNIE MAE GLOBAL NOTES DTD 02/15/2013 0.500% 03/30/2016	3135G0VA8	AA+	Aaa	02/14/13	02/15/13	799,088.00	0.54	677.78	799,463.66	802,441.60
FREDDIE MAC GLOBAL NOTES DTD 03/07/2013 0.500% 05/13/2016	3137EAD09	AA+	Aaa	03/06/13	03/07/13	239,985.60	0.50	60.00	239,991.05	240,605.52
FNMA NOTES DTD 08/19/2011 1.250% 09/28/2016	3135G0CM3	AA+	Aaa	10/01/13	10/03/13	664,674.35	0.75	1,432.81	662,550.55	666,253.56
FNMA NOTES DTD 08/19/2011 1.250% 09/28/2016	3135G0CM3	AA+	Aaa	10/01/13	10/03/13	984,555.92	0.74	2,121.88	981,360.18	986,665.57
FEDERAL HOME LOAN BANKS (CALLABLE) DTD 03/27/2014 1.625% 03/27/2017	3130A1CR7	AA+	Aaa	04/02/14	04/04/14	1,324,396.90	1.25	3,784.44	1,322,075.17	1,326,392.03
Security Type Sub-Total		8,205,000.00				8,241,441.35	0.66	12,603.49	8,235,025.56	8,261,860.61
Corporate Note										
JP MORGAN CHASE & CO NOTES DTD 05/18/2009 4.650% 06/01/2014	46625HHN3	A	A3	12/19/11	12/22/11	1,062,853.30	2.43	23,482.50	1,010,000.00	1,010,000.00
GENERAL ELEC CAP CORP GLOBAL NOTES DTD 01/09/2012 2.150% 01/09/2015	36962GSM2	AA+	A1	05/23/12	05/29/12	874,419.85	1.72	7,335.68	867,222.63	874,774.50
CATERPILLAR FIN CORP NOTES DTD 05/30/2012 1.100% 05/29/2015	14912L5D9	A	A2	05/22/12	05/30/12	249,920.00	1.11	15.28	249,973.16	251,948.00
JOHN DEERE CAPITAL CORP GLOBAL NOTES DTD 06/29/2012 0.950% 06/29/2015	24422ERS0	A	A2	06/26/12	06/29/12	449,878.50	0.96	1,805.00	449,955.95	453,040.20
WELLS FARGO & COMPANY DTD 06/27/2012 1.500% 07/01/2015	94974BFE5	A+	A2	03/26/13	03/28/13	762,978.08	0.73	4,687.50	756,252.66	758,694.00





For the Month Ending May 31, 2014

Managed Account Detail of Securities Held

CITY OF ANTIOCH, CA - 04380500

Security Type/Description	Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value	
Corporate Note												
WELLS FARGO & COMPANY	DTD 06/27/2012 1.500% 07/01/2015	94974BFE5	A+	A2	03/27/13	03/28/13	762,757.50	0.74	4,687.50	756,146.88	758,694.00	
JPMORGAN CHASE & CO GLOBAL NOTES	DTD 10/18/2012 1.100% 10/15/2015	46623EJR1	A	A3	10/15/12	10/18/12	649,733.50	1.11	913.61	649,876.61	653,892.85	
BANK OF NEW YORK MELLON (CALLABLE)	DTD 10/25/2012 0.700% 10/23/2015	06406HCD9	A+	A1	10/18/12	10/25/12	424,562.25	0.73	314.03	424,794.96	426,499.83	
BANK OF NEW YORK MELLON (CALLABLE)	DTD 10/25/2012 0.700% 10/23/2015	06406HCD9	A+	A1	12/17/12	12/20/12	638,067.20	0.81	472.89	639,046.58	642,258.56	
WAL-MART STORES INC GLOBAL NOTES	DTD 04/11/2013 0.600% 04/11/2016	931142DE0	AA	Aa2	04/04/13	04/11/13	399,716.00	0.62	333.33	399,823.20	401,563.60	
APPLE INC GLOBAL NOTES	DTD 05/03/2013 0.450% 05/03/2016	037833AH3	AA+	Aa1	04/30/13	05/03/13	379,312.20	0.51	133.00	379,558.11	380,086.64	
TOYOTA MOTOR CREDIT CORP	DTD 05/17/2013 0.800% 05/17/2016	89236TAL9	AA-	Aa3	05/14/13	05/17/13	724,702.75	0.81	225.56	724,804.87	729,389.88	
GENERAL ELEC CAP CORP (FLOATING)	DTD 07/12/2013 0.877% 07/12/2016	36962G7A6	AA+	A1	07/09/13	07/12/13	1,330,000.00	0.93	1,555.30	1,330,000.00	1,341,758.53	
WELLS FARGO & COMPANY	DTD 07/29/2013 1.250% 07/20/2016	94974BFL9	A+	A2	07/22/13	07/29/13	1,024,016.00	1.28	4,662.33	1,024,289.09	1,035,186.45	
BERKSHIRE HATHAWAY FIN GLOBAL NOTES	DTD 08/15/2013 0.950% 08/15/2016	084664BX8	AA	Aa2	08/06/13	08/15/13	929,507.10	0.97	2,601.42	929,636.29	937,540.44	
AMERICAN HONDA FINANCE GLOBAL NOTES	DTD 10/10/2013 1.125% 10/07/2016	02665WAB7	A+	A1	10/03/13	10/10/13	582,964.20	1.24	987.19	583,394.60	590,517.14	
JPMORGAN CHASE & CO	DTD 02/18/2014 1.350% 02/15/2017	46623EJY6	A	A3	02/12/14	02/18/14	999,500.00	1.37	3,862.50	999,546.82	1,004,823.00	
APPLE INC CORP NOTE	DTD 05/06/2014 1.050% 05/05/2017	037833AM2	AA+	Aa1	04/29/14	05/06/14	1,699,099.00	1.07	1,239.58	1,699,119.60	1,704,017.10	
Security Type Sub-Total							13,943,987.43	1.13	59,314.20	13,873,442.01	13,954,684.72	

13,865,000.00



PFM Asset Management LLC



Managed Account Detail of Securities Held

For the Month Ending May 31, 2014

CITY OF ANTIOCH, CA - 04380500

Security Type/Description	Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Certificate of Deposit												
CREDIT SUISSE NEW YORK CERT DEPOS (FLOAT)	07/15/2013 0.626%	22549TDK1	1,700,000.00	A-1	P-1	07/11/13	07/15/13	1,700,000.00	0.68	1,390.37	1,700,000.00	1,702,147.10
SKANDINAVISKA ENSKILDA BY NY FLOAT CD	07/15/2013 0.626%	83051HUD6	1,700,000.00	A-1	P-1	01/07/14	01/10/14	1,700,000.00	0.56	1,428.73	1,700,000.00	1,696,498.00
WESTPAC BANKING CORP NY LT FLOAT CD	04/17/2014 0.406%	96121TWF1	1,350,000.00	A-1+	P-1	04/16/14	04/17/14	1,350,000.00	0.41	685.72	1,350,000.00	1,352,010.15
RABOBANK NEDERLAND NV NY CD	05/13/2014 0.716%	21684BPV0	1,700,000.00	A-1+	P-1	05/09/14	05/13/14	1,700,000.00	0.71	608.81	1,700,000.00	1,692,210.60
Security Type Sub-Total			6,450,000.00					6,450,000.00	0.60	4,113.63	6,450,000.00	6,442,865.85
Managed Account Sub-Total			67,925,000.00					69,176,387.02	0.67	253,425.71	68,684,217.59	68,861,559.65
Securities Sub-Total			\$67,925,000.00					\$69,176,387.02	0.67%	\$253,425.71	\$68,684,217.59	\$68,861,559.65
Accrued Interest												\$253,425.71
Total Investments												\$69,114,985.36





Managed Account Security Transactions & Interest

For the Month Ending May 31, 2014

CITY OF ANTIOCH, CA - 04380500

Transaction Type	Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Amort Cost	Sale Method
BUY											
	04/29/14	05/06/14	APPLE INC CORP NOTE DTD 05/06/2014 1.050% 05/05/2017	037833AM2	1,700,000.00	(1,699,099.00)	0.00	(1,699,099.00)			
	05/06/14	05/09/14	US TREASURY NOTES DTD 11/30/2012 0.625% 11/30/2017	912828UA6	1,700,000.00	(1,667,328.13)	(4,670.33)	(1,671,998.46)			
	05/09/14	05/13/14	RABOBANK NEDERLAND NV NY CD DTD 05/13/2014 0.716% 05/06/2016	21684BPV0	1,700,000.00	(1,700,000.00)	0.00	(1,700,000.00)			
Transaction Type Sub-Total					5,100,000.00	(5,066,427.13)	(4,670.33)	(5,071,097.46)			
INTEREST											
	05/01/14	05/01/14	MONEY MARKET FUND	MONEY0002	0.00	0.00	0.91	0.91			
	05/01/14	05/01/14	CA ST TAXABLE GO BONDS DTD 11/05/2013 1.250% 11/01/2016	13063CFD7	950,000.00	0.00	5,805.56	5,805.56			
	05/03/14	05/03/14	APPLE INC GLOBAL NOTES DTD 05/03/2013 0.450% 05/03/2016	037833AH3	380,000.00	0.00	855.00	855.00			
	05/13/14	05/13/14	FREDDIE MAC GLOBAL NOTES DTD 03/07/2013 0.500% 05/13/2016	3137EAD09	240,000.00	0.00	600.00	600.00			
	05/15/14	05/15/14	UNIV OF CAL TXBL REV BONDS DTD 10/02/2013 0.528% 05/15/2015	91412GSW6	230,000.00	0.00	752.25	752.25			
	05/15/14	05/15/14	UNIV OF CAL TXBL REV BONDS DTD 10/02/2013 0.907% 05/15/2016	91412GSX4	135,000.00	0.00	758.48	758.48			
	05/17/14	05/17/14	TOYOTA MOTOR CREDIT CORP DTD 05/17/2013 0.800% 05/17/2016	89236TAL9	725,000.00	0.00	2,900.00	2,900.00			
	05/27/14	05/27/14	FANNIE MAE GLOBAL NOTES DTD 04/19/2012 0.500% 05/27/2015	3135GOKM4	1,030,000.00	0.00	2,575.00	2,575.00			
	05/29/14	05/29/14	CATERPILLAR FIN CORP NOTES DTD 05/30/2012 1.100% 05/29/2015	14912L5D9	250,000.00	0.00	1,375.00	1,375.00			
	05/31/14	05/31/14	US TREASURY NOTES DTD 11/30/2012 0.625% 11/30/2017	912828UA6	1,700,000.00	0.00	5,312.50	5,312.50			
	05/31/14	05/31/14	US TREASURY NOTES DTD 11/30/2010 1.375% 11/30/2015	912828PJ3	2,135,000.00	0.00	14,678.13	14,678.13			
	05/31/14	05/31/14	US TREASURY NOTES DTD 11/30/2011 0.875% 11/30/2016	912828RU6	3,450,000.00	0.00	15,093.75	15,093.75			
	05/31/14	05/31/14	US TREASURY NOTES DTD 11/30/2011 0.875% 11/30/2016	912828RU6	3,110,000.00	0.00	13,606.25	13,606.25			





Managed Account Security Transactions & Interest

For the Month Ending May 31, 2014

CITY OF ANTIOCH, CA - 04380500

Transaction Type	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
Transaction Type Sub-Total							64,312.83			
SELL										
04/29/14	05/06/14	US TREASURY NOTES	912828SM3	1,700,000.00	1,705,246.09	1,672.13	1,706,918.22	1,328.12	1,488.05	SPEC LOT
		DTD 03/31/2012 1.000% 03/31/2017								
05/06/14	05/09/14	US TREASURY NOTES	912828SK7	170,000.00	170,398.44	95.28	170,493.72	969.53	561.18	SPEC LOT
		DTD 03/15/2012 0.375% 03/15/2015								
05/06/14	05/09/14	US TREASURY NOTES	912828SK7	825,000.00	826,933.59	462.38	827,395.97	2,578.12	2,136.14	SPEC LOT
		DTD 03/15/2012 0.375% 03/15/2015								
05/06/14	05/09/14	BANK OF NEW YORK MELLON (CALLABLE) NOTES	06406HCC1	375,000.00	377,542.50	987.50	378,530.00	2,883.75	2,632.55	SPEC LOT
		DTD 02/21/2012 1.200% 02/20/2015								
05/06/14	05/09/14	IBM CORP GLOBAL NOTES	459200HB0	305,000.00	305,689.30	433.36	306,122.66	2,180.75	1,060.88	SPEC LOT
		DTD 02/06/2012 0.550% 02/06/2015								
05/09/14	05/13/14	RABOBANK NEDERLAND NV NY CD	21684BEP5	1,700,000.00	1,704,386.00	396.67	1,704,782.67	4,386.00	4,386.00	SPEC LOT
		DTD 04/29/2013 0.600% 04/29/2015								
Transaction Type Sub-Total							5,094,243.24	14,326.27	12,264.80	
Managed Account Sub-Total							87,458.61	14,326.27	12,264.80	
Total Security Transactions							\$87,458.61	\$14,326.27	\$12,264.80	



**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF JULY 22, 2014**

FROM: Lynn Tracy Nerland, City Attorney



DATE: July 7, 2014

SUBJECT: Rejection of Claims

RECOMMENDATION:

Reject the listed claim:

1. Christian LeBaron 14/15-2178 (personal injury)

LTN/spd

cc: Anthony Allenza
Christina Garcia, Deputy City Clerk

7/22/14

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

Prepared by: Brian Nunnally, Economic Development Program Manager 
Approved by: Michelle Fitzer, Acting City Manager 
Date: July 16, 2014
Subject: AWARD FOR RENTAL OF CHRISTMAS TREE LOT LOCATED AT DELTA FAIR AND CENTURY BOULEVARDS

RECOMMENDATION

It is recommended that the Council approve the award for Proposal No. ED-2014-BN1 for rental of the Christmas Tree Lot located at the northeast corner of Delta Fair and Century Boulevards to the highest responsible bidder, ABC Tree Farms, LLC, for the proposed price of \$17,600 the first year, with options to continue the contract for four additional years if agreeable by both parties, at a bid offered by ABC Tree Farms, LLC of \$17,800 the second year, \$17,900 the third year, \$18,100 the fourth year and \$18,300 the fifth and final year.

BACKGROUND INFORMATION

The Request for Proposals (RFP) was mailed to potential bidders with a minimum acceptable bid of \$12,500 per year, and only one vendor – the vendor we’ve contracted with for the last six years – responded. The contract will run from September 1 to January 31 of each year, which enables the vendor to also engage in pumpkin sales. Included in the RFP and contract is a provision that requires the donation to the City of eight Christmas Trees for City use and 10 Christmas Trees each year for distribution to families in need in our community.

Rental of this property as a Christmas Tree Lot began in 1991, and several Rental Agreements were negotiated and executed beginning in 2002 as other vendors expressed an interest in leasing the land for Christmas tree sales. The last contract was approved by Council in June 2011, and based on the two-year contract extension provision, that contract continued until its expiration following the 2013 season.

FINANCIAL IMPACT

The Use Agreement proceeds will be deposited into the Delta Fair Fund, which is a special fund dedicated to parks purposes only.

OPTIONS

- Approve the award to the highest responsible bidder, ABC Tree Farms, LLC
- Direct Staff not to agree to rental of the property or alternate options

ATTACHMENTS

A: Use Agreement between the City of Antioch and ABC Tree Farms, LLC

USE AGREEMENT

This Use Agreement (the “**Agreement**”) is entered into as of _____, 2014, by and between the CITY OF ANTIOCH, a general law city (“**Landlord**” or “**City**”), and ABC Tree Farms, LLC (“**Tenant**”), who agree as follows:

1. **Use.** Landlord rents to Tenant and Tenant rents from Landlord the real property located at the northeast corner of Delta Fair and Century Boulevards in Antioch, California 94509 (APN 074-080-029) generally depicted and described on attached Exhibit “A” (the “**Premises**”) for the sale of Christmas trees and/or pumpkins.

2. **Term.**

(a) **Period of Use.** The term (the “**Term**”) of this Agreement shall be for a period of one (1) year with four (4) additional one-year (1-year) options available to Tenant if mutually agreed upon in writing by Landlord and Tenant, commencing at 12:01 A.M. on September 1, 2014 (the “**Commencement Date**”), and ending at 12:01 A.M. on January 31, 2015 (the “**Expiration Date**”), or on such earlier date upon which the Term may be cancelled or terminated pursuant to any of the provisions of this Agreement.

(b) **Extension of Term.** If Tenant desires an extension of the Term, Tenant shall provide written notice to Landlord no later than six (6) months prior to September 1 each year. Landlord, at its election in its sole discretion, may grant Tenant an extension of the Term and, upon such election, shall provide written notice (the “**Landlord Notice**”) to Tenant, at least three (3) months prior to September 1, of the term, rent and other provisions under which Landlord is willing to extend the Term. Within fifteen (15) days following Tenant’s receipt of the Landlord Notice, Tenant may give Landlord written notice (the “**Acceptance Notice**”) of acceptance of the terms of the extension set forth in the Landlord Notice, in which case the Term will be extended on the terms provided in the Landlord Notice and Landlord and Tenant shall enter into a separate written amendment to this Agreement executed by Landlord and Tenant. If Tenant fails to so give an Acceptance Notice, this Agreement shall terminate.

(c) **Holding Over.** Tenant agrees to surrender the Premises to Landlord in accordance with the terms of this Agreement on the Expiration Date. If Tenant remains in possession of the Premises after the expiration of the Term without Landlord’s express written consent, Tenant’s continued possession of the Premises shall be on the basis of a tenancy at sufferance. In addition, Tenant shall defend, indemnify and hold Landlord harmless from and against all claims, liability, damages, costs or expenses, including reasonable attorneys’ fees and the costs of defending the same, incurred by Landlord and arising directly or indirectly from Tenant’s failure to timely surrender the Premises, including: (i) any rent payable by or any loss, costs or damages, including lost profits, claimed by any prospective tenant of the Premises or any portion thereof, and (ii) Landlord’s damages as a result of such prospective tenant’s rescinding or refusing to

enter into the prospective use of the Premises or any portion thereof, because of Tenant's holding over.

(d) Termination. Landlord has the right to terminate the Agreement. Tenant has no right to terminate the Agreement during the first term and must provide at least 6 months advanced written notice of its intent not to pursue the additional 1-year option that requires mutual agreement in writing by Landlord and Tenant.

(e) Abandonment. If Tenant shall abandon or vacate Premises, all personal property left upon the Premises shall be deemed to be abandoned and at the option of the City become the City's property.

(f) Surrender. Upon the expiration or other termination of the Term, Tenant agrees to surrender possession of the Premises to Landlord in the same condition in which Tenant received the Premises, ordinary wear and tear and damage by casualty or the elements excepted.

(g) Damage or Destruction. In the case the Premises is damaged by fire or other casualty, Landlord may elect to terminate this Agreement.

3. **Use; Compliance with Laws.**

(a) Purpose of Use. The Premises are to be used by Tenant for the purpose of Christmas tree and/or pumpkin sales. There shall be no barnyard animals allowed on the Premises as an attraction/petting zoo, nor shall there be mechanical rides. Tenant may make minor modifications to the Premises in order to accommodate access to the Premises by Tenant's patrons and customers if approved in advance in writing by the City's Public Works Director.

(b) Use in Compliance with All Laws. Tenant agrees that its use of the Premises will at all times be in compliance with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the Premises, including any conditions of approval as specified in the required City of Antioch Conditional Use Permit that will be required prior to Tenant's occupancy.

(c) Environmental Compliance. Tenant represents, warrants and covenants to Landlord that Tenant shall at no time use, or permit the Premises to be used by anyone under Tenant's control, in violation of any federal, state or local law, ordinance or regulation relating to the environmental conditions on, under or about the Premises, including, but not limited to, air quality, soil and surface and subsurface water conditions. Tenant shall assume sole and full responsibility and cost to remedy any such violations caused by Tenant or anyone under Tenant's control that may affect the Premises so long as the violations are not directly caused by Landlord and/or its successors and assigns other than Tenant. Tenant further represents, warrants and covenants to Landlord that Tenant shall at no time, generate, store or dispose of or allow or permit any third party under Tenant's control to use, generate, store or dispose of on, under or about the

Premises, or transport to or from the Premises, any hazardous wastes, toxic substances or related materials (“Hazardous Materials”) except for those Hazardous Materials which are customarily found in households (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover, and cigarettes). Tenant represents, warrants and covenants that it shall provide Landlord with written notification immediately upon (i) the discovery or notice by Tenant, its successors, assigns, licensees, invitees, employees or agents or any other third party, that any representation or warranty of Tenant under this paragraph is inaccurate, incomplete, or untrue in any way, or (ii) any failure to fully and completely perform any covenant of Tenant under this paragraph.

(d) No Warranties. Tenant agrees that it takes the Premises “AS-IS”. Tenant expressly waives all implied warranties including implied warranties of merchantability and fitness, if any. Tenant understands and acknowledges that the Premises may be subject to earthquake, fire, floods, erosion, high water table, dangerous underground soil and water conditions and similar occurrences that may alter its condition or affect its suitability for any proposed use. Landlord shall have no responsibility or liability with respect to any such occurrence. Tenant represents and warrants that it is acting, and will act only, upon information obtained by it directly from its own inspection of the Premises.

(e) No Use Affect Insurance Coverage. No use shall be made or permitted to be made upon the Premises, nor acts done, which shall increase the existing rate of insurance on the Premises, or cause the cancellation of insurance on the Premises.

(f) No Residential Use. No residential uses are permitted on the Premises.

(g) Landlord Access. Tenant shall permit Landlord’s employees and contractors to enter upon the Property at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

(h) Shared Use. By entering into this Agreement, Tenant acknowledges that construction of a billboard may occur during the term and that the contractor will be advised to take reasonable steps to minimize its impact to any Christmas tree and/or pumpkin sales operations if construction is not completed prior to Tenant occupying the site. If construction is not completed prior to Tenant occupying the site, Tenant must allow contractor full access to the Premises.

(i) Lighting. During the Term, Tenant shall keep the Premises well lighted during all evening/night hours. No activity shall be permitted on the site prior to 8:00 a.m. or after 10:00 p.m.

(j) Security Guard Services. Tenant may employ security guard services to monitor and patrol the Premises on a regular basis.

(k) Signage. Tenant shall not construct nor install any exterior sign, banner or advertising balloon without the prior written consent of CITY.

(l) Tenant's Property. All trade fixtures, equipment and personal property of Tenant, if any, located at the Premises will remain the property of Tenant during the Term and may be removed by Tenant at any time. Upon expiration or termination of the Agreement, these trade fixtures, equipment and personal property shall be removed from the Premises, unless Tenant is directed otherwise by the Director of Public Works. Tenant, at Tenant's cost and expense, must promptly repair all damage to the Premises occasioned by the removal of its trade fixtures, equipment and personal property.

4. Rent. Tenant shall pay an annual rent in advance for the use of the Premises during the entire Term in addition to all (i) taxes (including but not limited to possessory interest taxes), assessments (whether general, special, ordinary or extraordinary) of every kind imposed or which relate in any way to the Premises and Tenant's use of the Premises, and (ii) costs and expenses incurred by Tenant to use the Premises without limitation, including fire protection, telephone service, heating, air conditioning, sewer service, waste removal and other utilities and services supplied to or consumed in or upon the Premises during the Term. The rent for the first year shall be \$17,600, which is due in full and is nonrefundable. Should both parties agree to the additional options each year, the annual rent for the following years is:

- a) Year Two: \$17,800
- b) Year Three: \$17,900
- c) Year Four: \$18,100
- d) Year Five: \$18,300

5. Maintenance.

(a) Regular Maintenance. Tenant agrees that it will, at its sole cost and expense: (a) maintain the Premises in a clean and litter-free condition, (b) maintain the surfacing on the Premises, fencing and signage; and (c) promptly (within 48 hours of discovery or reporting) remove any graffiti from the Premises.

(b) Trash Removal. During the Term, Tenant shall arrange and pay for trash removal from the Premises. Each morning, Tenant shall inspect the Premises and remove all garbage and litter.

(c) Utilities. Tenant shall pay for all water and electricity at the Premises, as well as adequate restroom facilities for use by Tenant's customers and employees.

6. Insurance. Tenant shall maintain during the term of this Agreement insurance against claims or injuries to persons or damages to property arising from or in connection with Tenant's operation and use of the premises. The cost of such insurance shall be borne by the Tenant. Tenant shall maintain insurance as follows:

A. General Liability Insurance Services Office Form CG 00 01 covering commercial general liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits

no less than \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this location or the general aggregate limit shall be twice the occurrence limit.

The General Liability policy is to contain, or be endorsed to contain, the following provisions:

i. The City of Antioch, its officers, officials, agents, employees and volunteers are to be covered as additional insureds by endorsement with respect to liability arising out of work or operations performed by or on behalf of Tenant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance at least as broad as ISO Form CG 20 10 (e.g. Form CG 20 11 01 96). The coverage shall contain no special limitations on the scope of protection afforded to the City of Antioch, its officers, officials, agents, employees or volunteers.

ii. The Tenant's insurance coverage shall be primary insurance with regard to the City of Antioch, its officers, officials, agents, employees and volunteers. Any insurance maintained by the City of Antioch, its officers, officials, agents, employees and volunteers shall be excess of Tenant's insurance and shall not contribute to it.

B. Property Insurance. The Tenant will also maintain property insurance against all risks of loss to any Tenant improvement or betterment at full replacement costs with no coinsurance penalty provision.

C. Worker's Compensation Insurance & Employer's Liability. Tenant shall also maintain Workers' Compensation Insurance as required by the State of California with Statutory limits and Employer's Liability Insurance with limits no less than \$1,000,000 per accident for bodily injury or disease.

D. General Requirements.

i. Any deductibles or self-insured retentions must be declared to and approved by the Landlord. At the option of the Landlord, the Tenant shall obtain coverage to reduce or eliminate such deductibles or self-insured retentions as respects to the Landlord or its officers, officials employees and volunteers, or the Tenant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses as approved by the City Attorney.

ii. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.

iii. Tenant shall furnish to the Landlord certificates of insurance and endorsements as required by this clause. All certificates and endorsements are to be received and approved by the City before occupancy. However, failure to obtain the required documents prior to occupancy shall not waive the Tenant's obligation to provide them. The Landlord reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications at any time.

iv. If Tenant maintains higher limits than the minimums above, the City requires and shall be entitled to coverage for the higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

v. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled except after thirty (30) days prior written notice by mail has been given to the Landlord.

vi. Tenant hereby grants to Landlord a waiver of any right to subrogation which any insurer of the Tenant may acquire against the City by virtue of the payment of any loss under such insurance. Tenant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

vii. Tenant reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstance.

7. **Indemnification.** Tenant agrees to indemnify, protect, defend and hold Landlord harmless from and against any and all claims, losses, liabilities, actions, judgments, costs and expenses (including attorneys' fees and costs) (collectively, "Claims") due to injury to or death of, or damage to the property arising out of or in any way connected to Tenant's use, maintenance and repair of Premises or performance of this Agreement. Negligent or criminal acts by members of the public at the Premises shall not be deemed to be the liability or responsibility of Landlord. The indemnity provision of this section shall survive the expiration or cancellation of this Agreement.

8. **Default.**

(a) **Rights and Remedies of Landlord.** Upon the occurrence of a default by Tenant under this Agreement, Landlord shall have the rights and remedies set forth in this Agreement, in addition to any and all other rights and remedies available to Landlord at law or in equity, including without limit those provided under California Civil Code Sections 1951.2 and 1951.4, as amended or recodified from time to time.

(b) **Default and Cure by Tenant.** Tenant will not be considered to be in default under this Agreement unless (a) in the case of any obligation requiring the

payment of money by Tenant to Landlord, Tenant fails to make such payment within the time specified in this Agreement or otherwise within five (5) days following written notice from Landlord and (b) in the case of any other alleged default, Tenant fails to cure such default within thirty (30) days following written notice from Landlord, provided that if the nature of the alleged default is such that it cannot reasonably be cured within thirty (30) days, Tenant shall have a reasonable time in which to cure such alleged breach or default.

(c) Landlord's Right of Re-entry. In the event of default by Tenant, Landlord in addition to other rights and remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from Premises. Such property may be moved and stored in a public warehouse or elsewhere at the cost of, and for the account, of Tenant. Landlord shall store this property for Tenant for a period of thirty (30) days, after which time Landlord may dispose of the property in any manner in its sole discretion if the Tenant does not accept responsibility for the property.

9. Notices. Except as otherwise provided, all notices required or permitted to be given under this Agreement must be in writing and addressed to the parties at their respective notice addresses set forth below. Notices must be given by personal delivery (including by commercial delivery service) or by first-class mail, postage prepaid. Notices will be deemed effectively given, in the case of personal delivery, upon receipt (or if receipt is refused, upon attempted delivery), and in the case of mailing, three (3) business days following deposit into the custody of the United States Postal Service. The notice addresses of the parties are as follows:

If to Landlord: City of Antioch
 PO Box 5007
 Antioch, California 94531
 Attention: City Manager

With a copy to: City Attorney
 City of Antioch
 PO Box 5007
 Antioch, CA 94531

If to Tenant: ABC Tree Farms, LLC
 Attn: Jerome Klima, Jr.
 PMB 367 at NW 23rd Pl., Ste. 6
 Portland, OR 97210

10. General.

(a) Interpretation. The titles to the sections of this Agreement are for convenience of reference only and are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement. Any exhibits attached to this Agreement are, however, a part of this Agreement. In construing this Agreement,

none of the parties to it shall have any term or provision construed against it solely by reason of its having drafted the same.

(b) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to any otherwise governing principles of conflicts of law. Any litigation concerning this Agreement shall be subject to jurisdiction in Contra Costa County or the Northern District of California for federal court.

(c) Severance. Any provision of this Agreement that is invalid, illegal or unenforceable shall be ineffective to the extent of such invalidity, illegality or unenforceability without invalidating, diminishing or rendering unenforceable the rights and obligations of the parties under the remaining provisions of this Agreement.

(d) Written Amendment. No term or provision of this Agreement may be amended or modified, except by an instrument in writing signed by the parties to this Agreement.

(e) Entire Agreement. This Agreement and all exhibits attached to it constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements (whether written or oral) with respect to that subject matter.

(f) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(g) Attorneys' Fees. If either party hereto brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in such action, on trial or appeal, shall be entitled to reasonable attorneys' fees to be paid by the losing party as fixed by the court.

(h) No Mechanic's Lien. Tenant shall at all times keep the Premises free from any liens arising out of any work performed or allegedly performed, materials furnished or allegedly furnished or obligations incurred, by or for Tenant. Tenant agrees to indemnify and hold Landlord harmless from and against any and all claims for mechanics', materialmen's or other liens in connection with any Improvements, repairs or any work performed or allegedly performed, materials furnished allegedly furnished or obligations incurred or allegedly incurred, by or for Tenant.

(i) No Assignment. Tenant shall not assign or sublet this Agreement without the prior written consent of the City Manager. Any such assignment or sublease without consent shall be void and, at the option of Landlord, may terminate the Agreement.

(j) No Personal Liability. No member, official or employee of Landlord shall be personally liable in the event of any default or breach of this Agreement.

(k) No Relocation Benefits. Tenant agrees that its use of Property or this Agreement shall not entitle Tenant to any relocation benefits pursuant to federal, state or local law and waives any such claim against Landlord.

(l) Possessory Interest Tax. Tenant acknowledges that Contra Costa County may impose a possessory interest tax for the use of Premises, and if such tax is imposed, that Tenant will be responsible for its payments

(m) Compliance with Laws. Tenant shall comply with all laws related to its use of the Premises, including but not limited to obtaining a business license from the City of Antioch and payment of the business license tax.

(n) Authority. The parties represent that the individuals signing this Agreement have the authority to do so.

Executed as of the date first set forth above.

LANDLORD:
CITY OF ANTIOCH

TENANT:
ABC TREE FARMS, LLC

By: _____
Steven Duran
City Manager

By: _____
Jerome Klima, Jr.
LLC Member

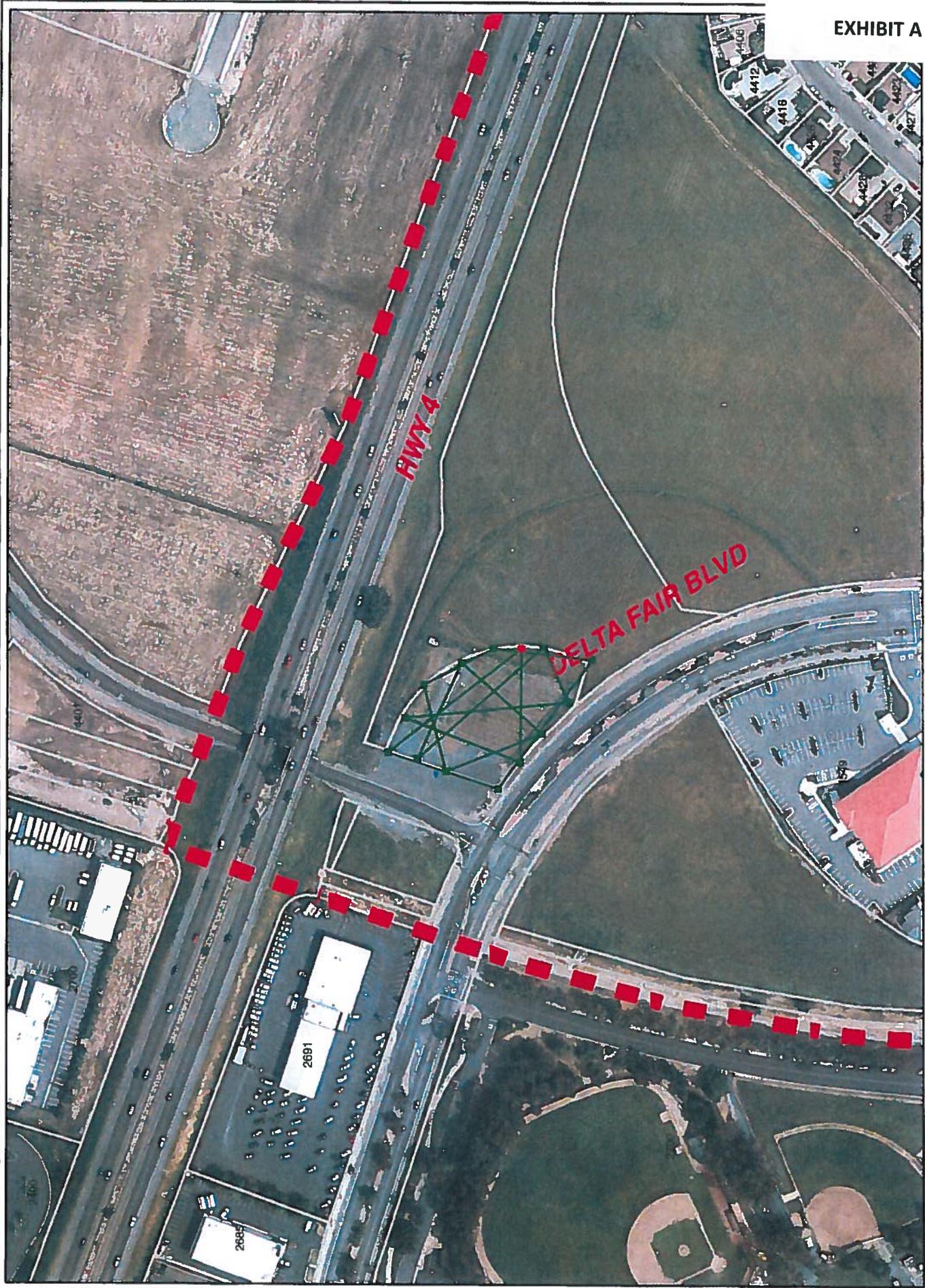
Attest:

Arne Simonsen, City Clerk
of the City of Antioch

Approved as to Form:

By: _____
Lynn Tracy Nerland, City Attorney

Attachments: EXHIBIT "A" --Site Map



Date printed:

City of Antioch GIS



Title

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF JULY 22, 2014**

FROM: Michelle Fitzer, Administrative Services Director 
DATE: July 16, 2014
SUBJECT: **AUTHORIZE RESPONSE TO GRAND JURY REPORT: "TRAINING
CITY PERSONNEL IN REPORTING CHILD ABUSE" (REPORT 1403)**

RECOMMENDATION

It is recommended that the City Council approve and authorize the Mayor to sign the attached response to the Grand Jury report: "Training City Personnel in Reporting Child Abuse."

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 the powers and duties of grand juries. 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))

In May, Antioch and other public agencies in the County received the attached Grand Jury report: "Training City Personnel in Reporting Child Abuse" (Attachment A). This report was not just addressed to Antioch, but was county-wide.

Accordingly, the attached draft response (Attachment B) is presented for the City Council's consideration to transmit to the presiding judge.

FISCAL IMPACT

Responding to the Grand Jury reports took staff time. Fiscal impacts of implementing recommendations in the report are not yet identified.

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

Attachment A: Grand Jury Report: "Training City Personnel in Reporting Child Abuse"

Attachment B: Antioch's response to Grand Jury Report: "Training City Personnel in Reporting Child Abuse"

May 6, 2014



Steve Duran, City Manager
P.O. Box 5007
Antioch, CA 94531

Dear Mr. Duran:

Attached is a copy of **Grand Jury Report No. 1403, 'Training City Personnel in Reporting Child Abuse'** by the "2013-2014" Contra Costa Grand Jury. As City of Antioch is a subject of the report, this report is being provided to you at least two working days before it is released publicly in accordance with California Penal Code section 933.05(f).

Section 933.05(a) of the California Government Code requires that a person or entity that is the subject of a report shall respond to each finding in the report by indicating one of the following :

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

If the respondent wholly or partially disagrees with a finding, 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 of the report by stating one of the following actions:

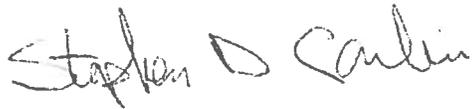
1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain 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 aware 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 the public release of the final report. Please ensure that your response to the above noted Grand Jury report complies in form and substance with the legal requirements for such responses. We expect your response, no later than **AUGUST 6, 2014** under the Penal Code.

Please send a copy of your response in hard copy to the Grand Jury, as well as a copy by e-mail in Word to clope2@contracosta.courts.ca.gov .

Sincerely,

A handwritten signature in black ink that reads "Stephen D. Conlin". The signature is written in a cursive style with a large, stylized "S" and "C".

Stephen D. Conlin, Foreperson
2013-2014 Contra Costa County Civil Grand Jury

Enclosure

A REPORT BY
THE 2013-2014 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553

Report 1403

TRAINING CITY PERSONNEL IN
REPORTING CHILD ABUSE

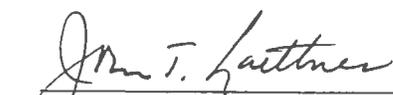
APPROVED BY THE GRAND JURY:

Date: 04/24/2014


STEPHEN D. CONLIN
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/5/14


JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1403

Training City Employees in Reporting Child Abuse

TO: All Contra Costa County Cities

SUMMARY

Multiple lawsuits alleging child abuse, and the failure to report suspected instances of the same, have revealed that many employees of public entities, including those of cities, do not understand their duties to identify and report suspected or known instances of child abuse. This failure is due, in large part, to inadequate training of employees, and other personnel, in their legal obligations as “mandated reporters”.

To help protect children from child abuse, and cities from liability for failing to report suspected cases of abuse, each city should establish and implement a program to train all “mandated reporters”, including volunteers and other personnel who have direct contact or supervision of children, in abuse reporting guidelines. The training programs should be conducted on an annual basis and each city should implement a system to verify that employees and other personnel who are mandated reporters have successfully completed the training.

METHODOLOGY

- Review of California Penal Code sections mandating reporting of child abuse;
- Review of publications by the State Office of Child Abuse Prevention, Greater Bay Area Child Abuse Prevention Council Coalition and Child Abuse Prevention Council of Contra Costa County;
- Detailed survey of each city regarding their policies, procedures and practices in the training of employees to report suspected child abuse;
- Interviews of child abuse prevention experts;
- Interview of city personnel responsible for child abuse reporting training, and;
- Review of Walnut Creek Investigative Report.

BACKGROUND

The first child abuse reporting law was enacted in California in 1963. Nevertheless, more than 50 years later, cities within this County, as well as other public entities, have failed to provide basic training to their employees in reporting suspected, or actual, child abuse. The lack of training has resulted in instances when suspected or known child abuse was not reported as required by law and where city employees were unaware of their duties to report the alleged abuse.

The Problem

The alleged failures of various school districts within the County to report suspected or known child abuse are now well documented, as set forth in the Grand Jury's recent report (Report No. 1402). School Districts in Moraga, Antioch and Brentwood have recently agreed to pay millions of dollars to settle lawsuits alleging instances of child abuse that resulted, in part, from the purported failure of school personnel to report suspected, or known, cases of child abuse. Additional lawsuits are pending.

However, problems relating to the alleged failure to report suspected or known child abuse, and the lack of employee training about the duty to report the same, is not confined to school districts in the County. A recent case in the City of Walnut Creek revealed the potential damaging effects that may result when child abuse allegations arise from the failure of a city to adequately train its employees, or other personnel, to report known or suspected instances of child abuse.

This well-documented incident involved allegations of child molestation in 2012 by a part-time employee of Walnut Creek's Leshner Center for the Arts. The suspected abuse became known to various City officials. The District Attorney filed criminal charges against the employee in February 2013. In addition, investigations by the Concord Police Department and later by an independent investigator retained by the City were undertaken to determine whether Walnut Creek employees failed to report the suspected abuse pursuant to their obligations under the California Penal Code.

The report prepared by the independent investigator ultimately concluded that there was no city-wide training of employees about their obligations to report suspected child abuse. The report found that numerous City officials had not received **any** training on "mandated reporting" and, at least in one case " . did not know there was such a thing as 'mandated reporting' ." The report found that all of the officials should have received adequate training in reporting suspected child abuse.

The incident cost Walnut Creek far more than the expense of the investigative report. Several City officials were temporarily suspended from their jobs and others resigned. The City ended up paying the attorney's fees for at least some of the suspended employees. The damage to the City's reputation and morale is unknown.

The above discussion is not intended to single out Walnut Creek, as the lack of adequate training has been almost uniform among cities within the County for years. Instead, it is an illustration of the potential consequences cities may face for failing to provide their employees adequate training to report abuse. In light of the explosion of claims against school districts, cities may face serious abuse claims in the future unless adequate training is instituted and maintained.

The Law

The California Child Abuse and Neglect Reporting Law is set forth in Penal Code sections 11165 – 11174.3. Since its enactment in 1963, the law has been amended on several occasions, expanding both the definition of “abuse” and the persons – known as “mandated reporters” – who are required to report suspected instances of child abuse. The law defines the obligations in detail, that include:

1. **What** is child abuse (Penal Code section 11165.6 [all references are to the Penal Code]);
2. **What** must be reported (P.C. section 11166);
3. **Who** is a mandated reporter (P.C. section 11165.7);
4. **When** the suspected abuse should be reported (P.C. section 11166)
5. **To Whom** the suspected abuse should be reported (P.C. section 11166);
6. **Safeguards** for persons making the mandated reports (P.C. section 11172)
7. **Liabilities** for failure to make a required report (P.C. section 11166.01);and
8. **Responsibilities** of the agency employing the mandated reporter (P.C. section 11166.1).

The Penal Code’s definition of a “mandated reporter” is extensive and should be scrutinized by each city to determine which of its employees fall within the statutory definition. However, certain categories of employees set forth in P.C. section 11165.7 clearly apply to certain employees within a city. These employees include:

“ . . .

(6) An administrator of a public or private day camp;

(7) An administrator or employee of a public or private youth center, youth center recreation program or youth organization;

(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children...”

The Penal Code does not explicitly require cities to train their “mandated reporters” in their obligations; however, P.C. section 11165.7(c). provides:

“Employers are strongly encouraged to provide their employees who are mandated reporters in [their] duties . This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. . . .”

A report of suspected child abuse must be made **immediately**, or as soon as practical, to legal authorities by phone and then followed by a **written** report within 36 hours. Failure to do so,

subjects the mandated reporter to criminal liability. Moreover, the obligation to make the report cannot be satisfied by telling a supervisor or colleague – an apparent misconception in many of the child abuse cases.

The Training

1. Mandated Reporters

The Grand Jury recently issued a report (Report No. 1402) on the status of child abuse reporting training by school districts in the County. While the Grand Jury concluded that the training programs were long overdue and deficient in a number of respects, the Grand Jury found that most of the districts were making a serious effort to develop and improve their training programs. Clearly there is further work to be done.

However, the abuse reporting policies and training programs of the cities in the County lag far behind the programs instituted by the school districts. Almost none of the cities had a city-wide policy on reporting child abuse, let alone a training program, until the last few months. The responses of several of the cities to the Grand Jury's request in November 2013 for information on this subject illustrate the problem.

The City of Clayton responded, in part, that:

“Following the recent unfortunate incident and publicity on this subject with The City of Walnut Creek, Clayton was in the midst of preparing a City Administrative Policy. After receipt of the Civil Grand Jury's November 2013[letter], City staff accelerated the task and the enclosed City Administrative Policy was adopted by the Council at its public meeting on 12/13/13.”

The City of Oakley responded that it did not have a formal policy on child abuse reporting in place, but attached a draft Mandated Reporting Policy “...that is currently under review by the City Attorney.”

The City of San Pablo responded to the Grand Jury's request by stating, in part:

“...the City plans on presenting for City Council approval in the near future a child abuse reporting policy along the lines of similar policies recently adopted by Concord, Brentwood and Lafayette.”

These responses reflect the status of policies and training programs across almost all cities within the County. Almost all of the cities are scrambling to enact policies. But policies alone are not enough. Adoption of actual training programs and effective implementation of those programs are critical. Such training programs should be adopted and implemented now.

From a training perspective, the Child Abuse Prevention Council of Contra Costa County (CAPC) has been retained by a number of school districts and cities to provide “mandated reporter” training to their personnel. CAPC provides live training by qualified instructors. The training lasts approximately one to one and a half hours and includes sample scenarios, as well as a “give and take” discussion with the training participants. Moreover, the training is provided at

no cost to the city.

The evidence clearly suggests that cities within the County should be encouraged to adopt a uniform training program in order to ensure adequate and comprehensive education of City personnel in reporting suspected child abuse. A review of the Penal Code provisions relating to mandated reporters, as well as other pertinent information, indicate that an effective and comprehensive training program should be mandatory for all city employees whose duties require direct contact and supervision of children. The training program should be given annually and, at a minimum, include the following topics:

- Who are “mandated reporters”;
- What is “reasonable suspicion” of child abuse;
- How and when should a report be made;
- What safeguards are in place to protect mandated reporters; and
- What are the ramifications of making a suspected child abuse report.

In addition, each City should establish a procedure for **verifying** that all employees who are mandated reporters have successfully completed the training program.

2. Volunteers

Volunteers are specifically excluded from the definition of “mandated reporters” under the Penal Code, even those who have direct contact with and supervise children. (P.C. section 11165.7(b).) However, the statute also provides that such volunteers are:

“ . . . encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect . . . ”

Moreover, the statute further provides:

“Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.” (P.C. 11165.7(f).)

There have been well-documented instances of child abuse by volunteers in city programs, particularly those in recreational or sports areas. Given the potential for abuse, as well as the statutory language that encourages training of volunteers, each city should consider including volunteers in its abuse reporting training programs.

3. Independent Contractors

Some cities enter into agreements with independent contractors to provide services that require direct contact or supervision of children. In those cases, the contracting city should ensure that

each independent contractor involved in such contact with children has successfully completed the city's "mandated reporter" training program.

Obviously, training programs alone cannot prevent all instances of child abuse. However, if an effective and comprehensive training program prevents only **one** child from being abused, **one** family from having to endure the hardships of an abused child, **one** City from having to pay millions of dollars to settle a child abuse lawsuit, then there is no reason for any district to resist implementing the same.

FINDINGS

1. The law strongly encourages cities to provide their employees who are "mandated reporters" with training about their obligations to identify and report known or suspected child abuse.
2. A "mandated reporter" employed by a city includes, but is not limited to, an administrator or employee whose duties require direct contact and supervision of children.
3. Training in child abuse reporting obligations should be given annually to every city employee whose duties require direct contact and supervision of children.
4. Training in child abuse reporting obligations should include:
 - a. Who are "mandated reporters";
 - b. What is "reasonable suspicion" of child abuse;
 - c. How and when a report should be made;
 - d. What safeguards are in place to protect mandated reporters; and
 - e. What are the ramifications of making a suspected child abuse report.
5. While volunteers who have direct contact or supervise children are excluded from the definition of "mandated reporters" under the Penal Code, the law "encourages" such volunteers to obtain training in identifying and reporting suspected or known child abuse.
6. A procedure should be implemented to verify that all city personnel who are mandated reporters receive training.
7. The Child Abuse Prevention Council of Contra Costa County provides training services in abuse reporting at no cost to cities in the County.

RECOMMENDATIONS

1. Each city should consider immediately adopting a policy to train its employees and other personnel about their obligation to identify and report suspected cases of child abuse.

2. Each city should review the duties of all employees and other personnel to determine which personnel fall within the definition of “mandated reporters” under Penal Code section 11165.7.
3. The training program should include all personnel who are “mandated reporters”.
4. The training program in child abuse reporting obligations should include:
 - a. Who are “mandated reporters”;
 - b. What is “reasonable suspicion” of child abuse;
 - c. How and when a report should be made;
 - d. What safeguards are in place to protect mandated reporters; and
 - e. What are the ramifications of making a suspected child abuse report.
5. Each city should consider including all volunteers who have direct contact with or supervise children in its abuse reporting training program.
6. In the case where a city enters into an agreement with an independent contractor to provide services that requires direct contact or supervision of children, the city should consider ensuring that the independent contractor and each of its staff who will have direct contact or supervision of children have successfully completed the city’s “mandated reporting” training program.
7. Each city should establish a procedure for verifying that all employees and other personnel who are mandated reporters have successfully completed the training program each year.
8. Each city should consider retaining the Child Abuse Prevention Council of Contra Costa County to provide free training services about child abuse reporting.

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
City of Antioch	1-7	1-8
City of Brentwood	1-7	1-8
City of Clayton	1-7	1-8
City of Concord	1-7	1-8
Town of Danville	1-7	1-8
City of El Cerrito	1-7	1-8
City of Hercules	1-7	1-8
City of Lafayette	1-7	1-8
City of Martinez	1-7	1-8
Town of Moraga	1-7	1-8
City of Oakley	1-7	1-8
City of Orinda	1-7	1-8
City of Pinole	1-7	1-8
City of Pittsburg	1-7	1-8
City of Pleasant Hill	1-7	1-8
City of Richmond	1-7	1-8
City of San Pablo	1-7	1-8
City of San Ramon	1-7	1-8
City of Walnut Creek	1-7	1-8



July 23, 2014

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

Re: **Contra Costa County Grand Jury Report:** "Training City Personnel in Reporting Child Abuse" (Report 1403)

Dear Judge Laettner:

On behalf of the Antioch City Council, this letter responds to Contra Costa County Grand Jury Report: "Training City Personnel in Reporting Child Abuse." The City Council authorized this response at its meeting on July 22, 2014.

We appreciate the time and effort that you and the Grand Jury spent considering these matters. We trust that the Grand Jury also appreciates the City time spent reviewing and responding to Grand Jury reports, particularly given Antioch's continued weekly furloughs and 33% staffing reductions. Pursuant to California Penal Code section 933.05, the City will respond to each finding and to each recommendation individually.

Findings

Finding #1: "The law strongly encourages cities to provide their employees who are 'mandated reporters' with training about their obligations to identify and report known or suspected child abuse."

The City agrees with this finding.

Finding #2: "A 'mandated reporter' employed by a City includes, but is not limited to, an administrator or employee whose duties require direct contact and supervision of children."

The City agrees with this finding.

Finding #3: "Training in child abuse reporting obligations should be given annually to every City employee whose duties require direct contact and supervision of children."

The City partially disagrees with this finding. While we recognize the importance of ensuring mandated reporters are aware of their obligations, annual training seems rather cumbersome. Instead the City would suggest that new employees be trained within a reasonable time of hire, and then participate in required training bi-annually thereafter. This is similar to the harassment training requirements of AB 1825, and ethics training requirements of AB 1234. In addition, due to the large volume of temporary/seasonal employees Antioch employs, most of our mandated reporter supervisors are reminded of their obligation each year when they perform the new employee orientation for the seasonal employees.

- Finding #4: "Training in child abuse reporting obligations should include:
- a. Who are 'mandated reporters';
 - b. What is 'reasonable suspicion' of child abuse;
 - c. How and when a report should be made;
 - d. What safeguards are in place to protect mandated reporters; and
 - e. What are the ramifications of making a suspected child abuse report."

The City agrees with this finding.

Finding #5: "While volunteers who have direct contact or supervise children are excluded from the definition of 'mandated reporters' under the Penal Code, the law 'encourages' such volunteers to obtain training in identifying and reporting suspected or known child abuse."

The City agrees with this finding. Without reviewing the Penal Code in detail at this time, we accept the Grand Jury's statement that the law encourages training of volunteers.

Finding #6: "A procedure should be implemented to verify that all City personnel who are mandated reporters receive training."

The City agrees with this finding.

Finding #7: "The Child Abuse Prevention Council of Contra Costa County provides training services in abuse reporting at no cost to the cities in the County."

The City agrees with this finding. Although we have not utilized these County services, we accept the Grand Jury's finding that they are available to cities at no cost. We will be looking into the possibility of utilizing this service for future trainings.

Recommendations

Recommendation #1: “Each City should consider immediately adopting a policy to train its employees and other personnel about their obligation to identify and report suspected cases of child abuse.”

The recommendation has not been implemented. Although Antioch has not adopted a City-wide formal policy, we have provided training for mandated reporters. We appreciate the value of a formal policy and have collected several of the policies adopted by other agencies. We feel this approach allows us to implement a policy that incorporates the best practices identified. We have retained the law firm of Jackson Lewis to assist us with updating our Personnel Rules and employment related Administrative Policies. The Mandated Reporter policy development will be a component of that project. We anticipate finalizing our policy by September 2014.

Recommendation #2: “Each City should review the duties of all employees and other personnel to determine which personnel fall within the definition of ‘mandated reporters’ under Penal Code section 11165.7.”

The recommendation has not been implemented. This will be completed as part of the development of our policy.

Recommendation #3: “The training program should include all personnel who are mandated reporters.”

The recommendation has been implemented. As indicated above, although we do not yet have a formalized policy we have conducted appropriate training.

Recommendation #4: “The training program in child abuse reporting obligations should include:

- a. Who are ‘mandated reporters’.
- b. What is ‘reasonable suspicion’ of child abuse.
- c. How and when a report should be made.
- d. What safeguards are in place to protect mandated reporters; and
- e. What are the ramifications of making a suspected child abuse report.”

The recommendation has been implemented.

Recommendation #5: “Each City should consider including all volunteers who have direct contact with or supervise children in its abuse reporting training program.”

The recommendation has not been implemented. At this time only employees have been included in the training program. We will evaluate the feasibility of training volunteers as we finalize our policy.

Recommendation #6: “In the case where a City enters into an agreement with an independent contractor to provide services that requires direct contact or supervision of children, the City should consider ensuring that the independent contractor and each of its staff who will have direct contact or supervision of children have successfully completed the City’s ‘mandated reporting’ training program..”

The recommendation has not been implemented. The feasibility of this recommendation will need to be evaluated as we finalize our policy.

Recommendation #7: “Each City should establish a procedure for verifying that all employees and other personnel who are mandated reporters have successfully completed the training program each year.”

The recommendation has been partially implemented. The City has verified that all appropriate employees have received training. However, we are requiring training bi-annually, not annually.

Recommendation #8: “Each City should consider retaining the Child Abuse Prevention (CAP) Council of Contra Costa County to provide free training services about child abuse reporting.”

The recommendation has not been implemented. The City was unaware of this training resource. We have previously used the law firm of Liebert Cassidy Whitmore or POST trainers for the police department. We will include CAP in our list of available trainers moving forward.

We trust that the Grand Jury will find these responses helpful to its endeavor.

Sincerely yours,

Wade Harper
Mayor, City of Antioch

cc: Stephen D. Conlin, Contra Costa County Grand Jury Foreperson,
725 Court Street, Martinez, CA 94553
Steve Duran, City Manager
Lynn Tracy Nerland, City Attorney

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF JULY 22, 2014**

FROM: Michelle Fitzer, Administrative Services Director



DATE: July 16, 2014

**SUBJECT: AUTHORIZE RESPONSE TO GRAND JURY REPORT: "THE PUBLIC
RECORDS ACT IN CONTRA COSTA COUNTY" (REPORT 1405)**

RECOMMENDATION

It is recommended that the City Council approve and authorize the Mayor to sign the attached response to the Grand Jury report: "The Public Records Act in Contra Costa County."

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 the powers and duties of grand juries. 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))

In June, Antioch and other public agencies in the County received the attached Grand Jury report: "The Public Records Act in Contra Costa County" (Attachment A). This report was not just addressed to Antioch, but was county-wide.

Accordingly, the attached draft response (Attachment B) is presented for the City Council's consideration to transmit to the presiding judge.

FISCAL IMPACT

Responding to the Grand Jury reports took staff time. Fiscal impacts of implementing recommendations in the report are not yet identified.

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

Attachment A: Grand Jury Report: "The Public Records Act in Contra Costa County"

Attachment B: Antioch's response to Grand Jury Report: "The Public Records Act in Contra Costa County"



June 3, 2014

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

Dear Mr. Duran:

Attached is a copy of **Grand Jury Report No. 1405, 'The Public Records Act In Contra Costa County'** by the "2013-2014" Contra Costa Grand Jury. As the City of Antioch is a subject of the report, this report is being provided to you at least two working days before it is released publicly in accordance with California Penal Code section 933.05(f).

Section 933.05(a) of the California Government Code requires that a person or entity that is the subject of a report shall respond to each finding in the report by indicating one of the following :

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

If the respondent wholly or partially disagrees with a finding, 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 of the report 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 aware 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 the public release of the final report. Please ensure that your response to the above noted Grand Jury report complies in form and substance with the legal requirements for such responses. We expect your response, no later than **SEPTEMBER 3, 2014** under the Penal Code.

Please send a copy of your response in hard copy to the Grand Jury, as well as a copy by e-mail in Word to clope2@contracosta.courts.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Stephen D. Conlin". The signature is written in a cursive style with a large, stylized "S" and "C".

Stephen D. Conlin, Foreperson
2013-2014 Contra Costa County Civil Grand Jury

Enclosure

A REPORT BY
THE 2013-2014 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553

REPORT 1405

THE PUBLIC RECORDS ACT IN
CONTRA COSTA COUNTY

Letting the Sun Shine In

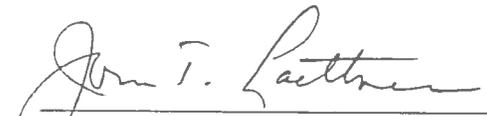
APPROVED BY THE GRAND JURY:

Date: 5/22/2014


STEPHEN D. CONLIN
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/30/14


JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1405

THE PUBLIC RECORDS ACT IN CONTRA COSTA COUNTY

Letting the Sun Shine In

TO: Contra Costa County Board of Supervisors
All Contra Costa County Cities,
All Contra Costa County School Districts,
All Contra Costa County Fire Districts,
Selected Special Districts in Contra Costa County

SUMMARY

The California Public Records Act (the “CPRA” or “Act”) is the law that ensures the public has access to records generated by public agencies. The Act, however is complex and flawed. Employees responsible for fulfilling CPRA requests do not always respond in the manner required by the law. Contra Costa County has adopted a Better Government Ordinance; it allows the public even greater access to government records and information and clarifies some of the uncertainties of the ACT. The practice of making public records available on a governmental entity’s website is an economical and practical means of complying with the Act.

METHODOLOGY

In preparing this report, the Contra Costa Civil Grand Jury:

- Interviewed an individual who makes frequent requests for public records from agencies in Contra Costa County and one who bears responsibility for insuring compliance with the law.
- E-mailed and made in-person requests for routine public records to a cross-section of agencies within the County.

Reviewed:

- The California Public Records Act, Government Code Section 6250 et seq.;
- The Summary of the California Public Records Act 2004 prepared by the California Attorney General’s Office;

- Contra Costa County's Better Government Ordinance, 25-2.202 et seq.;
- Contra Costa County Administration Bulletin Number 120.5, Public Access to County Records;
- The People's Business: A Guide to the California Public Records Act published by the League of California Cities;
- Materials concerning audits of public agencies for Public Records Act compliance published by Californians Aware, the Center for Public Form Rights.

BACKGROUND

The CPRA, enacted in 1968, ensures that the public has access to governmental records, and that those records will be disclosed to the public upon request, unless there is a specific reason provided by the Act not to do so. Access to information concerning the conduct of governmental activities permits the public to better monitor the functioning of government and reduces the likelihood of waste, fraud and corruption.

The Act strongly favors the release of the requested records. For example:

- The request need not be in writing. There may be good reason to do so to establish the exact nature of the documents sought and the time frame for responses, but it is not required by law.
- The person requesting the records does not need to identify him/herself. Although it may be easier for the responding agency to deal with the request and get back to the party making the request, only in a few specified situations need the requester be identified.
- The request need not state the purpose of the request.
- The governmental entity has the burden of justifying the denial of a request.
- The agency must respond to the request within 10 days, or provide notice to the requester within 14 days concerning the existence of the requested records, and the records must be produced within a reasonable time.
- The agency must assist the requester by attempting to identify records that contain the information sought.
- Fees may be charged for the costs of reproduction of the records, but not for the time required to conduct a search.

Despite the CPRA's strong mandate and the important policy that lead to its enactment, members of the public and the press are occasionally rebuffed or given the runaround when making legitimate CPRA request. In some cases this may be the result of imprecise requests:

- The scope of the request must be reasonably clear.
- The requester may ask for records that don't exist. The government entity need not create information or write reports in response to requests under the Act.
- The government entity need only produce records that are reasonably identified.

The CPRA does present problems in its implementation. It is complicated in that it contains many exceptions to disclosure, including such matters as attorney-client communications, code enforcement records, law enforcement records, pending litigation, personnel records, and recipients of public services, among others.

If an agency in or of the County opposes disclosure of the records, it can argue that one or more of the exceptions apply. Unless the person making the request is persistent and challenges the agency's right to withhold the record, the agency may avoid disclosure. The requesting party's only option at that point is to threaten litigation or actually file a lawsuit, a choice that realistically is an option available only to the press or other entities with significant resources but less likely to be exercised by individual members of the public.

The Board of Supervisors has adopted the "Better Government Ordinance," (the "BGO"), that expands the public's access to records beyond those available to the public under the CPRA. The BGO applies to the offices of County government under the authority of the Board of Supervisors. Independent districts are covered only by the Public Records Act.

An increased number of County agencies maintain websites that provide links to public records. This has been of major assistance to citizens seeking information, and it is an efficient and inexpensive way of complying with the Public Records Act.

Among the most valuable classifications of documents whose publication would strengthen integrity in government are: Statements of Economic Interests, Employment Contracts, Annual Audits, Travel and Entertainment reimbursements and agendas and supporting documents for public meetings.

Compliance with the Act in Contra Costa County

Compliance with the Act by those agencies reporting to the Board of Supervisors is generally good, but compliance by cities and special districts is uneven, with some being very forthcoming and others less so. There are several reasons that could account for the failure to comply, from an unwillingness to provide information during the existence of a public controversy to simple ignorance about the requirements and workings of the Act. The County provides annual training about the CPRA and compliance. This, no doubt, accounts for the greater receptiveness of County offices to document requests.

E-mail requests were sent to 41 different cities, special districts and divisions of County government. The same request was made to each entity; a request for a copy of the contract of the highest-ranking official for that entity. The request did not identify the name of the person making the request nor did it reveal any connection with the Grand Jury. In many instances an e-mail response with the appropriate document attached or a reference to the document online was received within an hour or so from the time of the inquiry. Several took from one to three days. Several took seven days; one took 24 days. Several of the e-mails bounced and had to be re-directed to a different e-mail addresses where the response was normally prompt once the request reached the appropriate staff member. There was no response from 12 of the offices.

Visits, including visits to some of the offices that failed to respond to the e-mail requests, resulted usually in positive responses. When the Statement of Economic Interest form (Form 700) was requested, it was produced in a matter of minutes in some instances. At other times, an e-mail was sent to the requester with the document attached.

Requests pursuant to the CPRA do not need to be in writing; the requesters do not have to reveal their identity, explain the purpose of the request or with whom they might be affiliated. However this information was requested on several occasions and one entity insisted that the request be in writing.

Several patterns emerged in response to CPRA requests.

- Requests by e-mail were generally directed to knowledgeable individuals within the office so the resulting response was timely and professional.
- Personal visits to offices, while usually successful (the requested record was provided), often revealed the staff's uncertainty about who in the office should respond to the request.
- In-person visits often resulted in requests for the requestor's name and purpose of the request, disclosures the law does not require.
- The quickest responses came when the information was already on the entity's website and could be referenced easily.
- The requests were for very routine documents that are clearly subject to the Act and should be readily forthcoming.

FINDINGS

1. The State of California's policy of transparency in government is embodied in the California Public Records Act (CPRA).
2. Contra Costa County's policy of transparency in government has been strengthened by its adoption of the Better Government Ordinance.

3. Contra Costa County conducts periodic training of its employees regarding how to respond to requests for records under the CPRA and the Better Government Ordinance.
4. The response to CPRA requests by departments reporting to the Board of Supervisors is generally timely and appropriate.
5. The response to CPRA by cities and special districts within Contra Costa County is uneven. Some entities are responsive, while others have a delayed responses or fail to respond entirely.
6. Employees of cities and some special districts who deal with CPRA requests are unfamiliar with the Act and the responsibilities of their agency when records are requested.
7. Among the most valuable documents that could be included on websites are: Statements of Economic Interests, Employment Contracts, Annual Audits, Travel and Entertainment reimbursements, and agendas and supporting documents for public meetings.

RECOMMENDATIONS

1. Cities and special districts in Contra Costa County should consider adopting a policy similar to the Better Government Ordinance, expanding the right of the public to access to public records.
2. Cities and special districts in Contra Costa County should arrange for periodic training of employees who are responsible for responding to Public Records Act requests.
3. Cities and special districts should consider making certain public records that are clearly disclosable under the CPRA available on their websites:
 - a. Statements of Economic Interests
 - b. Employment Contracts
 - c. Annual Audits
 - d. Travel and Entertainment reimbursements
 - e. Agendas and supporting documents for public meetings.

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Contra Costa County Board of Supervisors	1-7	1 - 3
City of Antioch	1-7	1 - 3
City of Brentwood	1-7	1 - 3
City of Clayton	1-7	1 - 3
City of Concord	1-7	1 - 3
Town of Danville	1-7	1 - 3
City of El Cerrito	1-7	1 - 3
City of Hercules	1-7	1 - 3
City of Lafayette	1-7	1 - 3
City of Martinez	1-7	1 - 3
Town of Moraga	1-7	1 - 3
City of Oakley	1-7	1 - 3
City of Orinda	1-7	1 - 3
City of Pinole	1-7	1 - 3
City of Pittsburg	1-7	1 - 3
City of Pleasant Hill	1-7	1 - 3
City of Richmond	1-7	1 - 3
City of San Pablo	1-7	1 - 3
City of San Ramon	1-7	1 - 3
City of Walnut Creek	1-7	1 - 3
Acalanes Union High School District	1-7	1 - 3
Antioch Unified School District	1-7	1 - 3

	<u>FINDINGS</u>	<u>RECOMMENDATIONS</u>
Brentwood Union School District	1-7	1 - 3
Byron Unified School District	1-7	1 - 3
Canyon School District	1-7	1 - 3
Contra Costa Community College District	1-7	1 - 3
John Swett Unified School District	1-7	1 - 3
Knightsen Elementary School District	1-7	1 - 3
Lafayette School District	1-7	1 - 3
Liberty Union High School District	1-7	1 - 3
Martinez Unified School District	1-7	1 - 3
Moraga School District	1-7	1 - 3
Mount Diablo Unified School District	1-7	1 - 3
Oakley Union Elementary School District	1-7	1 - 3
Orinda Union School District	1-7	1 - 3
Pittsburg Unified School District	1-7	1 - 3
San Ramon Valley Unified School District	1-7	1 - 3
Walnut Creek School District	1-7	1 - 3
West Contra Costa Unified School District	1-7	1 - 3
Contra Costa County Office of Education	1-7	1 - 3
Kensington Police Protection and Community Services District	1-7	1 - 3
Pleasant Hill Recreation and Park District	1-7	1 - 3
Contra Costa Water District	1-7	1 - 3
Diablo Water District	1-7	1 - 3

	<u>FINDINGS</u>	<u>RECOMMENDATIONS</u>
West Contra Costa Health Care District	1-7	1 - 3
Contra Costa County Fire Protection District	1-7	1 - 3
Crockett-Carquinez Fire Protection District	1-7	1 - 3
East Contra Costa Fire Protection District	1-7	1 - 3
Kensington Fire Protection District	1-7	1 - 3
Moraga-Orinda Fire District	1-7	1 - 3
Rodeo-Hercules Fire Protection District	1-7	1 - 3
San Ramon Valley Fire Protection District	1-7	1 - 3



July 23, 2014

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

Re: **Contra Costa County Grand Jury Report:** "The Public Records Act In Contra Costa County" (Report 1405)

Dear Judge Laettner:

On behalf of the Antioch City Council, this letter responds to Contra Costa County Grand Jury Report: "The Public Records Act In Contra Costa County." The City Council authorized this response at its meeting on July 22, 2014.

We appreciate the time and effort that you and the Grand Jury spent considering these matters. We trust that the Grand Jury also appreciates the City time spent reviewing and responding to Grand Jury reports, particularly given Antioch's continued weekly furloughs and 33% staffing reductions. Pursuant to California Penal Code section 933.05, the City will respond to each finding and to each recommendation individually.

Findings

Finding #1: "The State of California's policy of transparency in government is embodied in the California Public Records Act (CPRA)."

The City agrees with this finding as to governmental records. One could also say that the State of California's policy of transparency as to governmental meetings and decisions is embodied in the Brown Act.

Finding #2: "Contra Costa County's policy of transparency in government has been strengthened by its adoption of the Better Government Ordinance."

The City agrees and partially disagrees with this finding. The City has not seen the County's ordinance nor has received any information regarding how the ordinance has changed the County's transparency. However, the City does not dispute that the Grand Jury has found that the ordinance enhances the County's transparency.

Finding #3: “Contra Costa County conducts periodic training of its employees regarding how to respond to requests for records under the CPRA and the Better Government Ordinance.”

The City agrees and partially disagrees with this finding as the Government Code does not provide the option of stating that the City cannot comment on this finding. Again, the City has not seen the County's ordinance, or their training program.

Finding #4: “The response to CPRA requests by departments reporting to the Board of Supervisors is generally timely and appropriate.”

The City agrees and partially disagrees with this finding as the Government Code does not provide the option of stating that the City cannot comment on this finding. The City has no directly knowledge of County department's responsiveness to Public Records Act requests.

Finding #5: “The response to CPRA by cities and special districts within Contra Costa County is uneven. Some entities are responsive, while others have delayed responses or fail to respond entirely.”

The City agrees with this finding. The City does not have direct knowledge of the practices of other public agencies, but it is not surprising that many agencies struggle to provide timely and complete responses to CPRA requests, especially given the reduced staffing most have experienced over the last several years.

Finding #6: “Employees of cities and some special districts who deal with CPRA requests are unfamiliar with the Act and the responsibilities of their agency when records are requested.”

The City agrees with this finding. Again, the City does not have direct knowledge of the practices of other public agencies, but it is not surprising that public employees have varying familiarity with the Public Records Act due to short staffing and employees being assigned multiple, varying duties.

Finding #7: “Among the most valuable documents that could be included on websites are: Statement of Economic Interests, Employment Contracts, Annual Audits, Travel and Entertainment reimbursements, and agendas and supporting documents for public meetings.”

The City agrees with this finding; although, there are certainly other valuable documents such as General Plans and budgets. We are unfamiliar with the concept of “Entertainment reimbursements”.

Recommendations

Recommendation #1: "Cities and special districts in Contra Costa County should consider adopting a policy similar to the Better Government Ordinance, expanding the right of the public to access public records."

The recommendation has not been implemented. At this time, the City of Antioch will simply continue to comply with the provisions of the CPRA.

Recommendation #2: "Cities and special districts in Contra Costa County should arrange for periodic training of employees who are responsible for responding to Public Records Act requests."

The recommendation has been implemented. The City of Antioch pursues and encourages training opportunities for our staff responsible for responding to CPRA requests.

Recommendation #3: "Cities and special districts should consider making certain public records that are clearly disclosable under the CPRA available on their website:

- a. Statements of Economic Interests
- b. Employment Contracts
- c. Annual Audits
- d. Travel and Entertainment reimbursements
- e. Agendas and supporting documents for public meetings."

The recommendation has been partially implemented. At this time, the City of Antioch makes the annual audits, travel reimbursements and agendas with supporting documents for public meetings available on our website. We do not reimburse employees or officials for entertainment. Meals are reimbursed under our travel and training policy. The employment agreements and the Statements of Economic Interests are not currently on our website, but will be reviewed for implementation within the next year.

We trust that the Grand Jury will find these responses helpful to its endeavor.

Sincerely yours,

Wade Harper
Mayor, City of Antioch

cc: Stephen D. Conlin, Contra Costa County Grand Jury Foreperson,
725 Court Street, Martinez, CA 94553
Steve Duran, City Manager
Lynn Tracy Nerland, City Attorney

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF JULY 22, 2014**

FROM: Michelle Fitzer, Administrative Services Director 

DATE: July 14, 2014

**SUBJECT: RESOLUTION APPROVING COMPREHENSIVE CLASSIFICATION
PLAN UPDATES FOR THE ANTIOCH POLICE OFFICERS'
ASSOCIATION (APOA) BARGAINING UNIT**

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving the comprehensive classification plan updates for the Antioch Police Officers' Association (APOA) bargaining unit.

BACKGROUND

As Council is aware, several years ago the City hired Johnson Associates to conduct a comprehensive classification review and update. When the economy began to deteriorate, this project was discontinued and left incomplete.

For several months, staff has been working on finalizing the comprehensive classification updates for all bargaining units. All of the Johnson drafts were reviewed again by management supervising each classification to ensure the description reflected the current City organizational structure and operational needs. Following that process, the respective bargaining unit representatives were provided with draft classification specifications for their unit. Staff has been meeting and corresponding with representatives from all of the bargaining units to discuss any questions or concerns they may have.

At this time, the APOA Unit has agreed to the amended specifications for their unit. Therefore, this item is brought before Council for consideration. This is the final bargaining unit comprehensive update, meaning the project is now complete. Any further amendments to classification specifications will be brought forward on a case-by-case basis, as needed.

FINANCIAL IMPACT

There are no salary changes associated with this action. Therefore, approving these amendments to the classification plan has no financial impact.

ATTACHMENTS

- A. Resolution Approving Amendments to the Classification Plan for APOA Bargaining Unit Classes

7/22/14

- B. Community Services Officer Draft Job Description
- C. Lead Police Dispatcher Draft Job Description
- D. Police Corporal Draft Job Description
- E. Police Dispatcher Draft Job Description
- F. Police Officer Draft Job Description
- G. Police Sergeant Draft Job Description

RESOLUTION NO. 2014/XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
APPROVING COMPREHENSIVE CLASSIFICATION PLAN UPDATES FOR THE
ANTIOCH POLICE OFFICERS' ASSOCIATION (APOA) BARGAINING UNIT**

WHEREAS, the City has an interest in updating the class specifications for classifications Citywide; and

WHEREAS, staff has been working on completing a comprehensive update of the classification system for several months; and

WHEREAS, department management have reviewed and updated the Johnson descriptions to reflect current organizational structure and operational needs; and

WHEREAS, representatives of the APOA Bargaining Unit have reviewed the draft specifications and agreed to the proposed changes.

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

Section 1. That the comprehensive classification plan updates for the Antioch Police Officers' Association (APOA) Bargaining Unit, specifications for which are attached hereto as Attachments "B" through "G", be approved and added to the City of Antioch Employees' Classification System; and

Section 2. That copies of this resolution be certified to all holders of the City of Antioch Employees' Classification System, and the Finance Director for budgetary purposes.

* * * * *

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 22nd day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

CITY OF ANTIOCH

COMMUNITY SERVICES OFFICER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

SUMMARY DESCRIPTION

Under general supervision, performs a wide variety of specialized and technical non-sworn law enforcement duties in support of Police Department operations and services including in the areas of responding to assigned calls for service, writing reports, crime scene investigation, evidence collection and storage, vehicle abatement, operating the City's temporary holding facility including prisoner booking and transportation, sex/arson/narcotic/gang registration, and other areas as assigned; provides information and assistance to the general public and answers citizen inquiries; and performs a variety of other non-sworn law enforcement, clerical, and administrative functions in support of Police Department services and activities not requiring Peace Officer status.

REPRESENTATIVE DUTIES

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

1. Perform a variety of specialized and technical non-sworn law enforcement duties in support of the Police Department including in the areas of responding to assigned calls for service, writing reports, crime scene investigation, evidence collection and storage, vehicle abatement, operating the City's temporary holding facility including prisoner booking and transportation, sex/arson/narcotic registration, and other areas as assigned.
2. Respond to non-emergency and/or cold calls for service in-lieu of a Police Officer; interview complainants; prepare necessary criminal and non-criminal police reports including non-injury accidents, grand/petty theft, ID theft, stolen/recovered vehicles, fraud, lost/stolen property, found property, vandalism/graffiti, and burglary reports; assist other agencies as required.
3. Operate the City's temporary holding facility; search and book prisoners; process prisoners for transport to the County jail or release; pick up and transport prisoners to and from various facilities including County jail, juvenile hall, state prison, and hospital; observe and watch inmates and prisoners at the County hospital; maintain updated status on subjects in custody; inspect the jail on a daily basis and ensure jail is maintained in a condition that meets State requirements.
4. Serve as Crime Scene Investigator; respond to major crimes including homicides, suspicious deaths, officer involved shootings, and other crime scenes as requested; identify, locate, document, collect, preserve, and package evidence at crime scenes; process evidence/vehicles towed to the Police Department; observe autopsies and collect evidence from victims; prepare report on collected and processed evidence; perform photography duties as requested.
5. Perform a variety of duties to enforce specific sections of the California Vehicle Codes regarding abandoned and stored vehicles on public streets; enforce City of Antioch

**CITY OF ANTIOCH
COMMUNITY SERVICES OFFICER (CONTINUED)**

municipal code regarding recreational vehicles; abate unlicensed, abandoned, or stored vehicles or recreational vehicles from the public roadways; cite unlicensed or unlawfully parked vehicles or recreational vehicles on the public roadway; retrieve messages from abandoned auto hotline; fingerprint vehicles that are recovered stolen; take photos of vehicles and RVs that meet certain criteria; prepare case reports for vehicles that are towed or stolen vehicles recovered.

6. Provide traffic control including at potentially hazardous situations, traffic accidents, crime scenes, fires, funerals, special events, and during power outages and weather related incidents.
7. Perform a variety of duties associated with the storage, maintenance, tracking, and control of Police property and evidence; collect all incoming evidence from temporary storage lockers and process property and evidence; compile all evidence to be entered into system; log all daily photos into specified drives and burn hard copy backup; log all evidence into system; compile evidence required to make lab runs and log out evidence for crime labs; deliver and pick up evidence at crime labs; compile and process all incoming District Attorney, defense, and private attorney requests; compile and process all incoming return to owner forms; return claimed property to citizens; maintain records from intake, through prosecution, to final disposition; purge all Police property and evidence according to state and local mandates; clean blood drying cabinets and evidence room and garages.
8. Assist on various cases; follow-up on runaway/missing adult cases; make phone calls; obtain DNA and dental records to send to state; confirm computer generated list of persons reported missing; follow-up on misdemeanor domestic reports including to pull related documents and research past incidents.
9. Provide information and assistance to the general public including to work at the front counter in the Police Department lobby; answer citizen inquiries, provide information, and respond to complaints and requests for services from other department staff, the general public, other law enforcement agencies, and other agencies; receive incident reports and police reports; assist citizens with miscellaneous form requests; perform ticket sign offs and vehicle releases.
10. Perform a variety of clerical and administrative functions in support of the Police Department services and activities; provide training to new personnel related to area of assignment; assist with special projects as assigned.
11. Register sex/arson/narcotic/gang registrants.
12. Fingerprint citizens for employment and licensing; perform livescan transmission.
13. Calibrate and maintain Preliminary Alcohol Screening Devices; send defective units out for repair as necessary.
14. Maintain various logs and records; gather information and prepare routine reports as assigned; enter, input, and retrieve a variety of information using a computer terminal.
15. Conduct background searches as required including those for massage therapists and card room dealers.
16. Appear in court to present evidence and testimony.

CITY OF ANTIOCH
COMMUNITY SERVICES OFFICER (CONTINUED)

17. Order and maintain supplies related to area of assignment; stock assigned vehicle.

18. Perform related duties as required.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

- Basic law enforcement theory, principles, and practices and their application to a wide variety of services and programs.
- Principles and techniques of traffic control.
- Basic interviewing methods and principles.
- Principles, practices, and safe work methods used in collecting, processing, logging, storing, and safeguarding evidence, property, and materials including hazardous materials.
- Pertinent federal, state, and local laws, codes, and regulations and department rules, policies, and procedures.
- Self defense principles and practices.
- Safe work methods and safety regulations pertaining to the work including officer safety standards and safe driving principles and practices.
- Modern office procedures, methods, and equipment including computers.
- Computer applications such as word processing, spreadsheet, and database applications.
- Automated law enforcement information systems and procedures.
- Public and agency desk procedures and methods for providing services and information including those related to collecting, maintaining, and releasing information, files, and documents.
- Law enforcement record keeping and records management principles, procedures, techniques, and equipment.
- Research and report writing techniques.
- Methods and techniques used in customer service and public relations.
- Principles of business letter writing and basic report preparation.
- English usage, spelling, grammar, and punctuation.
- Geographic features and locations within the area served.
- Standard broadcasting procedures of a police radio system.

Ability to:

- Perform a variety of non-sworn law enforcement activities; exercise independent judgment and work with a minimum of supervision.
- Learn methods and techniques related to basic police functions including those used in responding to assigned calls for service, writing reports, crime scene investigation, evidence collection and storage, vehicle abatement, prisoner booking and transportation, sex/arson/narcotic registrations, and related functions and programs.
- Understand the organization, operation, and services of the City, the Police Department, and of outside agencies as necessary to assume assigned responsibilities.
- Understand, interpret, and apply pertinent federal, state, and local codes, laws, and regulations including vehicle codes, penal codes, and municipal codes.
- Understand, interpret, and apply general and specific administrative and departmental policies, procedures, and guidelines.

**CITY OF ANTIOCH
COMMUNITY SERVICES OFFICER (CONTINUED)**

- Prepare clear, concise, factual, and thorough reports and statements.
- Prepare, maintain, file, and index a variety of reports, records, and other written materials.
- Direct and control traffic during special events or other emergency situations.
- Operate and use modern office equipment including a computer and various software packages.
- Operate specialized automated law enforcement information and communication systems including public safety computer systems to access and maintain data.
- Operate assigned vehicle in a safe manner.
- Use and operate assigned tools and equipment including portable radio, camera, and evidence/fingerprint kit.
- Exercise good judgment in maintaining critical and sensitive information, records, and reports.
- Use sound judgment in following and applying appropriate laws, regulations, policies, and procedures.
- Analyze situations and adopt a course of action.
- Exercise tact and judgment in responding to inquiries and resolving complaints and problems.
- Remain calm under emergency situations.
- Deal tactfully and courteously with the public and law enforcement personnel.
- Respond to requests and inquiries from the general public.
- Work under steady pressure with frequent interruptions and a high degree of public contact by phone or in person.
- Organize and prioritize work assignments.
- Understand and follow oral and written instructions.
- Type and enter data accurately at a speed necessary for successful job performance.
- Work varied hours including evenings, weekends, and holidays.
- Demonstrate an awareness and appreciation of the cultural diversity of the community.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain effective working relationships with those contacted in the course of work.

Education and Experience Guidelines

Education/Training:

Graduation from high school or equivalent. Additional specialized training in law enforcement, criminal justice, or a related field is desirable.

Experience:

Two years of increasingly responsible clerical, code enforcement, or related experience that includes a high level of public contact. Prior law enforcement experience is desirable.

License or Certificate:

Possession of an appropriate, valid California driver's license and a satisfactory driving record are a condition of hire. A satisfactory driving record is one absent of misdemeanor convictions or multiple infraction convictions. Loss of a driver's license and/or an unsatisfactory driving record may result in employee discipline, up to and including termination.

Criminal Record:

Community Services Officers shall not have been convicted of any felony. A misdemeanor conviction may result in applicant disqualification and employee disciplinary action, up to and including termination. A complete background investigation will be conducted prior to hire.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed in an office and field setting; travel from site to site; exposure to inclement weather conditions; some exposure to fumes, airborne particles, and toxic or caustic chemicals; some exposure to moving mechanical parts; extensive public contact; the noise level in the work environment is usually moderate but may be very loud due to sirens, etc; may be required to work evenings, weekends and split shifts.

Physical: Primary functions require sufficient physical ability and mobility to work in an office and field setting; to walk, stand, or sit for prolonged periods of time; occasionally stoop, bend, kneel, crouch, reach, and twist; occasionally climb and balance; regularly push, pull, lift, and/or carry light to moderate weights; frequently lift and/or move moderate to heavy weights; occasionally lift and/or move heavy weights; operate law enforcement and general office equipment requiring repetitive hand movement and fine coordination; requires a sense of touch, finger dexterity, and gripping with hands and fingers; ability to operate a vehicle to travel to various locations; and to verbally communicate to exchange information.

FLSA: Non-Exempt

Revised: August 2001; July 2014

This class specification identifies the essential functions typically assigned to positions in this class. Other duties not described may be assigned to employees in order to meet changing business needs or staffing levels but will be reasonably related to an employee's position and qualifications. Other duties outside of an individual's skill level may also be assigned on a short term basis in order to provide job enrichment opportunities or to address emergency situations.

LEAD POLICE DISPATCHER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

SUMMARY DESCRIPTION

Under direction, leads, oversees, and participates in the more complex and difficult work of staff responsible for performing a variety of duties involved in receiving, evaluating, prioritizing, and relaying information for emergency and non-emergency calls for service for the cities of Antioch and Brentwood, as well as Antioch Animal Control; inputs calls into CAD (computer aided dispatch); dispatches appropriate units and coordinates response of emergency personnel; operates a variety of telecommunications equipment including radio, telephone, and computer aided dispatch systems; performs a wide variety of specialized clerical duties involved in the preparation, maintenance, and release of materials related to law enforcement activities; and performs a variety of technical and administrative tasks relative to assigned areas of responsibility.

REPRESENTATIVE DUTIES

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

1. Lead, plan, train, supervise, and review the work of staff responsible for performing duties related to the operation of the dispatch center; participate in performing the work of the unit and perform the most complex work of the unit including addressing technical issues and making operational decisions in coordination with supervisory and management staff.
2. Train assigned employees in their areas of work including emergency dispatch methods, procedures, and techniques.
3. Assist in coordinating the scheduling of dispatch center staff; ensure all shifts are sufficiently covered.
4. Provide a variety of staff and administrative assistance related to the dispatch center; attend staff meetings and work with supervisory and management staff to resolve issues related to dispatch; perform special projects as assigned including researching training opportunities and developing dispatch related policies and procedures.
5. Perform the full range of Police Dispatcher duties; receive, classify, and prioritize all incoming calls to the dispatch center including 9-1-1 calls, emergency, and non-emergency calls received from citizens and allied agencies requesting service or information; operate a variety of public safety communications equipment including 9-1-1 emergency telephone equipment, computer aided dispatch systems, and multi-channel radio system.
6. Evaluate response necessary as dictated by a given request for service; determine nature, location, and priority of calls; operate computer aided dispatch system to create calls for service within response criteria guidelines; assign and dispatch personnel in accordance with policies and procedures; transfer calls to other appropriate agency in accordance with established procedures; obtain and dispatch other support services as necessary.

**CITY OF ANTIOCH
LEAD POLICE DISPATCHER (CONTINUED)**

7. Maintain contact with all units on assignment; maintain status and location of field units; monitor multiple radio frequencies; relay emergency and non-emergency information to public safety personnel in the field.
8. Retrieve information from local, state, and national computer networks regarding wanted persons, stolen property, vehicle registration, stolen vehicles, restraining orders, criminal histories, parolees, and other related information; relay information to officers in the field.
9. Operate computer terminals to enter, modify, and retrieve data such as stolen and recovered property, towed and stolen vehicles, missing and unidentified persons, citations, field interviews, driver license and vehicle registration information, and warrants on wanted persons; compose and transmit messages to other agencies.
10. Enter and remove data and information from various local, statewide, and national law enforcement computer systems including the Records Management System (RMS), Criminal Justice Information System (CJIS), and National Crime Information Center (NCIC); provide support to officers by gathering information from various computer systems including DMV, CLETS, and the County's system.
11. Prepare CD recordings of radio and telephone transmission for evidence use and for training purposes.
12. Maintain various logs and records of activities including call-outs, tow requests, tape requests, and equipment repair.
13. Notify and dispatch Antioch and Brentwood Public Works staff, and Antioch Animal Control Officers for after hours call outs.
14. Monitor the County Warning Systems Computer (CWS).
15. Monitor the County CLERS Channel.
16. Monitor the security cameras and security doors inside and surrounding the Antioch Police Department.
17. Represent the department and the Communications unit at public events.
18. Testify in court.
19. Perform related duties as required.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

- Principles of lead supervision and training.
- Operations, services, and activities of a public safety telecommunications and dispatch center.
- Operational characteristics of modern public safety telecommunications equipment including computer aided dispatch systems and multi-channel radio systems.

CITY OF ANTIOCH
LEAD POLICE DISPATCHER (CONTINUED)

- Law enforcement and emergency service procedures for responding to and handling reported incidents.
- Techniques of questioning for both emergency and non-emergency calls.
- Methods and techniques of receiving, prioritizing, and dispatching emergency and non-emergency calls for service.
- Radio codes currently used by the Police Department.
- Functions of the Police Department and other City departments.
- Geographic features and locations within the area served.
- English usage, spelling, grammar, and punctuation.
- Modern office procedures, methods, and computer equipment.
- Pertinent federal, state, and local laws, codes, and regulations.
- Methods and techniques of telephone etiquette.
- Methods and techniques of conflict resolution.
- Principles and procedures of record keeping.

Ability to:

- Lead, organize, and review the work of dispatch center staff.
- Independently perform the most difficult work related to the area of work assigned including technical and administrative duties.
- Assist in the technical and functional supervision of the dispatch center.
- Provide one-on-one training of new dispatchers.
- Interpret, explain, and enforce department policies and procedures.
- Respond to and resolve difficult and sensitive citizen inquiries and complaints.
- Effectively communicate and elicit information from upset and irate callers.
- Speak clearly and concisely in an understandable voice via radio and telephone and in person.
- Hear and distinguish radio voice traffic within normal levels and over background noise.
- Make independent decisions that affect the safety of public safety personnel, citizens, and property such as those involved in determining the urgency of requests received and the appropriate action to take.
- Dispatch police units quickly and effectively.
- Think quickly, calmly, and clearly in emergency situations.
- Perform multiple tasks simultaneously.
- Operate a variety of telecommunications receiving and transmitting equipment including radio transmitting communication equipment, teletype equipment, and computer equipment.
- Operate specialized public safety computer systems and applications.
- Read and interpret maps and other navigational resources and give directions.
- Type and enter data accurately at a speed of 40 net wpm.
- Work under pressure, exercise good judgment, and make sound decisions in emergency situations.
- Understand and follow oral and written instructions.
- Interpret, apply, and explain applicable federal, state and local policies, procedures, laws, codes and regulations including police records retention and dissemination policies and procedures.
- Maintain composure, alertness and concentration while working for extended periods of time.
- Compile, maintain, process, and prepare a variety of records and reports.
- Deal tactfully and courteously with the public reporting emergencies and seeking information or filing a report.

CITY OF ANTIOCH
LEAD POLICE DISPATCHER (*CONTINUED*)

- Maintain confidentiality.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain effective working relationships with those contacted in the course of work.

Education and Experience Guidelines

Education/Training:

Graduation from high school or equivalent, supplemented by successful completion of the P.O.S.T. basic dispatch course. Advanced training and certification in emergency dispatch procedures or operations is highly desirable.

Experience:

Three years of experience as a public safety dispatcher, comparable to a Police Dispatcher in the City of Antioch.

License or Certificate:

Possession of P.O.S.T. certification in Basic Police Dispatch.

Possession of an appropriate, valid California driver's license and a satisfactory driving record are a condition of hire. A satisfactory driving record is one absent of misdemeanor convictions or multiple infraction convictions. Loss of a driver's license and/or an unsatisfactory driving record may result in employee discipline, up to and including termination.

Criminal Record:

Lead Police Dispatchers shall not have been convicted of any felony. A misdemeanor conviction may result in applicant disqualification and employee disciplinary action, up to and including termination. A complete background investigation will be conducted prior to hire.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed in an office and/or emergency services dispatch center setting with extensive public contact; incumbents are required to work evening, night, weekend, and holiday shifts; incumbents may be called back or held over to maintain staffing levels.

Physical: Primary functions require sufficient physical ability and mobility to work in an office and emergency dispatch center setting; to stand or sit for prolonged periods of time; to occasionally stoop, bend, kneel, crouch, reach, and twist; to lift, carry, push, and/or pull light to moderate amounts of weight; to operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard and headset; and to verbally and audibly communicate to exchange information.

CITY OF ANTIOCH
LEAD POLICE DISPATCHER (*CONTINUED*)

FLSA: Non-Exempt

Created: August 1999
Revised: July 2014

This class specification identifies the essential functions typically assigned to positions in this class. Other duties not described may be assigned to employees in order to meet changing business needs or staffing levels but will be reasonably related to an employee's position and qualifications. Other duties outside of an individual's skill level may also be assigned on a short term basis in order to provide job enrichment opportunities or to address emergency situations.

POLICE CORPORAL

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

SUMMARY DESCRIPTION

Under minimum general supervision, to perform law enforcement and crime prevention work by selective assignments of a more difficult and complex nature; to act as an assistance supervisor to a Patrol Sergeant and act for the Sergeant in his/her absence; to function as an assistant to the investigation Sergeant and to assume command in his/her absence; to carry out the duties and responsibilities of traffic bureau Sergeant and to perform responsible, technical assignments in specialized fields of law enforcement.

REPRESENTATIVE DUTIES

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

1. Assists in supervising police and traffic patrol and law enforcement activities during an assigned shift.
2. As directed by the Sergeant, directs and supervises subordinate personnel; in the absence of shift Sergeant assumes the duties of the Sergeant.
3. Patrols in a radio car; answers calls for protection of life and property, and the enforcement of City, County, and State laws.
4. As assigned by supervisors, to handle those selective situations which require special ability.
5. May be assigned to evidence, training, investigations, or other administrative assignments.
6. As directed, supervise or participate in taking of photographs, lifting latent fingerprints, collecting and preserving evidence at the scene of crimes and traffic accidents; At the direction of the Sergeant, supervise the collection of evidence and statements during higher priority calls.
7. Appears in court to present evidence and testimony.
8. May be assigned as supervisor of traffic bureau; enforces traffic laws and issues citations; may conduct special studies of traffic problems and recommend or initiate corrective action.
9. Investigates crimes, accidents, deaths and disturbances; gathers evidence; interviews, questions and takes statements from complainants, suspects and witnesses; completes case reports; may supervise criminal investigations, as directed by the Sergeant.

**CITY OF ANTIOCH
POLICE CORPORAL (CONTINUED)**

10. Assists in or may supervise the City jail, including identifying maintenance issues, and security of prisoners.
11. At the direction of the Sergeant, coordinate tactical responses to higher priority calls and coordinate with allied agencies.
12. Inform the Sergeant of critical information throughout the shift.
13. Review and correct Police reports.
14. Review and correct citizens online reports, and disseminate accordingly.
15. Gives information and directions to the public.
16. Performs duties as assigned in preparation for the defense of the City in civil actions.
17. Perform related duties as required.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

- Basic law enforcement theory, principles, and practices and their application to a wide variety of services and programs.
- Principles and techniques of traffic control.
- Basic interviewing methods and principles.
- Principles, practices, and safe work methods used in collecting, processing, logging, storing, and safeguarding evidence, property, and materials including hazardous materials.
- Pertinent federal, state, and local laws, codes, and regulations and department rules, policies, and procedures.
- Self defense principles and practices.
- Safe work methods and safety regulations pertaining to the work including officer safety standards and safe driving principles and practices.
- Modern office procedures, methods, and equipment including computers.
- Computer applications such as word processing, spreadsheet, and database applications.
- Automated law enforcement information systems and procedures.
- Public and agency desk procedures and methods for providing services and information including those related to collecting, maintaining, and releasing information, files, and documents.
- Law enforcement record keeping and records management principles, procedures, techniques, and equipment.
- Research and report writing techniques.
- Methods and techniques used in customer service and public relations.
- Principles of business letter writing and basic report preparation.

**CITY OF ANTIOCH
POLICE CORPORAL (CONTINUED)**

- English usage, spelling, grammar, and punctuation.
- Geographic features and locations within the area served.
- Standard broadcasting procedures of a police radio system.

Ability to:

- Observe accurately and remember names, faces, numbers, incidents and places.
- Use and care for firearms.
- Think and act quickly in emergencies, and to judge situations and people accurately.
- Operate a police radio and keyboard terminals.
- Understand and interpret laws and regulations.
- Perform specific assignments with minimal oral or written directions.
- Prepare clear, concise and comprehensive written reports.
- Deal courteously and effectively with the general public and departmental employees.
- Meet standards of adequate physical stature, endurance, and agility.
- Demonstrate practical knowledge of good understanding of human relations.
- Schedule, organize and supervise the work of subordinates.
- Interpret and apply laws and regulations.

Education and Experience Guidelines

Education/Training:

Graduation from high school or equivalent, augmented by appropriately oriented academic training and/or in-service training to develop broad understanding of practical human relations.

Experience:

At least four years' experience as a Police Officer; must have completed a Police Officer probationary period with the City of Antioch. In the event it is determined that an open recruitment is required, the City and APOA will meet and discuss.

License or Certificate:

A valid California Motor Vehicle Operator's License and a satisfactory driving record are a condition of hire. A satisfactory driving record is one absent of misdemeanor convictions or multiple infraction convictions. Loss of a driver's license and/or an unsatisfactory driving record may result in employee discipline, up to and including termination.

Possession of a POST Intermediate certificate.

Criminal Record:

Corporals shall not have been convicted of any felony. A misdemeanor conviction may result in applicant disqualification and employee disciplinary action, up to and including termination. A complete background investigation will be conducted.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed primarily in a field setting, with some work in an office environment; travel from site to site; extensive periods of sitting in patrol vehicle; exposure to inclement weather conditions; some exposure to fumes, airborne particles, and toxic or caustic chemicals; some exposure to moving mechanical parts; extensive public contact; the noise level in the work environment is usually moderate but may be very loud due to sirens, etc; may be required to work evenings, weekends and holidays.

Physical and Mental Condition: Primary functions require sufficient physical ability and mobility to work in an office and field setting; Normal hearing acuity; proportional weight to height; sound physical, mental and emotional health; normal color vision and visual functions, including no abnormalities or diseases which adversely affect the performance of duty, and visual acuity of not less than 20/40 vision in each eye without correction and corrected to not less than 20/20 in each eye; absence of a history of psychosis or psychoneurosis or other disabling defects. Must be able to perform the essential functions of the job. External candidates must complete physical, psychological and medical examinations.

FLSA: Non-Exempt

Revised: July 2014

This class specification identifies the essential functions typically assigned to positions in this class. Other duties not described may be assigned to employees in order to meet changing business needs or staffing levels but will be reasonably related to an employee's position and qualifications. Other duties outside of an individual's skill level may also be assigned on a short term basis in order to provide job enrichment opportunities or to address emergency situations.

POLICE DISPATCHER

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

SUMMARY DESCRIPTION

Under general supervision, performs a variety of duties involved in receiving, evaluating, prioritizing, and relaying 9-1-1, emergency, and non-emergency calls for service for the cities of Antioch and Brentwood, as well as Antioch Animal Control; inputs calls into CAD (computer aided dispatch); dispatches appropriate units and coordinates response of emergency personnel; operates a variety of telecommunications equipment including radio, telephone, and computer aided dispatch systems; and performs a wide variety of specialized clerical duties involved in the preparation, maintenance, and release of materials related to law enforcement activities.

REPRESENTATIVE DUTIES

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

1. Receive, classify, and prioritize all incoming calls to the dispatch center including 9-1-1 calls, emergency, and non-emergency calls received from citizens and allied agencies requesting service or information; operate a variety of public safety communications equipment including 9-1-1 emergency telephone equipment, computer aided dispatch systems, and multi-channel radio system.
2. Evaluate response necessary as dictated by a given request for service; determine nature, location, and priority of calls; operate computer aided dispatch system to create calls for service within response criteria guidelines; assign and dispatch personnel in accordance with policies and procedures; transfer calls to other appropriate agency in accordance with established procedures; obtain and dispatch other support services as necessary.
3. Maintain contact with all units on assignment; maintain status and location of field units; monitor multiple radio frequencies; relay emergency and non-emergency information to public safety personnel in the field.
4. Retrieve information from local, state, and national computer networks regarding wanted persons, stolen property, vehicle registration, stolen vehicles, restraining orders, criminal histories, parolees, and other related information; relay information to officers in the field.
5. Operate computer terminals to enter, modify, and retrieve data such as stolen and recovered property, towed and stolen vehicles, missing and unidentified persons, citations, field interviews, driver license and vehicle registration information, and warrants on wanted persons; compose and transmit messages to other agencies.
6. Enter and remove data and information from various local, statewide, and national law enforcement computer systems including the Records Management System (RMS), Criminal Justice Information System (CJIS), and National Crime Information Center (NCIC); provide support to officers by gathering information from various computer systems including DMV, CLETS, and the County's system.

CITY OF ANTIOCH
POLICE DISPATCHER (CONTINUED)

7. Notify and dispatch Antioch and Brentwood Public Works staff, and Antioch Animal Control Officers for after hours call outs.
8. Monitor the County Warning Systems Computer (CWS).
9. Monitor the County CLERS Channel.
10. Monitor the security cameras and security doors inside and surrounding the Antioch Police Department.
11. Testify in court.
12. Perform related duties as required.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

- Operations, services, and activities of a public safety telecommunications and dispatch center.
- Operational characteristics of modern public safety telecommunications equipment including computer aided dispatch systems and multi-channel radio systems.
- Law enforcement and emergency service procedures for responding to and handling reported incidents.
- Techniques of questioning for both emergency and non-emergency calls.
- Methods and techniques of receiving, prioritizing, and dispatching emergency and non-emergency calls for service.
- Radio codes currently used by the Police Department.
- Functions of the Police Department and other City departments.
- Geographic features and locations within the area served.
- English usage, spelling, grammar, and punctuation.
- Modern office procedures, methods, and computer equipment.
- Pertinent federal, state, and local laws, codes, and regulations.
- Methods and techniques of telephone etiquette.
- Methods and techniques of conflict resolution.
- Principles and procedures of record keeping.

Ability to:

- Respond to and resolve difficult and sensitive citizen inquiries and complaints.
- Effectively communicate and elicit information from upset and irate callers.
- Speak clearly and concisely in an understandable voice via radio and telephone and in person.
- Hear and distinguish radio voice traffic within normal levels and over background noise.
- Make independent decisions that affect the safety of public safety personnel, citizens, and property such as those involved in determining the urgency of requests received and the appropriate action to take.
- Dispatch police units quickly and effectively.
- Think quickly, calmly, and clearly in emergency situations.
- Perform multiple tasks simultaneously.

**CITY OF ANTIOCH
POLICE DISPATCHER (CONTINUED)**

- Operate a variety of telecommunications receiving and transmitting equipment including radio transmitting communication equipment, teletype equipment, and computer equipment.
- Operate specialized public safety computer systems and applications.
- Read and interpret maps and other navigational resources and give directions.
- Type and enter data accurately at a speed of 40 net wpm.
- Work under pressure, exercise good judgment, and make sound decisions in emergency situations.
- Understand and follow oral and written instructions.
- Interpret, apply, and explain applicable federal, state and local policies, procedures, laws, codes and regulations including police records retention and dissemination policies and procedures.
- Maintain composure, alertness and concentration while working for extended periods of time.
- Compile, maintain, process, and prepare a variety of records and reports.
- Deal tactfully and courteously with the public reporting emergencies and seeking information or filing a report.
- Maintain confidentiality.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain effective working relationships with those contacted in the course of work.

Education and Experience Guidelines

Education/Training:

Graduation from high school or equivalent, supplemented by successful completion of the basic dispatcher course.

Experience:

Some experience in a law enforcement agency in the capacity of public safety dispatcher that included utilization of a computer aided dispatch system to perform job duties is desirable.

License or Certificate:

Possession of, or ability to obtain, P.O.S.T. certification in Basic Police Dispatch.

Possession of an appropriate, valid California driver's license and a satisfactory driving record are a condition of hire. A satisfactory driving record is one absent of misdemeanor convictions or multiple infraction convictions. Loss of a driver's license and/or an unsatisfactory driving record may result in employee discipline, up to and including termination.

Criminal Record:

Police Dispatchers shall not have been convicted of any felony. A misdemeanor conviction may result in applicant disqualification and employee disciplinary action, up to and including termination. A complete background investigation will be conducted prior to hire.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed in an office and/or emergency services dispatch center setting with extensive public contact; incumbents are required to work evening, night, weekend, and holiday shifts; incumbents may be called back or held over to maintain staffing levels.

Physical: Primary functions require sufficient physical ability and mobility to work in an office and emergency dispatch center setting; to stand or sit for prolonged periods of time; to occasionally stoop, bend, kneel, crouch, reach, and twist; to lift, carry, push, and/or pull light to moderate amounts of weight; to operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard and headset; and to verbally and audibly communicate to exchange information.

FLSA: Non-Exempt

Created: December 1989
Revised: July 2014

This class specification identifies the essential functions typically assigned to positions in this class. Other duties not described may be assigned to employees in order to meet changing business needs or staffing levels but will be reasonably related to an employee's position and qualifications. Other duties outside of an individual's skill level may also be assigned on a short term basis in order to provide job enrichment opportunities or to address emergency situations.

POLICE OFFICER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

SUMMARY DESCRIPTION

Under general supervision, a Police Officer protects persons and property, provides law enforcement, maintains order, controls traffic, prevents crime and juvenile delinquency, conducts investigations, handles jail and desk duties; performs related duties as required. Positions in this class are occupied by sworn police officers. Officers may be armed and may be assigned to work in uniform or plain clothes. Shift schedules may be changed periodically and job assignments may be rotated among patrol, traffic control, criminal and juvenile investigation and administrative services. The duties require initiative, resourcefulness, analytical skills and the ability to adopt a quick, effective and responsible course of action in emergencies. The work involves frequent contact with the public, often in situations where relations may be strained.

REPRESENTATIVE DUTIES

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

1. Patrols an assigned area by car, motorcycle, or foot to observe, investigate, and report suspicious and hazardous conditions.
2. Apprehends and arrests law violators.
3. Responds to routine and emergency calls for protection of persons and property, and for the enforcement of City ordinances and State laws.
4. Investigates crimes, accidents, deaths and disturbances; gathers evidence; interviews, questions and takes statements from complainants, suspects and witnesses; completes case reports.
5. Takes charge of juveniles and delinquents and works on cases involving unfit homes and crimes committed against or by juveniles.
6. Handles missing persons' cases and works with community organizations and governmental agencies in delinquencies and delinquency control programs.
7. Directs traffic, including regulation of vehicle flow at times of emergency or congestion; stops drivers who are operating vehicles in violation of laws and issues citations.
8. Appears in court to present evidence and testimony.
9. Searches, guards, transports and assists in the booking and custodial care of prisoners.

**CITY OF ANTIOCH
POLICE OFFICER (CONTINUED)**

10. Serves writs, warrants, subpoenas and other legal documents.
11. May be assigned to assist in conducting special studies related to the Police Department.
12. May be assigned to evidence, training, investigations or other administrative assignments.
13. Provides information and direction to the public and assists in developing community crime prevention programs.
14. May speak before business, school, civic and social groups.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

- Basic law enforcement theory, principles, and practices and their application to a wide variety of services and programs.
- Principles and techniques of traffic control.
- Basic interviewing methods and principles.
- Principles, practices, and safe work methods used in collecting, processing, logging, storing, and safeguarding evidence, property, and materials including hazardous materials.
- Pertinent federal, state, and local laws, codes, and regulations and department rules, policies, and procedures.
- Self defense principles and practices.
- Safe work methods and safety regulations pertaining to the work including officer safety standards and safe driving principles and practices.
- Modern office procedures, methods, and equipment including computers.
- Computer applications such as word processing, spreadsheet, and database applications.
- Automated law enforcement information systems and procedures.
- Public and agency desk procedures and methods for providing services and information including those related to collecting, maintaining, and releasing information, files, and documents.
- Law enforcement record keeping and records management principles, procedures, techniques, and equipment.
- Research and report writing techniques.
- Methods and techniques used in customer service and public relations.
- Principles of business letter writing and basic report preparation.
- English usage, spelling, grammar, and punctuation.
- Geographic features and locations within the area served.
- Standard broadcasting procedures of a police radio system.

Ability to:

- Observe accurately and remember names, faces, numbers, incidents and places.
- Think and act quickly in emergencies.
- Judge situations and people accurately.
- Learn standard operating procedures of a police radio and keyboard terminals.
- Understand and interpret laws and regulations.
- Prepare clear, concise and comprehensive written reports.
- Achieve proficiency in self-defense techniques and the use and care of firearms.
- Follow oral and written instructions.
- Deal courteously and effectively with the general public.
- Show initiative, alertness, integrity and reliability.

Education and Experience Guidelines

Education/Training:

Graduation from high school or equivalent and must have completed a P.O.S.T. approved academy at time of appointment.

License or Certificate:

A valid California Motor Vehicle Operator's License and a satisfactory driving record are a condition of hire. A satisfactory driving record is one absent of misdemeanor convictions or multiple infraction convictions. Loss of a driver's license and/or an unsatisfactory driving record may result in employee discipline, up to and including termination.

Criminal Record:

Officers shall not have been convicted of any felony. A misdemeanor conviction may result in applicant disqualification and employee disciplinary action, up to and including termination. A complete background investigation will be conducted.

Age: 21 years at time of appointment.

Citizenship:

Must be a citizen of the United States or a permanent resident alien who is eligible for, and who has applied for, citizenship at least one year prior to application for employment.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed primarily in a field setting, with some work in an office environment; travel from site to site; extensive periods of sitting in patrol vehicle; exposure to inclement weather conditions; some exposure to fumes, airborne particles, and toxic or caustic chemicals; some exposure to moving mechanical parts; extensive public contact; the noise level in the work environment is usually moderate but may be very loud due to sirens, etc; may be required to work evenings, weekends and holidays.

CITY OF ANTIOCH
POLICE OFFICER (CONTINUED)

Physical and Mental Condition: Primary functions require sufficient physical ability and mobility to work in an office and field setting; Normal hearing acuity; proportional weight to height; sound physical, mental and emotional health; normal color vision and visual functions, including no abnormalities or diseases which adversely affect the performance of duty, and visual acuity of not less than 20/40 vision in each eye without correction and corrected to not less than 20/20 in each eye; absence of a history of psychosis or psychoneurosis or other disabling defects. Must be able to perform the essential functions of the job. The Officer must complete physical, psychological and medical examinations, as a condition of hire.

FLSA: Non-Exempt

Revised: July 2014

This class specification identifies the essential functions typically assigned to positions in this class. Other duties not described may be assigned to employees in order to meet changing business needs or staffing levels but will be reasonably related to an employee's position and qualifications. Other duties outside of an individual's skill level may also be assigned on a short term basis in order to provide job enrichment opportunities or to address emergency situations.

POLICE SERGEANT

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

SUMMARY DESCRIPTION

Under general direction, to have responsible charge of patrol and law enforcement operations on an assigned shift; to perform responsible technical duties in a specialized field of law enforcement; and to do related work as required.

REPRESENTATIVE DUTIES

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

1. Supervises a patrol, traffic or investigative shift; conduct daily shift briefings.
2. Directs and supervises subordinate personnel; evaluate staffing needs of assigned shift.
3. As directed, performs administrative investigations.
4. Supervise and participate in: investigating crimes, accidents, deaths and disturbances; gathering evidence; interviewing, questioning and taking statements from complainants, suspects and witnesses; completing case reports.
5. Supervises or gathers evidence at the scene of crimes and traffic accidents.
6. Apprehends violators; issues citations; conducts special studies.
7. Performs criminal identification work, including analyzing physical evidence.
8. Appears in court to present evidence and testimony.
9. May be assigned to evidence, training, investigations, or other administrative assignments.
10. Supervises the City jail, including identifying maintenance issues, and security of prisoners.
11. Patrols in a radio car; responds to and supervises higher priority calls; coordinates with allied agencies.
12. Reviews and corrects police reports; monitors police report activity and completion.
13. Prepares reports and recognizes maintenance needs in the police facility or equipment.
14. As directed, conduct inspections.

**CITY OF ANTIOCH
POLICE SERGEANT (CONTINUED)**

15. Performs duties as assigned in preparation for the defense of the City in civil actions.
16. Perform related duties as required.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

- Basic law enforcement theory, principles, and practices and their application to a wide variety of services and programs.
- Principles and techniques of traffic control.
- Basic interviewing methods and principles.
- Principles, practices, and safe work methods used in collecting, processing, logging, storing, and safeguarding evidence, property, and materials including hazardous materials.
- Pertinent federal, state, and local laws, codes, and regulations and department rules, policies, and procedures.
- Self defense principles and practices.
- Safe work methods and safety regulations pertaining to the work including officer safety standards and safe driving principles and practices.
- Modern office procedures, methods, and equipment including computers.
- Computer applications such as word processing, spreadsheet, and database applications.
- Automated law enforcement information systems and procedures.
- Public and agency desk procedures and methods for providing services and information including those related to collecting, maintaining, and releasing information, files, and documents.
- Law enforcement record keeping and records management principles, procedures, techniques, and equipment.
- Research and report writing techniques.
- Methods and techniques used in customer service and public relations.
- Principles of business letter writing and basic report preparation.
- English usage, spelling, grammar, and punctuation.
- Geographic features and locations within the area served.
- Standard broadcasting procedures of a police radio system.
- Principles of supervision, training, and performance evaluation.

Ability to:

- Become competent in a specialized field of law enforcement, as assigned by administrative personnel.
- Observe accurately and remember names, faces, numbers, incidents and places.
- Use and care for firearms.
- Think and act quickly in emergencies, and to judge situations and people accurately.
- Operate a police radio and keyboard terminals.
- Understand and interpret laws and regulations.
- Perform specific assignments with minimal oral or written directions.
- Prepare clear, concise and comprehensive written reports.

CITY OF ANTIOCH
POLICE SERGEANT (CONTINUED)

- Deal courteously and effectively with the general public and departmental employees.
- Meet standards of adequate physical stature, endurance, and agility.
- Demonstrate practical knowledge of good understanding of human relations.
- Schedule, organize and supervise the work of subordinates.
- Interpret and apply laws and regulations.

Education and Experience Guidelines

Education/Training:

Graduation from high school or equivalent and any combination of education/experience equivalent to graduation from a two-year college, with preference given to Administration of Justice or a related field.

Experience:

At least four years' experience as a Police Officer, three of which shall be with the Antioch Police Department. In the event it is determined that an open recruitment is required, the City and APOA will meet and discuss.

License or Certificate:

A valid California Motor Vehicle Operator's License and a satisfactory driving record are a condition of hire. A satisfactory driving record is one absent of misdemeanor convictions or multiple infraction convictions. Loss of a driver's license and/or an unsatisfactory driving record may result in employee discipline, up to and including termination.

Possession of a POST Intermediate certificate.

Possession of a POST Supervisory certificate within three (3) years of appointment.

Criminal Record:

Sergeants shall not have been convicted of any felony. A misdemeanor conviction may result in applicant disqualification and employee disciplinary action, up to and including termination. A complete background investigation will be conducted.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed primarily in a field and office setting; travel from site to site; may have extensive periods of sitting in patrol vehicle; exposure to inclement weather conditions; some exposure to fumes, airborne particles, and toxic or caustic chemicals; some exposure to moving mechanical parts; extensive public contact; the noise level in the work environment is usually moderate but may be very loud due to sirens, etc; may be required to work evenings, weekends and holidays.

CITY OF ANTIOCH
POLICE SERGEANT (CONTINUED)

Physical and Mental Condition: Primary functions require sufficient physical ability and mobility to work in an office and field setting; Normal hearing acuity; proportional weight to height; sound physical, mental and emotional health; normal color vision and visual functions, including no abnormalities or diseases which adversely affect the performance of duty, and visual acuity of not less than 20/40 vision in each eye without correction and corrected to not less than 20/20 in each eye; absence of a history of psychosis or psychoneurosis or other disabling defects. Must be able to perform the essential functions of the job. External candidates must complete physical, psychological and medical examinations.

FLSA: Non-Exempt

Revised: July 2014

This class specification identifies the essential functions typically assigned to positions in this class. Other duties not described may be assigned to employees in order to meet changing business needs or staffing levels but will be reasonably related to an employee's position and qualifications. Other duties outside of an individual's skill level may also be assigned on a short term basis in order to provide job enrichment opportunities or to address emergency situations.

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF JULY 22, 2014**

FROM: Michelle Fitzner, Administrative Services Director



DATE: July 14, 2014

**SUBJECT: RESOLUTION APPROVING THE POLICE TRAINEE CLASS
SPECIFICATION**

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving the Police Trainee class specification.

BACKGROUND

Now that the Antioch Police Officers' Association (APOA) has agreed with their comprehensive classification plan updates, we are prepared to also bring forward the description for the Police Trainee class. The areas updated for the Police Officer classification have been mirrored in the Trainee. This is a temporary, unrepresented classification so there is no bargaining unit review.

FINANCIAL IMPACT

There is no salary change associated with this action. Therefore, approving this amendment to the classification plan has no financial impact.

ATTACHMENTS

- A. Resolution Approving Amendments to the Classification Plan for APOA Bargaining Unit Classes
- B. Police Trainee Draft Job Description

7/22/14

RESOLUTION NO. 2014/XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
APPROVING THE POLICE TRAINEE CLASS SPECIFICATION**

WHEREAS, the City has an interest in updating the class specifications for classifications Citywide; and

WHEREAS, staff has been working on completing a comprehensive update of the classification system for several months; and

WHEREAS, department management have reviewed and updated the Johnson descriptions to reflect current organizational structure and operational needs; and

WHEREAS, the Police Trainee is a temporary, unrepresented classification and therefore there is no bargaining unit review.

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

Section 1. That the class specification of Police Trainee, attached hereto as Attachment "B", be approved and added to the City of Antioch Employees' Classification System; and

Section 2. That copies of this resolution be certified to all holders of the City of Antioch Employees' Classification System, and the Finance Director for budgetary purposes.

* * * * *

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 22nd day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

**ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH**

CITY OF ANTIOCH

POLICE TRAINEE

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

SUMMARY DESCRIPTION

Under close supervision participates in a comprehensive training program at a POST approved police academy.

This temporary class provides an opportunity for persons to achieve the academic and physical training required for appointment to the position of Police Officer. Appointment in this position is generally limited to the duration of the Police Academy. Academic progress and physical achievement are closely monitored during this training period. Upon successful completion and graduation from the Police Academy, trainees may be appointed to the position of probationary Police Officer. However, successful completion of the Police Academy and this training program does not provide for automatic appointment. Extension beyond the academy period may only be made upon express authorization of the Chief of Police.

WORKING CONDITIONS

Police Trainees are temporary employees assigned to the Police Department. Temporary employees are paid on an hourly basis and are not entitled to any of the fringe benefits applicable to regular employment. Temporary employment is subject to termination without appeal for any of the following reasons:

1. Failure to show acceptable progress while attending the Police Academy.
2. Failure to follow departmental rules, regulations or safety procedures.
3. Are found to be unacceptable for further employment.
4. Are no vacant positions of Police Officer.

City will furnish tuition costs, uniforms, safety equipment and materials required at the Police Academy.

There is no seniority provision within this classification and, therefore, seniority with the City and Police Department does not begin until the Trainee is appointed to probationary Police Officer status.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

- Basic law enforcement theory, principles, and practices and their application to a wide variety of services and programs.
- Principles and techniques of traffic control.

**CITY OF ANTIOCH
POLICE TRAINEE (CONTINUED)**

- Basic interviewing methods and principles.
- Principles, practices, and safe work methods used in collecting, processing, logging, storing, and safeguarding evidence, property, and materials including hazardous materials.
- Pertinent federal, state, and local laws, codes, and regulations and department rules, policies, and procedures.
- Self defense principles and practices.
- Safe work methods and safety regulations pertaining to the work including officer safety standards and safe driving principles and practices.
- Modern office procedures, methods, and equipment including computers.
- Computer applications such as word processing, spreadsheet, and database applications.
- Automated law enforcement information systems and procedures.
- Public and agency desk procedures and methods for providing services and information including those related to collecting, maintaining, and releasing information, files, and documents.
- Law enforcement record keeping and records management principles, procedures, techniques, and equipment.
- Research and report writing techniques.
- Methods and techniques used in customer service and public relations.
- Principles of business letter writing and basic report preparation.
- English usage, spelling, grammar, and punctuation.
- Geographic features and locations within the area served.
- Standard broadcasting procedures of a police radio system.

Ability to:

- Learn required knowledge, skills and abilities to be successful as a Police Officer.
- Observe accurately and remember names, faces, numbers, incidents and places.
- Think and act quickly in emergencies.
- Judge situations and people accurately.
- Learn standard operating procedures of a police radio and keyboard terminals.
- Understand and interpret laws and regulations.
- Prepare clear, concise and comprehensive written reports.
- Achieve proficiency in self-defense techniques and the use and care of firearms.
- Follow oral and written instructions.
- Deal courteously and effectively with the general public.
- Show initiative, alertness, integrity and reliability.

Education and Experience Guidelines

Education/Training:

Graduation from high school or equivalent.

License or Certificate:

A valid California Motor Vehicle Operator's License and a satisfactory driving record are a condition of hire and of continued employment. A satisfactory driving record is one absent of misdemeanor convictions or multiple infraction convictions. Loss of a driver's license and/or an unsatisfactory driving record may result in employee discipline, up to and including termination.

Criminal Record:

Trainees shall not have been convicted of any felony. A misdemeanor conviction may result in applicant disqualification and employee disciplinary action, up to and including termination.. A complete background investigation will be conducted.

Age: 20 years and 6 months at time of appointment.

Citizenship:

Must be a citizen of the United States or a permanent resident alien who is eligible for, and who has applied for, citizenship at least one year prior to application for employment.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed primarily in a classroom and field setting; may have extensive periods of sitting in class; extensive physical training; exposure to inclement weather conditions; some exposure to fumes, airborne particles, and toxic or caustic chemicals; some exposure to moving mechanical parts; extensive public contact; the noise level in the work environment is usually moderate but may be very loud due to sirens, etc.

Physical and Mental Condition: Primary functions require sufficient physical ability and mobility to work in an office and field setting; Normal hearing acuity; proportional weight to height; sound physical, mental and emotional health; normal color vision and visual functions, including no abnormalities or diseases which adversely affect the performance of duty, and visual acuity of not less than 20/40 vision in each eye without correction and corrected to not less than 20/20 in each eye; absence of a history of psychosis or psychoneurosis or other disabling defects. Must be able to perform the essential functions of the job. The Trainee must complete physical, psychological and medical examinations.

FLSA: Non-Exempt

Revised: July 2014

This class specification identifies the essential functions typically assigned to positions in this class. Other duties not described may be assigned to employees in order to meet changing business needs or staffing levels but will be reasonably related to an employee's position and qualifications. Other duties outside of an individual's skill level may also be assigned on a short term basis in order to provide job enrichment opportunities or to address emergency situations.

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR
CONSIDERATION AT THE MEETING OF JULY 22, 2014**

FROM: Ron Bernal, Public Works Director/City Engineer *REB*

DATE: July 15, 2014

SUBJECT: Bay Delta Conservation Plan (BDCP) Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and Implementation Agreement Comment Letters.

RECOMMENDATION

It is recommended that Council receive and file the staff report regarding the letters sent to National Marine Fisheries Service (NMFS) for the Bay Delta Conservation Plan (BDCP) Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS), and BDCP Draft Implementing Agreement.

BACKGROUND

City staff has been actively engaged in monitoring and commenting on State and Federal activities regarding the Sacramento-San Joaquin Delta since January 2007. Besides the drought, the single most important and controversial water issue currently facing Antioch and the State of California is the Bay Delta Conservation Plan (BDCP). The BDCP is a Habitat Conservation Plan (ESA)/Natural Communities Conservation Plan (CESA) that would provide 50-year ESA/CESA permits for Central Valley Project and State Water Project operations in the Delta to serve water exporters. The project would include new intake and conveyance facilities, and ecosystem restoration projects.

The proposed BDCP project includes construction of three 3,000 cubic feet per second (cfs) intakes in the northern Sacramento River and two 35-mile long, 40' diameter tunnels under the Delta to deliver a maximum of 9,000 cfs of water to San Joaquin Valley, Bay Area and Southern California water users currently receiving water from the South Delta pumps.

The draft environmental documents for the oft delayed project were released for review and comment in late 2013. With 40,000 pages of information and data, the BDCP comment period was extended in June when the Draft BDCP Implementing Agreement was released for review. The comment period for both documents closes on July 29, 2014. Attachment A is a letter from the City to NMFS, along with letters from the City's special legal counsel to NMFS and from the City's modeling consultant Flow Science to NMFS listing our concerns. Appendices C and D to that letter, which provide additional Flow Science technical analysis and voluminous historical reports, prior submittals, etc, can be found on the City's website under the City News and Announcements heading at www.ci.antioch.ca.us.

The BDCP Draft Implementing Agreement (IA) also has significant issues, which among others include failure to mitigate adverse impacts to Antioch's senior water rights, water

quality, financial condition, and quality of life of the City's residents. Attachment B is a letter from the City to NMFS listing our concerns.

DISCUSSION OF ANTIOCH'S ISSUES WITH THE BDCP

Antioch's primary issues with the BDCP Draft EIR/EIS and BDCP Draft Implementing Agreement are:

1. The BDCP Draft EIR/EIS does not meet the fundamental requirements of The California Environmental Quality Act (CEQA) or the National Environmental Protection Act (NEPA).
2. The technical analysis used in the documents is fundamentally flawed and underestimates the impacts of the project.
3. The project identifies significant impacts to the City's drinking water supply, quality and cost of service. It impacts the City's economy and quality of life for its residents.
4. The draft BDCP does not provide mitigation for significant impacts identified at Antioch.
5. The BDCP Draft EIR/EIS needs to be withdrawn, rewritten and recirculated to address the identified deficiencies.

FINANCIAL IMPACT

Future financial impacts to the City are still unknown at this time. Based on the assumption that the City's water quality and supply will be negatively impacted, the City could be forced to spend millions of dollars more each year purchasing supplemental water supplies from local water districts. These costs would have to be covered through existing rates with the very real possibility that rates would have to be increased. Therefore, the BDCP Draft EIR/EIS should properly analyze and provide adequate mitigation measures identified to address the impacts, including financial impacts to the City.

ATTACHMENTS

- A: BDCP Draft EIR/EIS Comment Letter to NMFS
Appendix A—Flow Science Technical Comment Letter
Appendix B—Matthew Emrick's Legal Comments
- B. BDCP Draft Implementing Agreement Letter to NMFS

ATTACHMENT "A"



July 17, 2014

Via email (BDCP.Comments@noaa.gov)

BDCP Comments
Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Subject: City of Antioch comments on the Draft Bay Delta Conservation Plan (BDCP) and associated Draft Environmental Impact Report and Environmental Impact Statement (EIR/EIS)

Dear Mr. Wulff:

The City of Antioch ("City") is submitting comments on the Bay-Delta Conservation Plan ("BDCP") and associated Environmental Impact Report/Environmental Impact Statement (EIR/EIS) during the public review period.

The City has reviewed the BDCP and the associated EIR/EIS and has found that not only are there significant adverse impacts to the City, but also that these documents are legally, factually, and scientifically flawed as described in detail within the documents attached to this cover letter. Even given the flaws in the document, it is clear that the Proposed Project will result in substantial impacts to the City's water supply, the City's financial condition, and the quality of life of the City's residents. The City does not believe that the EIR/EIS meets the fundamental purposes of CEQA or that these concerns can be addressed by responding to comments. Rather, the City asks that the EIR/EIS be withdrawn and reworked substantially.

Antioch has pre-1914 appropriative water rights. The City of Antioch, located along the San Joaquin River in the western portion of the Sacramento and San Joaquin River Delta ("Delta"), is one of the oldest towns in California. Since the 1860s, Antioch has obtained all or

part of its freshwater supply directly from its intake on the San Joaquin River (and from the tributary flow of the Sacramento River) pursuant to a pre-1914 appropriative water right with a priority of 1867.¹

BDCP will decrease the City's ability to use water at the City's intake. The BDCP project is expected to result in substantial impacts to the City, and no mitigation measures are proposed to address these impacts. The EIR/EIS indicates significant adverse impacts to the City's beneficial use of water and the City's ability to provide a reliable water supply to its citizens. As shown in **Appendices A and C**, DWR's model runs describing the proposed project show significant increases in salinity at the City's drinking water intake, and DWR's modeling shows conclusively that most salinity impacts are due to the BDCP project and not to sea level rise or other factors. For example, modeling of Alternative 4 Scenario H1 shows that the number of days Antioch will be able to use its intake during September is expected to decrease by 85%.

BDCP will cause significant impacts to recreation and the City's economy. As presently proposed, the BDCP will result in increased salinity in the western Delta, including at Antioch. Antioch's unique historic and cultural legacy within the Delta has been as a freshwater location for well over 100 years. Antioch is known as the gateway to the western Delta providing freshwater boating, recreation, and fishing. The BDCP has a detrimental effect on this sector of Antioch's economy. While the EIR/EIS recognizes the potential (primarily upstream) short-term impacts of construction on recreation, the EIR/EIS fails to adequately address the long-term impacts of the BDCP on recreation and fishing at Antioch. Further, the EIR/EIS fails to address any impacts that will be caused by higher salinity to public trust resources at Antioch, such as impacts to aesthetics, aquatic plant and wildlife, and navigation. See **Appendix B** for further details.

The BDCP analysis is technically deficient. As noted in **Appendix A**, the EIR/EIS analysis has several significant flaws and cannot be used to assess the significance of the impacts that will be caused by the project. The EIR/EIS uses a baseline model run that is not representative of existing conditions and that results in underestimating the impacts of the project. The "decision tree" that will be used to determine project operations (to select the appropriate operational scenario) has not yet been established. As a result, the City anticipates that impacts due to BDCP will be even worse than the impacts described as "significant and unavoidable" in the EIR/EIS.

¹ Antioch has vested pre-1914 water rights to water from the San Joaquin River as well as to the tributary flow of the Sacramento River via Georgiana and Three Mile Sloughs. This was determined as a matter of law by the California Supreme Court. Note also that information presented in **Appendix D** demonstrates conclusively that waters at Antioch prior to about 1918 were historically fresh, not saline.

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No mitigation is detailed to address significant impacts at Antioch. The proposed mitigation strategy to address increased salinity in the western Delta consists entirely of additional study. Study is not a mitigation measure but there are mitigation measures that should be part of the BDCP. The EIR/EIS states that the impact to salinity in the western Delta "is considered to remain significant and unavoidable" (EIR/EIS at p. 8-429).

Additional details on these comments, plus additional legal comments, are provided in **Appendices A** through **D** that accompany this letter.

The Proposed Project will result in unacceptable impacts to the City. In summary, our review of the BDCP, the EIR/EIS, and the model results describing the Proposed Project indicate that the Project will result in unacceptable impacts to the City and its 106,000 residents. "Significant and unavoidable" impacts are predicted for the City's water supply and water quality, and no mitigation is envisioned to address these impacts. As a result, the changes induced by the Proposed Project are expected to result in serious detrimental impacts to the City's water supply, financial condition, and quality and way of life.

The City appreciates the opportunity to provide comments and requests that the EIR/EIS be withdrawn and reworked substantially. The City looks forward to working with all parties and agencies responsible for the preparation of the BDCP and the EIR/EIS as our comments are addressed.

Sincerely,



Steve Duran,
City Manager

Encls: Appendix A: Flow Science technical comment letter
Appendix B: Matthew Emrick's legal comment letter
Appendix C: Additional technical analysis (Flow Science letterhead)
Appendix D: Historical reports, prior submittals, etc. (for the current record)
(Appendices by Regular Mail to Recipient Only)

cc: Felicia Marcus, State Water Resources Control Board
John Laird, California Secretary of Natural Resources
Senator Dianne Feinstein
Senator Barbara Boxer
Congressman John Garamendi
Congressman Jerry McNerney
Congressman George Miller
Senator Mark DeSaulnier
Senator Lois Wolk

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BDCP Comments
Ryan Wulff, NMFS
July 17, 2014
Page 4

Assemblymember Susan Bonilla
Assemblymember Jim Frazier
Karen Mitchoff, Chair, Contra Costa County Board of Supervisors
Antioch City Council
Lynn Tracy Nerland, City Attorney
Ron Bernal, Public Works Director/City Engineer

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APPENDIX A

Technical Comments on the BDCP and Associated EIR/EIS Letter
Prepared by Flow Science Incorporated

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Flow Science Incorporated

48 S. Chester Ave., Ste. 200, Pasadena, CA 91106

(626) 304-1134 • FAX (626) 304-9427



July 17, 2014

BDCP Comments
Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Via email: BDCP.Comments@noaa.gov

Subject: Appendix A to the City of Antioch Comment Letter
Technical comments on the Draft Bay Delta Conservation Plan (BDCP)
and associated Draft Environmental Impact Report and Environmental
Impact Statement (EIR/EIS)

Dear Mr. Wulff:

On behalf of the City of Antioch (the City), Flow Science is pleased to submit comments on the Bay-Delta Conservation Plan (BDCP) and Associated Environmental Impact Report/Environmental Impact Statement (EIR/EIS) during the public review period. These technical comments constitute **Appendix A** to the City's comment letter.

SUMMARY OF TECHNICAL COMMENTS

Flow Science has reviewed the BDCP Plan and EIR/EIS, and has evaluated the impacts that are likely to occur at the City of Antioch. Flow Science's key findings regarding the technical analysis presented in the EIR/EIS can be summarized as follows:

- The baseline condition ("Existing Conditions") scenario used to evaluate project impacts is flawed and inappropriate, and does not accurately represent current salinity conditions at Antioch. Use of an incorrect baseline conditions results in an understatement of the impacts of the BDCP Proposed Project.
- The BDCP Proposed Project will cause salinity at Antioch to increase significantly, and will significantly reduce the City's ability to use its intake to supply water within its service area. Contrary to assertions in the EIR/EIS, these impacts will result from the Proposed Project and not from sea level rise.

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- The BDCP Proposed Project assumes a change in water quality standards that has not yet happened and that would require State Water Board action. Given that historical, natural salinity in the western Delta was far lower than current levels, Antioch believes that changes in water quality standards would be inappropriate and detrimental to the health of the Delta.
- Because project operations have not been clearly defined, it is not possible to determine with any certainty the impacts of the Proposed Project.
- Mitigation for the significant impacts that are expected to occur at Antioch is not detailed within the EIR/EIS. The EIR/EIS finds that water quality impacts are “considered to remain significant and unavoidable.” Despite statements in the EIR/EIS that the assistance provided by BDCP proponents is intended to “fully offset” increased treatment or delivery costs, the BDCP and EIR/EIS suggest no concrete measures that will be implemented to accomplish this.

Additional detail is provided below and in **Appendix C** to the City’s comment letter.

BACKGROUND

As detailed in the City’s comment letter, the City is located along the San Joaquin River in the western portion of the Sacramento and San Joaquin River Delta (Delta). Since the 1860s, Antioch has obtained all or part of its freshwater supply directly from its intake on the San Joaquin River¹ pursuant to a pre-1914 appropriative water right with a priority of 1867.²

Contrary to incorrect statements contained in the EIR/EIS, Antioch continues to obtain much of its water supply from its own diversion facility.³ Antioch has a substitute

¹ Much of the water in the western Delta (including the City’s water supply) comes from the Sacramento River. Historically, significant amounts of Sacramento River water flowed into the San Joaquin River east of Antioch at Three Mile and Georgiana Sloughs. Sacramento River water also reaches Antioch where the river merges with the San Joaquin River just west of the City.

² Antioch has vested pre-1914 water rights to water from the San Joaquin River as well as to the tributary flow of the Sacramento River via Georgiana and Three Mile Sloughs. This was determined as a matter of law by the California Supreme Court in the case of *Town of Antioch v. Williams Irrigation District et al.* (1922) 188 Cal. 451,455.

³ The City of Antioch uses water from its intake as its main source of supply when salinity at the intake is below specified thresholds. Although the EIR/EIS states that Antioch’s intake is “seasonal” and used “infrequently” (EIR/EIS Chapter 8 at p.8-185, lines 13-14), this is not true.

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water agreement with the Department of Water Resources (DWR) that partially compensates the City for water purchases from Contra Costa Water District (CCWD). That agreement presently has a 15-year term, which will end at approximately the same time the BDCP is anticipated to begin operations.⁴

Because of its position in the western Delta and its legacy as a fresh water Delta town, the City is also particularly concerned with the ecological health of the Delta, the City's long-term viability as a recreational destination, and the potential significant adverse impacts of urban decay resulting from the BDCP.

DETAILED TECHNICAL COMMENTS RELATED TO WATER QUALITY IMPACTS

The baseline condition used to evaluate the BDCP Proposed Project is flawed and inappropriate. A modeling study was used to delineate the potential effects of the proposed BDCP project on salinity at locations throughout the Delta, including at Antioch's drinking water intake in the western Delta. Our review of the impacts to water quality (Chapter 8 of the EIR/EIS) indicates that two different baseline scenarios were used—the "Existing Conditions" scenario was used to represent baseline for the CEQA evaluation, and the "No Action Alternative" (NAA) was used to represent baseline for the NEPA evaluation. The main differences between these two scenarios appear to be (a) whether Delta outflows are managed to achieve the Fall X2 provision (hereafter referred to as "Fall X2") of the 2008 US Fish and Wildlife Service Biological Opinion (the "2008 BiOp"); and (b) whether the impacts of sea level rise are included. The Existing Conditions scenario does not include Fall X2 or sea level rise, while the No Action Alternative includes both. As detailed below, failing to include Fall X2 in the Existing Conditions scenario makes the baseline condition appear to be more saline than it actually is, so that the potential impacts of the BDCP appear to be significantly smaller than they would with an appropriate baseline.

As noted in prior comments submitted by the City and its consultants to the BDCP and to the State Water Resources Control Board (SWRCB)⁵, the western Delta historically exhibited freshwater conditions. In 1928, "Carquinez Strait marked

⁴ On October 29, 2013, the term of the agreement between the State of California and the City of Antioch was extended through September 30, 2028.

⁵ See **Appendix D** to the City's comment letter.

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approximately the boundary between salt and fresh water under natural conditions,” and “[p]rior to diversions for irrigation, Suisun Bay was brackish in the late summer and salt water may have penetrated as far as Antioch, but only for a few days at a time in years of lowest run-off”⁶. Such conditions no longer exist, as saline water is now common at Antioch. However, historic salinity conditions should be considered when assessing the impacts of proposed actions on the fish and wildlife that live in the Delta and that were historically adapted to fresher conditions.

The City asserts that Fall X2 should be included in both baseline conditions, including the Existing Conditions. Legally, the 2008 BiOp represents the requirement to operate to achieve Fall X2, and predates the NOP for the BDCP. Technically, and as discussed further below and in **Appendix C** to the City’s comments, simulated water quality is more representative of measured (historic) data with the inclusion of Fall X2.

Antioch and its consultants have received from DWR modeling results⁷ obtained from the Delta Simulation Model II (DSM2) model, which was used to simulate hydrodynamics and water quality throughout the Delta for a range of model scenarios. These model runs included two scenarios that were representative of “existing conditions.” The “existing biological conditions 1” (EBC1) scenario included current sea levels but not Fall X2, while the “existing biological conditions 2” (EBC2) scenario included current sea levels and Fall X2. The March 2013 Revised Administrative Draft made use of both EBC1 and EBC2, while the current BDCP EIR/EIS utilizes only EBC1, which is renamed as the “Existing Conditions” scenario. Model results for the EBC2 scenario agree well with salinity measurements made near Antioch (see **Figure 1, Appendix C**), while the EBC1 scenario showed poor agreement, particularly in the fall of 1974, 1975, 1978, 1980, 1984, and 1986, or 6 out of the 17 years modeled. The plots of EBC1 shown in **Appendix C** are consistent with Figures 5C.A-104 through 5C.A.-107 of Attachment 5C.A to Appendix 5C of the Draft BDCP (confirming that EBC1 is the “Existing Conditions” scenario defined in the EIR/EIS), which show substantial increases in salinity in the western Delta in the fall of 1978, 1980, 1984, and 1986. These periods

⁶ Means, Thomas. “Salt Water Problem: San Francisco Bay and Delta of Sacramento and San Joaquin Rivers. San Francisco, CA: Thos. H. Means, Consulting Engineer - 1928. p. 57.

See also CCWD, 2010, Historical Fresh Water and Salinity Conditions in the Western Sacramento-San Joaquin Delta and Suisun Bay: A summary of historical reviews, reports, analyses and measurements; Technical Report WR10-001, available at <http://www.ccwater.com/salinity/HistoricalSalinityReport-2010Feb.pdf>.

⁷ Flow Science Incorporated received modeling results from DWR via mailed hard-drives in January 2012, April 2013, and May 2013.



of higher salinity are not consistent with field measurements, further confirming that the omission of Fall X2 from the Existing Conditions scenario is not technically appropriate to represent the existing water quality in the Delta.

The data contained in Appendix 8G of the EIR/EIS show a significant difference in chloride concentrations in the San Joaquin River at Antioch between the Existing Conditions and the No Action Alternative (NAA) scenarios. Specifically, the average chloride concentrations are higher under the Existing Conditions, particularly in the late summer and fall. Table C1-1 shows that the mean chloride concentration is higher under the Existing Conditions scenario than under the NAA scenario by 447 mg/l and 382 mg/l in October and November, respectively. Because there are two significant differences between these scenarios—i.e., Fall X2 and sea level rise—the data do not indicate which of these factors is responsible for the differences in simulated salinity levels.

Generally, the impact of a project is determined by comparing the Proposed Project scenario and the Existing Conditions scenario, and the impacts of non-project factors are determined by comparing the NAA scenario and the Existing Condition scenario. Here, we cannot make the latter comparison, as the Existing Conditions and No Action Alternative scenarios are not on common ground regarding Fall X2. In order to determine the impacts of sea level rise alone, the NAA scenario must be compared to the EBC2 scenario, since both the NAA scenario and the EBC2 scenario include operations to meet Fall X2. Once the impact of sea level rise has been determined, the impacts of BDCP could be more accurately delineated.

While the EBC2 scenario was not provided in the December 9, 2013 DRAFT BDCP and EIR/EIS, it was previously provided to Flow Science by DWR. **Figure 3 of Appendix C** shows that, from September through November of above normal, below normal, and wet years, the availability of usable water at Antioch is higher under the EBC2 scenario than under the Existing Conditions (EBC1) and NAA scenarios; this is expected, as EBC2 includes Fall X2. These same plots also show that usability is greater under the NAA than under Existing Conditions (EBC1). Thus, the exclusion of Fall X2 (Existing Conditions) decreases usability more than sea level rise (captured in the NAA) during the fall of above normal, below normal, and wet years. This comparison highlights the importance of Fall X2, and further supports that it should be included in the CEQA baseline scenario.

As the City has noted in prior comments on the BDCP process and in testimony to the SWRCB, salinity levels in the western Delta, including at Antioch's intake, will be

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substantially higher if Fall X2 is not included in the Existing Conditions model runs. (See **Appendix D** to the City's comments.) The exclusion of Fall X2 from the Existing Conditions will increase the salinity simulated under this condition and thus downplay the impacts of the BDCP Proposed Project on salinity in the western Delta; in fact Table CI-28 in Appendix 8G of the EIR/EIS shows that annual mean chloride concentrations decrease relative to Existing Conditions (i.e., EBC1) for all Operational Scenarios, which is misleading—relative to EBC2, mean annual usability decreases at Antioch for all year types under Scenarios Alt4-H1 and Alt4-H2. Ultimately, the use of the Existing Conditions scenario without Fall X2 would be neither legally nor technically appropriate, and misrepresents the anticipated impacts of the BDCP project.

In summary, Flow Science's analysis shows that the "Existing Conditions" scenario used to represent baseline conditions in the EIR/EIS does not accurately represent current conditions because it does not include Fall X2. Even though model scenario EBC2, which does include Fall X2, was used in prior drafts of the EIR/EIS and was made available to Flow Science and others as early as 2012, it was not used in the CEQA analysis. Because the incorrect existing conditions baseline scenario was used in the CEQA analysis, impacts to the City of Antioch have been underestimated significantly.

Thus, Antioch requests that Fall X2 be included in all modeling scenarios used to describe baseline conditions.

Please note that, because the City asserts that the Existing Conditions scenario is an inappropriate baseline, the impacts of BDCP in this comment letter will be assessed compared to the EBC2 and the No Action Alternative scenarios.

The BDCP will cause salinity at Antioch to increase and will reduce the City's ability to use its intake significantly. Appendix 8G of the EIR/EIS shows the predicted impact to chloride concentrations in the San Joaquin River at Antioch, both in terms of the monthly and daily mean concentration and in terms of compliance with the Bay-Delta Water Quality Objective (250 mg/l as a daily average). However, these metrics do not describe Antioch's ability to use the water⁸, as its ability depends only on the instantaneous chloride concentration and not on daily or monthly averages. Thus, the

⁸ The 1968 Agreement defines "usable river water" as occurring when the "chloride ion content in the surface zone at slack current after daily higher high tide (HHT) is 250 parts per million [ppm] or less." Throughout these comments, "usable water" is the term applied to water with a chloride content of 250 ppm or less.

All



potential impacts described in Appendix 8G significantly underestimate the impacts to Antioch.

To determine the actual impacts to the City's municipal water supply, Antioch and its consultants evaluated salinity impacts using DSM2 model results obtained from DWR. Specifically, Flow Science assessed the instantaneous salinity concentration (i.e., model results at 15-minute intervals) to determine how the BDCP Proposed Project is predicted to impact the usability of water at the City's intake. Flow Science compared the percent of time that water can be diverted under the worst-case project conditions (Scenario Alt4-H1) to the EBC2 scenario and to the No Action Alternative. (As noted above, the EBC2 scenario is most representative of existing conditions and should be used as the baseline for CEQA analysis of the BDCP project.)

The increased salinity in the western Delta that is predicted to occur due to the BDCP Proposed Project will significantly impact Antioch's ability to use water. However, the severity of this impact is concealed in the EIR/EIS because model results are presented in the form of annual, monthly and daily averages. For example, Table Cl-28 of the EIR/EIS shows that, under worst-case operations and evaluated as a long-term average, compliance with the chloride objective will decrease by only 2% (the difference between Scenario Alt4-H1 and the No Action Alternative). However, as demonstrated below and in **Appendix C** to the City's comments, the decrease in usable water will be far more severe. On an annual basis, the impacts to usability at Antioch are significant. Over the 17 years modeled, the availability of usable water decreased by 6%, or 9.2 days per year on average as a result of BDCP Proposed Project Scenario Alt4-H1. The availability of usable water is expected to decrease even more during wet years; in these years, usability could decrease by 12%, or over 28 days per year. Importantly, and as detailed in **Appendix C**, these changes result from the BDCP Proposed Project alone, not from sea level rise.

The BDCP Proposed Project is simulated to have the most significant impacts during the fall months, where on average the availability of usable water at Antioch may decrease by up to 64% (**Appendix C**) with Operational Scenario Alt4-H1 relative to the No Action Alternative (i.e., without the impacts of non-project factors such as sea level rise). Evaluating results by month indicates potentially even greater effects. Under all year types, usability during September is simulated to decrease from 5.3 days to 0.8 days, an 85% decrease. The largest loss of usable days is predicted to occur in October, and totals 6.6 days on average.

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Breaking the results down by year type also shows significant impacts during the fall months. For example, excluding wet years, the availability of usable water under Operational Scenario H1 from September through November is predicted to decrease from 13.1 to 1.7 days⁹, a loss of 11.4 days relative to the NAA; in non-wet years, there are only 0.3 to 3 days of usability in the fall under Proposed Operational Scenario Alt4-H1. The percent difference is most significant during critical and dry years, at 97% and 93% of usable days lost, respectively, in the September through November time period (**Table 4, Appendix C**). The most significant losses are simulated to occur during dry and wet years, when 23.0 and 22.7 days of usable water, respectively, are anticipated to be lost over this three-month period. Thus, the impacts of the BDCP Proposed Project to the City of Antioch, especially during the fall, are much greater than reported in the EIR/EIS.

The modeling performed to assess the water quality impacts of BDCP assumes full implementation of restoration measures—that is, 65,000 acres of tidal marsh restoration. This amount of tidal restoration is expected to occur in year 2060 and beyond, if at all. None of the model results characterizes the potential impacts of restoration on salinity in the years prior to 2060. Because the tidal marsh restoration will be phased, there will be several intermediate conditions during which the hydrodynamics may differ significantly from both the current conditions and the conditions under full tidal marsh restoration. Depending on the design and location of restoration efforts, and the sequence in which restoration is conducted, the volume of water that “sloshes” into and out of the Delta on every tidal cycle may be increased, thus increasing salinity in the western Delta.

Although the City’s primary concern is with salinity at its intake, the City would like to incorporate by reference the comments of others that suggest that concentrations of other water quality constituents (e.g., bromide, mercury) may increase as a result of implementation of the Proposed Project. The City is concerned with any degradation of water quality at its intake. In addition, changes in water quality may affect the treatment options available to the City.

⁹ These numbers are the arithmetic averages of the non-wet years (i.e., critical, dry, above and below normal years) from **Table 4, Appendix C**



The BDCP Proposed Project assumes a change in water quality standards that has not yet happened and that would require State Water Board action. One aspect of the Proposed Project (represented by Scenarios H1 through H4) is the proposed change of “water quality requirements criteria” in the Delta. The Draft BDCP document states that the BDCP operations “include water operations in accordance with State Water Board D-1641 related to north Delta and western Delta agricultural and municipal and industrial requirements, except that the Sacramento River compliance point for the agreement with the North Delta Water Agency would be moved from Emmaton to Threemile Slough” (p. 3-188, emphasis added). Moving the compliance point landward by about 2.5 miles (the approximate distance from Emmaton to Threemile Slough), as proposed, would allow salinity in the western Delta to increase and thus would further impair Antioch’s ability to use the water for municipal purposes. Further, the 2008 BiOps include requirements to meet Fall X2 under certain conditions, as described above, and two of the operational scenarios (Scenarios Alt4-H1 and Alt4-H2) eliminate the Fall X2 requirement; eliminating the Fall X2 requirement would also allow salinity to increase still farther in the western Delta.

Given the fact that historical, natural salinity in the western Delta has been far lower than current levels, and given the serious impacts that may occur to Antioch’s water supply and to the ecosystem if salinity is allowed to increase further, Antioch asserts that such a change in water quality standards would be inappropriate. For this reason, the BDCP EIR/EIS should be amended to include scenarios that do not involve changes in water quality standards.

Because project operations have not been clearly defined, it is not possible to determine the impacts of the Proposed Project. Under the Proposed Project as described in the Plan and EIR/EIS, Delta outflow requirements in the spring and fall would be determined using a decision tree. There are four possible combinations of spring and fall outflow criteria, which define four operational scenarios (H1 through H4). Model runs were performed for each of these scenarios, as any of the four may be used each year. However, the decision tree that describes Operational Scenario H—specifically, what “triggers” each operational scenario—has not been defined in the Draft BDCP nor in the EIR/EIS and is “subject to a new determination by the fish and wildlife agencies” (p 3-207). Regarding spring outflows, the EIR/EIS states that “uncertainty exists regarding the mechanism through which higher Delta outflow improves the production and survival of early life stages of longfin smelt. Results of [future] investigations, including those directly related to the decision-tree process, will continue

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to be revealed and considered in the coming years” (p 3-208). However, neither the future studies nor their potential outcomes are discussed.

Regarding fall outflows, the EIR/EIS presents two hypotheses: first, that the fall habitat objective will be accomplished by providing flows necessary to position X2 in or near Suisun Bay in wet years; alternatively, that the new shallow-water habitat areas created through restoration of tidal communities (CM4) could accomplish this objective with lower outflows during the fall. Additional “scientific research to test each of these hypotheses will be conducted before initial operations of the north Delta facility” (p 3-208). Ultimately, neither the spring nor the fall portions of the outflow decision tree have been determined for the proposed BDCP project; thus, the potential impacts of the project cannot be determined with confidence.

Mitigation for water impacts is not provided. Chapter 8 of the EIR/EIS proposes mitigation measures for each foreseeable impact. For chloride (a surrogate for salinity), however, the proposed mitigation strategy consists entirely of additional study, with actions to be taken if identified. Because salinity in the western Delta originates primarily from the ocean, with salty water brought into the estuary by tidal action, Antioch and its consultants know of no such actions that would directly mitigate the impacts of the project on salinity in the western Delta, and none are identified in the EIR/EIS. In fact, the EIR/EIS states that, “because the effectiveness of [Mitigation Measure WQ-7] to result in feasible measures for reducing water quality effects is uncertain, this impact is considered to remain significant and unavoidable” (p, 8-429, emphasis added).

At the same time, and contrary to assertions that impacts are significant and unavoidable, the EIR/EIS expresses BDCP proponents’ commitment to “assisting in-Delta municipal, industrial, and agricultural water purveyors that will be subject to significant water quality effects ... The assistance provided by the BDCP proponents is intended to fully offset any increased treatment or delivery costs attributable to CM1” (p. 3B-42, emphasis added). For municipal users, the proposed assistance includes providing funding assistance to acquire alternative in-basin water supplies, storage, conjunctive uses, or develop water transfers; develop water supply connections to SWP facilities or BDCP intertie; or develop demand management and/or conservation/recycling projects to extend available water supplies.

However, the methods to “fully offset” any water quality impacts as a result of CM1 may require changes to contracts already in place between DWR and municipal

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agencies. For example, California Department of Water Resources (DWR) has agreement contract with the City in which it has agreed to reimburse the City for *only* one-third of the cost it incurs to import water when water quality at its diversion point is unusable, as specified by formulae contained in the agreement. The EIR/EIS does not reference this contract, nor how it will distinguish BDCP CM1 impacts to water quality (for which the City should be fully compensated) from other instances of water quality degradation (for which the City should be reimbursed one-third, per the Antioch-DWR contract).

Antioch requests that BDCP proponents specify how they intend to identify and to fully offset the impacts of BDCP CM1 in a manner that is fair and just to all parties.

* * *

Please contact me at (626) 304-1134 or al@flowscience.com if you have any questions regarding these comments. We appreciate the opportunity to submit these comments, and we look forward to seeing these comments addressed in the final EIR/EIS for the BDCP.

Sincerely,



Al Preston, Ph.D., P.E.
Project Engineer



Reviewed by:



E. John List, Ph.D., P.E.
Principal

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APPENDIX B

Legal Comments Letter
Prepared by Matthew Emrick

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July 14, 2014

BDCP Comments

Ryan Wulff, NMFS

650 Capitol Mall, Suite 5-100

Sacramento, CA 95814

Via email: BDCP.Comments@noaa.gov

Re

Subject: **Appendix B** to the City of Antioch's BDCP comment letter

Dear Mr. Wulff:

I am submitting the following comments on the Bay-Delta Conservation Plan (BDCP), the Implementing Agreement, and Associated Environmental Impact Report/Environmental Impact Statement (EIR/EIS) on behalf of the City of Antioch (the City) to highlight further certain legal issues with the BDCP and its EIR/EIS as well as with the Implementing Agreement (referred to cumulatively as the "BDCP").¹ In reviewing the following comments, it must be considered that Antioch has adjudicated pre-1914 appropriative water rights with a priority from at least 1867. Antioch was able to use its water rights prior to the 1920's year-round and 208 to 225 days or more a year on average since the 1930's.

The BDCP Fails to Adequately Address and Analyze Impacts to Downstream Water Rights Holders Such As Antioch: As discussed in more detail in Antioch's Appendix A of its BDCP Comments, the BDCP will adversely impact the City's water rights and water supply by reducing Delta outflow and increasing salinity to the point that the City's ability to divert water at all will be critically limited. Antioch's water rights are senior in priority to those to be

¹ The comments in this letter are based in part on the technical comment on BDCP modeling and water quality impacts set forth in Appendix A to Antioch's BDCP comments.

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diverted pursuant to the BDCP. And yet, the EIR/EIS fails to adequately analyze the BDCPs impacts to the City's water rights or to propose any mitigation.

In fact, as noted in Antioch's Appendix A of its BDCP Comments, the EIR/EIS states that Antioch only infrequently uses its water rights, which is an absolutely false statement. As noted above, the City pumps potable water from the Delta every day when it is not too saline to do so, which has been approximately 208 to 225 days a year since the 1930s.² The EIR/EIS also fails to properly recognize that the source of Antioch's water supply includes the tributary flow of the Sacramento River via Georgiana and Three Mile Sloughs. Without acknowledging the correct facts and without understanding the nature and scope of the City's water rights, it is simply not possible for the EIR/EIS to have adequately analyzed the impacts of BDCP operations on the City's water rights and water supply.

CEQA (e.g. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 655) and Water Code Section 1702 (as well as the law of water right priority) require that the BDCP properly analyze project impacts (flow, water quality) on water and water rights downstream of the proposed new diversions. Further, the law of water rights priority (*City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224) and section 1702 specifically require that any adverse impacts on senior water rights be mitigated.³ The EIR/EIS fails to meet these requirements. As noted, although EIR affects analysis indicates increased salinity and lower outflow downstream of the project, the EIR fails to adequately recognize Antioch's water rights, fails to adequately analyze the impacts to such rights, and as noted above, incorrectly concludes that the City only infrequently uses its rights. Despite potential significant adverse impacts to water quality, the EIR/EIS fails to provide any mitigation measures to protect Antioch's water rights which supply water to over a 100,000 people.

Additionally, neither the BDCP or the BDCP Implementing Agreement ("IA") provide any provisions to ensure that the BDCP and its operations will not adversely impact senior downstream water rights such as Antioch's. The Decision Tree process only requires outflow criteria to satisfy certain biological objectives. While the City acknowledges that a goal of the BDCP and the IA is to protect covered species, this goal does not excuse or immunize the BDCP and its participants and beneficiaries from complying with other provisions of law. As noted, the EIR/EIS needs to properly analyze impacts to in-Delta water rights and propose full mitigation of

² Prior to the early 1930s and the advent of significant upstream diversions on both the Sacramento and San Joaquin Rivers, the City could pump potable water year around every year except in the most severe drought years.

³ Diverting water out of the Delta for junior water rights used primarily for agricultural purposes in a manner that will adversely impact senior domestic water rights and public trust purposes is unreasonable.

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such impacts. The IA should describe the funding and operational requirements to implement such mitigation.

In sum, the EIR/EIS contains incorrect information and fails to properly analyze and mitigate the adverse project impacts to Antioch's senior water rights as required by law.

The BDCP Fails to Meet the Requirements of Delta Protection Act of 1959 and Water Code Section 85320: The EIR/EIS fails to explain how the project meets the requirements of the Delta Protection Act of 1959. In fact, the EIR/EIS indicates that the BDCP will not meet the objectives and requirements of the Act as discussed under the City's Technical Comments. As shown in Appendices A and C to the City's BDCP comment letter, the Proposed BDCP Project will increase salinity levels at Antioch's intake so significantly that the City's water rights and ability to divert its water supply will be substantially impacted – all without any proposed mitigation in the EIR/EIS, BDCP or in the Implementing Agreement.

Water Code sections 12200 et seq. (the Delta Protection Act) were intended in part to ensure that water exports from the Delta do not deprive in-Delta users of water necessary for their beneficial uses and for salinity control. A similar water availability requirement for the BDCP is provided under Water Code section 85320(b)(2)(A). The EIR/EIS as presently proposed, however, fails to adequately analyze the amount water available for export that would not result in adverse impacts to in-Delta uses – especially to in-Delta water rights with higher priority than the State Water Project (SWP) and Central Valley Project (CVP) export projects.

Although Antioch and Department of Water Resources (DWR) have an agreement for impacts to its water quantity and quality from the existing State Water Project, that Agreement has a remaining term of less than 15 years and is not based on the projected additional adverse impacts from the BDCP. Further, the projected impacts from the BDCP will continue for a minimum of 50 years. In addition, the Agreement between Antioch and DWR does not mitigate whatsoever for impacts from CVP operations.

Again, both the BDCP and the IA fail to provide any specific provisions as to how operation of the BDCP will be conducted to comply with the requirements of the Delta Protection Act (or Water Code section 85320(b)(2)(A)). In fact, the IA appears to authorize BDCP operations to violate the provisions of the Delta Protection Act and to immunize BDCP participants from any future regulatory liability by limiting the amount of water required for future mitigation or compliance with the Act. The EIR/EIS should identify all impacted downstream beneficial uses of water and analyze the impacts on such uses and provide specific

mitigations. The IA should describe how the mitigation measures will be properly funded and implemented.⁴

The EIR/EIS Fails to Adequately Address Impacts to Recreation and Public Trust Resources at Antioch: As presently proposed, the BDCP will result in years of construction impacts that will adversely affect in-Delta recreation including preventing and limiting recreational access to certain areas within the Delta. Further, the BDCP will permanently increase salinity (and other water quality related constituents) and reduce outflow in the western Delta and specifically at Antioch.

Antioch's unique historic and cultural legacy within the Delta has been as a freshwater location for well over 150 years. Antioch is known as the gateway to the western Delta for its freshwater location and recreational opportunities. A portion of Antioch's economy is dependent on freshwater boating, recreation, and fishing. The City's operates a municipal marina that is related to certain commercial uses and activities in the City. Many people have chosen to buy or rent homes in Antioch specifically because of the proximity to these freshwater boating, recreation and fishing activities or to simply to enjoy a lifestyle near a freshwater river environment.

While the EIR/EIS recognizes certain potential short-term impacts of construction on recreation and attempts to mitigate such impacts, the EIR/EIS fails to adequately address the *long-term* impacts of the BDCP on recreation, boating, and fishing at Antioch and provides no mitigation for such long-term impacts. In fact, the EIR/EIS indicates that impacts to recreational boating could be non-existent in the long-term. Given that the effects analysis indicates higher salinity and lower outflow in the western Delta, however, such a conclusion would appear contrary to the BDCP's own effects analysis. Increased salinity will impact fish species and fishing opportunities; boating preferences; and recreation (e.g. waterskiing, wakeboarding).

Further, the EIR/EIS fails to address any impacts to public trust resources at Antioch from higher salinity such as impacts to aesthetics (from freshwater river to tidal marsh), aquatic plants and wildlife (Tule islands), and navigation (decreased outflow, increased salinity). Without acknowledging such potential impacts, it is not possible to adequately analyze and potentially mitigate any impacts

Finally, the IA fails to provide any operating procedures or obligations to specifically

⁴ It is significant to note that earlier versions of the BDCP had mitigation built into the project in the form of relocating impacted downstream diversions at sole cost to the BDCP.

protect or mitigate in-delta recreational and cultural resources or non-covered public trust uses (e.g. navigation, fishing, boating) from projected operational impacts – either short term or long term. Since the IA is the primary operational document, it appears that the BDCP does not intend to mitigate either the long-term adverse impacts to in-Delta recreation and non BDCP-covered public trust resources.

In sum, the EIR/EIS and its associated effects analysis indicate increased salinity levels at Antioch, and yet any analysis of the physical impacts of this condition on recreation and public trust resources within the EIR/EIS are inadequate.

The EIR/EIS Fails to Adequately Analyze and Mitigate Potential Urban Decay Impacts: As discussed above, the BDCP will cause significant changes to the physical environment at Antioch – a City of over 100,000 people and the major City downstream of the proposed project in the western Delta. The EIR/EIS acknowledges certain potential impacts to in-Delta communities including but not limited to declining property values, declining economic stability in communities relying on recreation, and potential abandonment of structures and buildings (especially those near proposed construction). As noted above, the EIR/EIS also acknowledges potential short-term impacts to in-Delta recreation. And yet, there is almost no analysis within the EIR/EIS of any potential urban decay impacts within specified in-Delta communities and none with respect to Antioch.

When there is evidence that adverse effects caused by a project could result in a reasonably foreseeable indirect environmental impacts such as urban decay or deterioration (as here), then the CEQA lead agency is obligated to analyze these indirect environmental impacts. (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182). In the present case, the EIR/EIS indicates potential significant changes in the environment within the western Delta, significant changes to the City's water supply, and acknowledges further potential physical impacts to local communities as noted above. The EIR/EIS, however, fails to analyze the potential for urban decay impacts within Delta communities including Antioch. And since protection and preservation of in-delta cultural resources is a requirement of the Delta Reform Act, the BDCP is legally required to mitigate potential adverse impacts.

The BDCP Fails to Comply with the Co-Equal Goals of the Delta Reform Act of 2009: Public Resource Code section 29702 sets forth the dual/co-equal goals of providing a more reliable water supply and “protecting, restoring, and enhancing the Delta ecosystem.” Section 29702 provides further that achieving the co-equal goals shall include protecting and enhancing the “unique cultural, recreational, natural resource” values of the Delta. The BDCP

fails to meet the co-equal goals as the requirements of section 29702 are applied to Antioch and the western Delta. As Antioch's comments indicate throughout this letter, the physical environment, the reliability of Antioch's water supply, and the unique cultural heritage of Antioch will all be adversely impacted by the BDCP. The Delta Reform Act's co-equal goals are legal requirements on the BDCP that, put simply, require the BDCP to improve water quality and supply reliability within the Delta – or at a minimum to not further degrade water quality and the physical environment at Antioch.

The EIR/EIS fails to provide any adequate mitigation measures to ensure the co-equal goals will be met at Antioch or the western Delta other than vague allusions and references to future undefined mitigation at some future underdetermined time. Without full mitigation, the BDCP does not meet the specific requirements of the Delta Reform Act and is therefore invalid.

Further, the IA fails to provide any operational provisions or obligations to ensure that the co-equal goals are met during the course of the 50 year BDCP project term. In fact, the IA appears to assume that the co-equal goals will be met via the operation and implementation of the BDCP alone providing no assurances for in-delta water supply reliability. However, the Delta Reform Act does not limit water supply reliability to the BDCP alone and protection of in-delta water supply reliability is a critical component of complying with the co-equal goals. As noted throughout the City's comments, the BDCP effects analysis shows adverse impacts on downstream water supply reliability including Antioch's.

The EIR/EIS Fails to Adequately Address Mitigation of Impacts to Water Quality:

As discussed above and throughout the accompanying documents, the BDCP is subject to certain legal requirements regarding the adverse impacts of water quality in the Delta. An EIR is inadequate if '[t]he success or failure of mitigation efforts . . . may largely depend upon management plans that have not yet been formulated, and have not been subject to analysis and review within the EIR.' (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670.) 'A study conducted after approval of a project will inevitably have a diminished influence on decision making. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA.' (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70.)

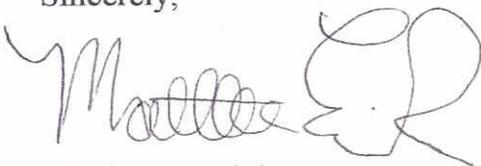
A23

In the present case, the BDCP is compelled to meet specific requirements of law, including but not limited to the Delta Reform Act, the Delta Protection Act, and Water Code section 1702. Because these are legal requirements, the BDCP must meet their requirements and this requires mitigation in cases where the project cannot comply with such legal requirements. The BDCP and the EIR/EIS fail to mitigate certain adverse impacts that result in the BDCP violating applicable law. As noted, the EIR/EIS instead attempts to propose future mitigation via consultation with impacted parties without setting forth any specifics, any standards, any time frame, any commitment of funds, or any performance criteria. This violates CEQA, and because the BDCP cannot override legal requirements, the failure to fully mitigate the adverse impacts to Antioch renders the entire project and the EIR/EIS invalid.

The EIR/EIS should analyze how water quality for downstream beneficial uses (including superior water rights such as Antioch's) will be protected and how the BDCP operating criteria will be able to meet both the water quality requirements for covered species and the legal requirements of downstream beneficial uses. The IA should describe how water quality requirements will be met by project operations and provide specific funding and operational criteria to adequately mitigate impacts to downstream beneficial uses. As presently written, the IA fails to do this and provides operational constrictions that could in fact potentially prevent or hinder any future mitigation after project approval (e.g. regulatory assurances; limitations on operational modifications; restrictions on dedication of future water for outflow; lack of input to governance structure from adversely impact non-BDCP parties, etc.).

The City appreciates the opportunity to submit these comments, and we look forward to seeing these comments addressed in the final EIR/EIS for the BDCP.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Emrick', written in a cursive style.

Matthew Emrick
Special Counsel for the City of Antioch

A24

ATTACHMENT "B"



July 17, 2014

Via Email (BDCP.Comments@noaa.gov)

BDCP Implementing Agreement Comments
Ryan Wulff, NMFS
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Subject: City of Antioch Specific Comments on the Draft Bay Delta Conservation Plan (BDCP) Draft Implementing Agreement

Dear Mr. Wulff:

The City of Antioch ("City") is submitting the following comments on the Bay-Delta Conservation Plan's (BDCP) Draft Implementing Agreement ("IA"). The City has reviewed the Draft BDCP IA and has several concerns regarding potential impacts to the City's water supply, the City's financial condition, and the quality of life of the City's residents that will result from the implementation of the BDCP.

The City of Antioch, located along the San Joaquin River in the western portion of the Sacramento and San Joaquin River Delta ("Delta"), is one of the oldest towns in California. Since the 1860s, Antioch has obtained all or part of its freshwater supply directly from its intake on the San Joaquin River (and from the tributary flow of the Sacramento River) pursuant to a pre-1914 appropriative water right with a priority of 1867.¹ Therefore, we are very concerned about the following issues with the Draft Implementing Agreement:

1. The IA lacks any operational safeguards or criteria to protect senior water rights holders such as Antioch who will be impacted from BDCP operations as the result of increased salinity. For example, the Decision Tree process only applies to outflows to satisfy biological objectives. The lack of mitigation measures in the BDCP and the lack of any specific operating mitigation criteria in the IA appear to indicate that the BDCP process has no intent to mitigate adverse impacts to senior water rights now or in the future.

¹ Antioch has vested pre-1914 water rights to water from the San Joaquin River as well as to the tributary flow of the Sacramento River via Georgiana and Three Mile Sloughs. This was determined as a matter of law by the California Supreme Court.

B1

2. The IA and the BDCP appear to be attempting to change water rights priorities within the Delta. The vast majority of water to be diverted by the BDCP will go to agricultural uses – not to environmental uses. The BDCP agricultural diversions have lower priority rights to water than does Antioch, which provides drinking water to over 106,000 residents. The BDCP’s lower priority agricultural diversions, however, will significantly impact Antioch’s ability to use its higher priority rights to provide water for drinking purposes as well as for health and safety purposes within the City. By failing to provide any mitigation or operating criteria to protect Antioch’s superior water rights, the IA is effectively attempting to give the BDCP’s junior water rights higher priority than Antioch’s superior water rights.
3. The Five Year and Annual Operating Plans required in the IA do not require the protection or consideration of the impacts on non-BDCP-related in-Delta water quality. The IA fails to explain (or set forth operational criteria) how BDCP planned actions to meet export water supply and BDCP-related ecosystem goals will meet the State Water Resources Control Board (“SWRCB”) water quality requirements under various SWRCB decisions.
4. The IA fails to incorporate any specific funding and operational provisions for mitigation to protect and sustain non-BDCP-related in-Delta water quality, beneficial uses, or non-BDCP-related public trust resources. Again, this indicates that the BDCP does not intend to mitigate such impacts at all.
5. The IA provides certain guarantees and assurances to BDCP participants and beneficiaries regarding flows and water that could potentially conflict with the BDCP’s requirements to comply with other applicable laws such as the Delta Protection Act and the co-equal goals of the Delta Reform Act. The IA commits only to operating to address covered species and provides no commitment or operational provisions to comply with other legal requirements with respect to water supply and water quality such as protecting in-Delta water supply and rights.
6. The IA does not provide adequate funding assurances for habitat conservation, restoration and management, which are the primary measures to protect and recover the specified covered species. Instead, the IA provides a broad and non-binding outline of potential funding sources including alleged funding sources that are “generally available” and potential future state and federal bonds and grants. The IA fails to specify how funding would be collected and secured from the contractors. Given the projected construction and operation costs of the BDCP conveyance and habitat restoration, the IA needs to provide firm funding commitments and sources of such funding. It would certainly be ironic and unjust if in-Delta water users adversely impacted by the BDCP end up having to pay portions of operational and restoration costs via bonds or administrative fees.

7. The IA governance structure includes project beneficiaries (e.g. contractors) in position to make critical determinations of implementation and operation. This creates a conflict of interest. At the same time, the governance structure fails to provide any consultation with potentially impacted, non-BDCP parties and no administrative remedies for those parties (unless such parties agree to become part of the BDCP process).
8. The Bureau of Reclamation operates the largest export project and is not a party to the IA. And yet, Reclamation has specified duties under the IA. Reclamation's compliance with its obligations under the IA is a yet to be disclosed "other" agreement. It is simply not possible to properly assess and comment on the IA, the BDCP and the EIR/EIS without having all applicable implementation documents provided for review.
9. The SWRCB needs to be a significant part of BDCP's governance structure given that BDCP operations will impact Delta water quality, non-covered public trust resources and downstream beneficial uses such as senior water rights. There needs to be a streamlined administrative process to allow impacted Delta landowners, recreational users, water right holders and others to address such impacts directly to the SWRCB.

The City appreciates the opportunity to provide these comments on the IA and looks forward to receiving a detailed response.

Sincerely,



Steve Duran
City Manager

cc: Byron Buck, State and Federal Water Contractors Agency
Terry Erlewine, State Water Contractors
Felicia Marcus, State Water Resources Control Board
John Laird, California Secretary of Natural Resources
Mark Cowin, Department of Water Resources
Senator Diane Feinstein
Senator Barbara Boxer
Congressman John Garamendi
Congressman Jerry McNerney
Congressman George Miller
Senator Mark DeSaulnier
Senator Lois Wolk
Assemblymember Susan Bonilla
Assemblymember Jim Frazier

B3

BDCP Implementing Agreement Comments

Ryan Wulff, NMFS

July 17, 2014

Page 4

Karen Mitchoff, Chair, Contra Costa County Board of Supervisors

Antioch City Council

Lynn Tracy Nerland, City Attorney

Ron Bernal, Public Works Director/City Engineer

B4

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

PREPARED BY: Scott Buenting, Associate Engineer, Capital Improvements Division 

REVIEWED BY: Ron Bernal, Public Works Director/City Engineer 

DATE: July 9, 2014

SUBJECT: Consideration of Bids for the Country Hills Drive Sanitary Sewer Main Rehabilitation, (P.W. 545-1)

RECOMMENDATION

It is recommended that the City Council award the project to the low bidder, Michels Corporation DBA Michels Pipeline Construction, in the amount of \$297,897.

BACKGROUND INFORMATION

On July 8, 2014, five (5) bids were received and opened as shown on the attached tabulation. The low bid was submitted by Michels Corporation DBA Michels Pipeline Construction, of Salem, Oregon in the amount of \$297,897. The bids have been checked and found to be without any errors or omissions.

This project will rehabilitate the deteriorating twelve inch (12") sanitary sewer main on Country Hills Drive between Deer Valley Road and Hillcrest Avenue using the trenchless cured-in-place pipe (CIPP) method. Additional work performed under this contract will include reinstating existing sewer service laterals, designing, installing and maintaining sewer flow control facilities and providing traffic and water pollution control.

FINANCIAL IMPACT

The 2014-2015 Capital Improvement Budget includes \$800,000 for the design, engineering, inspection and construction of the sanitary sewer main rehabilitation on Country Hills Drive through the Sewer Enterprise Fund.

OPTIONS

None considered at this time.

ATTACHMENTS

A: Tabulation of Bids

ATTACHMENT "A"

CITY OF ANTIOCH TABULATION OF BIDS

JOB TITLE: Country Hills Drive Sanitary Sewer Main Rehabilitation
(P.W. 545-1)

BIDS OPENED: July 8, 2014 ~ 2:00 p.m.
City Council Chambers

	Engineer's Construction Estimate	Michels Corporation DBA Michels Pipeline Construction Salem, OR	SAK Construction, LLC O'Fallon, MO	Southwest Pipeline & Trenchless Corp. Torrance	Insituform Technologies, LLC Chesterfield, MO	Repipe California Riverside
TOTAL BID PRICE	\$800,000.00	\$297,897.00	\$326,400.00	\$356,700.00	\$547,860.00	\$627,900.00

Michels Pipeline Construction	SAK Construction	Southwest Pipeline & Trenchless Corp.	Insituform Technologies	Repipe California
<u>None</u>	<u>CCTV</u> Advanced Pipeline Services, Inc.	<u>None</u>	<u>CCTV</u> Norcal <u>Excavation</u> Cratus, Inc. Bypass Sunbelt	<u>CCTV</u> Advanced Pipeline Services, Inc.

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

PREPARED BY: Scott Buenting, Associate Engineer, Capital Improvements Division 

REVIEWED BY: Ron Bernal, Public Works Director/City Engineer 

DATE: July 9, 2014

SUBJECT: Consideration of Bids for the Maintenance Service Center Fueling System Improvements, (P.W. 143-Q)

RECOMMENDATION

It is recommended that the City Council award the project to the low bidder, GEMS Environmental Management Services, Inc. in the amount of \$136,705.15.

BACKGROUND INFORMATION

Bids for the construction of the Maintenance Service Center Fueling System Improvements were originally opened on May 20, 2014. The proposed work includes replacing the existing gas and diesel dispensers, fuel pump and piping and fuel monitoring system at the City's Maintenance Service Center. Due to various irregularities in the bidding procedure at that time, all bids were rejected.

The project was bid for a second time on July 8, 2014 and two (2) bids were received and opened as shown on the attached tabulation. The low bid was submitted by GEMS Environmental Management Services, Inc. of Concord in the amount of \$136,705.15. The bids have been checked and found to be without any errors or omissions.

FINANCIAL IMPACT

This project is funded through the Water and Sewer Enterprise Funds.

OPTIONS

None considered at this time.

ATTACHMENTS

A: Tabulation of Bids

CITY OF ANTIOCH TABULATION OF BIDS					
JOB TITLE: Maintenance Service Center Fueling System Improvements (P.W. 143-Q)					
BIDS OPENED: July 8, 2014 ~ 2:00 p.m. City Council Chambers					
	Engineer's Estimate	GEMS Environmental Management Services, Inc. Concord	Controlled Environmental Services, Inc. Oakley		
TOTAL BID PRICE	\$150,000.00	\$136,705.15	\$146,400.00		

<i>GEMS Environmental Management Services, Inc.</i>	None	<i>Controlled Environmental Services, Inc.</i>	Not Listed Cal Phase Construction		
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**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

PREPARED BY: Lynne Filson, Assistant City Engineer, Capital Improvements Division *LBF*

REVIEWED BY: Ron Bernal, Public Works Director/City Engineer *ROB*

DATE: July 10, 2014

SUBJECT: Resolution of Local Support for the Installation of Curb Ramps in the Delta Estates Area around Turner School

Resolution Authorizing the Filing of a Grant Application to MTC Requesting an Allocation of the Active Transportation Program (ATP) Cycle 1 Project Funds for the Installation of Curb Ramps in the Delta Estates Area around Turner School

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution of Local Support and the attached Resolution authorizing the filing of a grant application to MTC requesting an allocation of the Active Transportation Program (ATP) Cycle 1 project funds in the amount of \$330,000 for installation of curb ramps in the Delta Estates area around Turner Elementary School.

BACKGROUND INFORMATION

The project will provide improved access for students around the Turner Elementary School area by installing 51 curb ramps.

The Metropolitan Transportation Commission (MTC) requests that the project sponsor submit documentation showing local support and approving the application for federal funding for this project.

FINANCIAL IMPACT

If awarded, the City would receive \$330,000 of ATP funding for the design, construction, and construction support for this project. Although the resolution is standard and includes required wording regarding matching funds for this grant, there are no local matching funds required.

OPTIONS

None considered at this time.

ATTACHMENTS

A: Vicinity Map

LBF:lm

7-22-14

RESOLUTION NO. 2014/**
RESOLUTION OF LOCAL SUPPORT FOR THE INSTALLATION
OF CURB RAMPS IN THE DELTA ESTATES AREA
AROUND TURNER SCHOOL

WHEREAS, MTC is accepting project applications for the Regional Active Transportation Program (ATP), with \$30 million available for the Bay Area; and

WHEREAS, the ATP was created to encourage increased use of active modes of transportation, such as biking and walking. The ATP consolidates various federal and state transportation programs into a single program with a focus to make California a national leader in active transportation; and

WHEREAS, a portion of the ATP funds are designated to support safe routes to school; and

WHEREAS, curb ramps in the Delta Estates area will promote student walking and bicycling to and from Turner Elementary School; and

WHEREAS, curb ramps in the Delta Estates area will promote pedestrian and bicycling activities in and around commercial businesses and the County Social Services offices in the area; and

WHEREAS, the City of Antioch has provided an opportunity for citizens to speak in support of the installation of the Curb Ramps in the Delta Estates area around Turner Elementary School.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Antioch supports the project application for and the installation of the Curb Ramps in the Delta Estates area around Turner Elementary School.

A certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded for submission to MTC as part of the ATP application process.

* * * * *

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 this 22nd day of July, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

RESOLUTION NO. 2014/**
RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION FOR
FUNDING ASSIGNED TO MTC AND COMMITTING ANY NECESSARY
MATCHING FUNDS AND STATING THE ASSURANCE TO COMPLETE THE
INSTALLATION OF CURB RAMPS IN THE DELTA ESTATES AREA AROUND
TURNER ELEMENTARY SCHOOL

WHEREAS, the City of Antioch (CITY) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$330,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding, Transportation Alternatives (TA)/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the installation of the Curb Ramps in the Delta Estates area around Turner Elementary School (herein referred to as PROJECT) for the Safe Routes 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) (23U.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, §182.7, and §2381(a)(1), and California Government Code §14527, 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 or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal 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 REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, the CITY 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:

- The commitment of any required matching funds; and
- 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
- 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

- 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
- The PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- The PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- The CITY has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans. FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the CITY; and

WHEREAS, the CITY is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to the CITY making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of the CITY to deliver such PROJECT; and

WHEREAS, the CITY 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

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, that:

- The CITY is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under MAP-21 or continued funding;
- The CITY will provide any required matching funds;
- The CITY 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 CITY from other funds, and that the CITY does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING;
- The CITY 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 the CITY has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans. FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the CITY;
- The 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;

- The CITY has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application;
- The PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM;
- The CITY is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects;
- The CITY is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT;
- There is no legal impediment to the CITY making applications for the funds;
- There is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of the CITY to deliver such PROJECT;
- The CITY 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;
- A copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application;
- The MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

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 this 22nd day of July, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

ATTACHMENT "A"



**Project Location
Delta Estates**

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

PREPARED BY: Lynne Filson, Assistant City Engineer, Capital Improvements Division *LBF*

REVIEWED BY: Ron Bernal, Public Works Director/City Engineer *REB*

DATE: July 10, 2014

SUBJECT: Resolution of Local Support for the Installation of the Traffic Signal at Wild Horse Road and Folsom Drive

Resolution Authorizing the Filing of a Grant Application to MTC Requesting an Allocation of the Active Transportation Program (ATP) Cycle 1 Project Funds for the Installation of the Traffic Signal at Wild Horse Road and Folsom Drive

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution of Local Support and the attached Resolution authorizing the filing of a grant application to MTC requesting an allocation of the Active Transportation Program (ATP) Cycle 1 project funds in the amount of \$370,000 for installation of the traffic signal at Wild Horse Road and Folsom Drive.

BACKGROUND INFORMATION

The project will provide a protected crossing of Wild Horse Road for students living west of the roadway to and from Mno Grant Elementary School, which is east of the roadway.

The Metropolitan Transportation Commission (MTC) requests that the project sponsor submit documentation showing local support and approving the application for federal funding for this project.

FINANCIAL IMPACT

If awarded, the City would receive \$370,000 of ATP funding for the design, construction, and construction support for this project. Although the resolution is standard and includes required wording regarding matching funds for this grant, there are no local matching funds required.

OPTIONS

None considered at this time.

ATTACHMENTS

A: Vicinity Map

LBF:lm

7-22-14

RESOLUTION NO. 2014/**
RESOLUTION OF LOCAL SUPPORT FOR THE INSTALLATION
OF THE TRAFFIC SIGNAL AT WILD HORSE ROAD
AND FOLSOM DRIVE

WHEREAS, MTC is accepting project applications for the Regional Active Transportation Program (ATP), with \$30 million available for the Bay Area; and

WHEREAS, the ATP was created to encourage increased use of active modes of transportation, such as biking and walking. The ATP consolidates various federal and state transportation programs into a single program with a focus to make California a national leader in active transportation; and

WHEREAS, a portion of the ATP funds are designated to support safe routes to school; and

WHEREAS, a traffic signal at the intersection of Wild Horse Road and Folsom Drive would promote student walking and bicycling to and from Mno Grant Elementary School; and

WHEREAS, a traffic signal at the intersection of Wild Horse Road and Folsom Drive would promote pedestrian and bicycling activities in and around commercial businesses in the area; and

WHEREAS, the City of Antioch has received, from time to time, citizen requests for the signalization at the Wild Horse Road and Folsom Drive intersection; and

WHEREAS, the City of Antioch has provided an opportunity for citizens to speak in support of the signalization at the Wild Horse Road and Folsom Drive intersection.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Antioch supports the project application for and the installation of the traffic signal at Wild Horse Road and Folsom Drive.

A certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded for submission to MTC as part of the ATP application process.

* * * * *

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 this 22nd day of July, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

RESOLUTION NO. 2014/**
RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION FOR
FUNDING ASSIGNED TO MTC AND COMMITTING ANY NECESSARY
MATCHING FUNDS AND STATING THE ASSURANCE TO COMPLETE THE
INSTALLATION OF A TRAFFIC SIGNAL AT WILD HORSE ROAD AND
FOLSOM DRIVE

WHEREAS, the City of Antioch (CITY) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$370,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding, Transportation Alternatives (TA)/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the traffic signal at Wild Horse Road and Folsom Drive (herein referred to as PROJECT) for the Safe Routes 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) (23U.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, §182.7, and §2381(a)(1), and California Government Code §14527, 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 or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal 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 REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, the CITY 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:

- The commitment of any required matching funds; and
- 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
- 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

- The CITY has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application;
- The PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM;
- The CITY is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects;
- The CITY is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT;
- There is no legal impediment to the CITY making applications for the funds;
- There is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of the CITY to deliver such PROJECT;
- The CITY 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;
- A copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application;
- The MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

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 this 22nd day of July, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

ATTACHMENT "A"

Project Location

Mno Grant
Elementary School

Wild Horse Road

Folsom Drive

Hillcrest Avenue

2014/07/21

City of Antioch GIS

Scale: 1"=6,000'

Wild Horse Road and Folsom Drive



**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

PREPARED BY: Lynne Filson, Assistant City Engineer, Capital Improvements Division *LBF*

REVIEWED BY: Ron Bernal, Public Works Director/City Engineer *REB*

DATE: July 10, 2014

SUBJECT: Resolution of Local Support for the Installation of the Traffic Signal at Contra Loma Boulevard and Longview Road

Resolution Authorizing the Filing of a Grant Application to MTC Requesting an Allocation of the Active Transportation Program (ATP) Cycle 1 Project Funds for the Installation of the Traffic Signal at Contra Loma Boulevard and Longview Road

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution of Local Support and the attached Resolution authorizing the filing of a grant application to MTC requesting an allocation of the Active Transportation Program (ATP) Cycle 1 project funds in the amount of \$370,000 for installation of the traffic signal at Contra Loma Boulevard and Longview Road.

BACKGROUND INFORMATION

The project will provide a protected crossing of Contra Loma Boulevard for students living west of the roadway to and from Sutter Elementary School, which is east of the roadway.

The Metropolitan Transportation Commission (MTC) requests that the project sponsor submit documentation showing local support and approving the application for federal funding for this project.

FINANCIAL IMPACT

If awarded, the City would receive \$370,000 of ATP funding for the design, construction, and construction support for this project. Although the resolution is standard and includes required wording regarding matching funds for this grant, there are no local matching funds required.

OPTIONS

None considered at this time.

ATTACHMENTS

A: Vicinity Map

LBF:lm

7-22-14

RESOLUTION NO. 2014/**
RESOLUTION OF LOCAL SUPPORT FOR THE INSTALLATION
OF THE TRAFFIC SIGNAL AT CONTRA LOMA BOULEVARD
AND LONGVIEW ROAD

WHEREAS, MTC is accepting project applications for the Regional Active Transportation Program (ATP), with \$30 million available for the Bay Area; and

WHEREAS, the ATP was created to encourage increased use of active modes of transportation, such as biking and walking. The ATP consolidates various federal and state transportation programs into a single program with a focus to make California a national leader in active transportation; and

WHEREAS, a portion of the ATP funds are designated to support safe routes to school; and

WHEREAS, a traffic signal at the intersection of Contra Loma Boulevard and Longview Road would promote student walking and bicycling to and from Sutter Elementary School; and

WHEREAS, a traffic signal at the intersection of Contra Loma Boulevard and Longview Road would promote pedestrian and bicycling activities in and around commercial businesses in the area; and

WHEREAS, the City of Antioch has received, from time to time, citizen requests for the signalization at the Contra Loma Boulevard and Longview Road intersection; and

WHEREAS, the City of Antioch has provided an opportunity for citizens to speak in support of the signalization at the Contra Loma Boulevard and Longview Road intersection.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Antioch supports the project application for and the installation of the traffic signal at Contra Loma Boulevard and Longview Road.

A certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded for submission to MTC as part of the ATP application process.

* * * * *

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 this 22nd day of July, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

RESOLUTION NO. 2014/**
RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION FOR
FUNDING ASSIGNED TO MTC AND COMMITTING ANY NECESSARY
MATCHING FUNDS AND STATING THE ASSURANCE TO COMPLETE THE
INSTALLATION OF A TRAFFIC SIGNAL AT CONTRA LOMA BOULEVARD
AND LONGVIEW ROAD

WHEREAS, the City of Antioch (CITY) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$370,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding, Transportation Alternatives (TA)/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the traffic signal at Contra Loma Blvd and Longview Road (herein referred to as PROJECT) for the Safe Routes 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) (23U.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, §182.7, and §2381(a)(1), and California Government Code §14527, 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 or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal 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 REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, the CITY 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:

- The commitment of any required matching funds; and
- 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
- 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

- 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
- The PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- The PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- The CITY has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans. FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the CITY; and

WHEREAS, that the CITY is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to the CITY making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of the CITY to deliver such PROJECT; and

WHEREAS, the CITY 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

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, that:

- The CITY is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under MAP-21 or continued funding;
- The CITY will provide any required matching funds;
- The CITY 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 CITY from other funds, and that the CITY does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING;
- The CITY 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 the CITY has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans. FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the CITY;
- The 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;

- The CITY has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application;
- The PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM;
- The CITY is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects;
- The CITY is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT;
- There is no legal impediment to the CITY making applications for the funds;
- There is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of the CITY to deliver such PROJECT;
- The CITY 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;
- A copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application;
- The MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

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 this 22nd day of July, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

ATTACHMENT "A"



Project Location

Longview Road

Contra Loma Blvd

John Suiter
Elementary School

Chichibu Park

Water Treatment Plant

Park Middle School

Cypress Meadows Assisted Living Facility

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

PREPARED BY: Scott Buenting, Associate Engineer, Capital Improvements Division *SB*

APPROVED BY: Ron Bernal, Public Works Director/City Engineer *ROB*

DATE: July 10, 2014

SUBJECT: Resolution Accepting Work and Authorizing the Public Works Director/City Engineer to File a Notice of Completion for the Cambridge Booster Pumping Station Upgrades, P.W. 365-T3

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution accepting work, authorizing the Public Works Director/City Engineer to File a Notice of Completion and authorizing the Director of Finance to make a final payment of \$1,007.00 plus retention payment of \$33,802.57 to be paid 35 days after recordation of the Notice of Completion.

It is recommended that the City Council authorize the Director of Finance to increase the existing contract with Koch & Koch, Inc. for this project by \$24,095.40.

BACKGROUND INFORMATION

On February 26, 2014, the City Council awarded a contract to Koch & Koch, Inc. in the amount of \$651,956.00 for installing two additional pumps at the Cambridge Booster Pumping Station to increase the station's capacity to move water from the Cambridge Storage Reservoir up to the higher elevations of Mira Vista Hills, Black Diamond Ranch and the Mira Vista Storage Reservoir. A concrete masonry unit enclosure was constructed to house the new pumps. And new piping and electrical equipment was installed to connect the new facilities to the existing system.

On July 9, 2014, the contractor completed all work associated with this project.

FINANCIAL IMPACT

The final construction contract price for this project is \$676,051.40 with funding from the Water Enterprise Fund. The final contract price varies from the amount awarded predominately due to additional fencing, paving and storm drainage modifications performed at the site.

OPTIONS

No options are suggested at this time.

ATTACHMENTS

- A: Resolution Accepting Work
- B: Notice of Completion

RESOLUTION NO. 2014/**

**RESOLUTION ACCEPTING WORK AND DIRECTING
THE PUBLIC WORKS DIRECTOR/CITY ENGINEER
TO FILE A NOTICE OF COMPLETION AND AUTHORIZING FINAL
PAYMENT TO KOCH & KOCH, INC. FOR THE CAMBRIDGE BOOSTER
PUMPING STATION UPGRADES
(P.W. 365-T3)**

WHEREAS, the Public Works Director/City Engineer has certified the completion of all work provided to be done under and pursuant to the contract between the City of Antioch and Koch & Koch, Inc. for the Cambridge Booster Pumping Station Upgrades; and

WHEREAS, it appears to the satisfaction of this City Council that the work under this contract has been fully completed and done as provided in the contract documents and the plans and specifications;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, that:

1. The above-described work is hereby accepted.
2. The Public Works Director/City Engineer is directed to execute and file for record with the County Recorder, County of Contra Costa, a Notice of Completion thereof.
3. The Director of Finance is hereby directed to increase the existing contract with Koch & Koch, Inc. for this project by \$24,095.40.
4. The Director of Finance is hereby directed to pay the Contractor a final payment of \$1,007.00 plus retention payment of \$33,802.57 to be paid 35 days after recordation of the Notice of Completion.

* * * * *

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 22nd day of July, 2014 by the following vote:

AYES:

NOES:

ABSENT:

**ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH**

Recorded at the request
of and for the benefit
of the City of Antioch

When recorded, return
to City of Antioch
Capital Improvements Division
P.O. Box 5007
Antioch, CA 94531-5007

NOTICE OF COMPLETION

FOR

**CAMBRIDGE BOOSTER
PUMPING STATION UPGRADES
(P.W. 365-T3)**

NOTICE IS HEREBY GIVEN that the work and improvements hereinafter described, the contract for which was entered into by and between the City of Antioch and Koch & Koch, Inc. was completed on July 9, 2014.

The surety for said project was Developers Surety and Indemnity Company.

The subject project consisted of installing two additional pumps at the Cambridge Booster Pumping Station in Antioch, California.

**THE UNDERSIGNED STATES UNDER PENALTY OF
PERJURY THAT THE ABOVE IS TRUE AND CORRECT**

Date

RON BERNAL, P.E.
Public Works Director/City Engineer

CITY OF ANTIOCH AS SUCCESSOR AGENCY TO
THE ANTIOCH DEVELOPMENT AGENCY
CLAIMS BY FUND REPORT
FOR THE PERIOD OF
JUNE 25 - JULY 10, 2014
FUND/CHECK#

239 Redevelopment Obligation Retirement Fund		
351645 MUNICIPAL RESOURCE GROUP LLC	CONSULTING SERVICES	4,620.60
351788 FRASER AND ASSOCIATES	CONSULTING SERVICES	5,862.75
351791 GOLDFARB AND LIPMAN LLP	LEGAL SERVICES	286.00

CITY OF ANTIOCH AS HOUSING SUCCESSOR TO
THE ANTIOCH DEVELOPMENT AGENCY
CLAIMS BY FUND REPORT
FOR THE PERIOD OF
JUNE 25 - JULY 10, 2014
FUND/CHECK#

227 Housing Fund

Housing - CIP

351669 SIERRA CORPORATE MANAGEMENT	RENT SUBSIDY	47,348.40
922316 HOUSE, TERI	CONSULTING SERVICES	2,892.50

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

Prepared by: Mindy Gentry, Senior Planner *MG*
Approved by: Tina Wehrmeister, Community Development Director *TW*
Date: July 17, 2014
Subject: **Preliminary Development Plan for the Rialto Place Subdivision
(PDP-14-02)**

RECOMMENDATION

It is recommended that the City Council provide feedback to the applicant and staff regarding the proposal and provide direction to the applicant for the Final Development Plan submittal.

REQUEST

The applicant is requesting a preliminary plan review of a proposal to develop a 93 unit residential subdivision and a self storage complex on 21.29 acres. The project site is located on Somersville Road approximately 1,200 feet north of the intersection of Somersville Road and James Donlon Boulevard. (APNs 076-010-030, -031, -032, and -034). (Attachment "A").

The purpose of a preliminary plan is to gather feedback from the Planning Commission, the City Council, and outside agencies in order for the applicant to become aware of concerns and/or issues prior to final development plan and tentative map submittal. As standard practice, preliminary plans are not conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final development plan hearing.

BACKGROUND INFORMATION

The Planning Commission provided feedback on the subject project at the June 18, 2014 hearing (Attachment "B"). The Planning Commission provided the following feedback to the applicant (Attachment "C"):

- Concerns over the small lot size, which will result in the homes being close together.
- Need to provide a useable yard as well as be able to meet the Medium Density (R-10) setbacks.
- Concerns over the proximity of the proposed development to the closed landfill and the belief that the vacant parcel was intended to be a "buffer" between the landfill and residential uses. The Planning Commission's direction was to have the City hire third party consultants to conduct the appropriate environmental studies pertaining to residential uses in close proximity to the landfill, which shall be paid for by the applicant.
- Concerns with higher density homes adjacent to a closed landfill that are targeted to seniors, young families, and those that might not economically have other homeownership opportunities.
- Some, but not all Commissioners stated that higher density residential uses such as townhomes mixed with single family homes were seen as favorable.

ENVIRONMENTAL

Preliminary plan review is a non-entitlement action and does not require environmental review. The Final Development Plan will require compliance with the California Environmental Quality Act (CEQA).

ANALYSIS

Issue #1: Project Overview

The proposed project consists of 93 single family homes and a self storage complex on approximately 21.29 acres. The self storage complex is proposed on the southern side of the property and would be on 4.32 acres. There are two proposed water quality basins to manage the stormwater for the property. One basin is located in the northern portion of the property (Parcel 'D') and is 0.72 acres in size and the other basin is on the eastern portion of the property (Parcel 'C') and is 1.38 acres. The lots range in size from 3,150 s.f. to 6,859 s.f. with an average lot size of 3,858 s.f., which is comparable in size to the lots in the Bluerock subdivision. The applicant has not included architecture as part of the application; therefore, a design discussion is absent from this staff report. Staff has recommended that the architecture comply with the City's Design Guidelines.

A homeowner's association (HOA) will be required for the project, which will be responsible for maintaining the water quality basin, the parcel containing Markley Creek (Parcel 'I'), the landscape parcels, and the recommended park, which is discussed in more detail below. The self storage complex will be responsible for their fair share of maintaining the water quality basin.

This project is adjacent to the closed landfill to the north, which has been identified as a Superfund site (a site contaminated by hazardous substances) by the federal Environmental Protection Agency; however, the site has been removed from the National Priority List. The site is also on the State's EPA Cortese list of contaminated properties. Staff does have concerns regarding the adjacent landfill and possible soil contamination as well as off gassing. Staff is recommending the applicant perform studies and consult with regulatory agencies as appropriate to ensure the subject property is safe for a residential use.

Markley Creek runs on the eastern side of the property and has been subdivided into its own parcel that is 1.37 acres. The applicant has not indicated who would be the responsible entity for the maintenance of Markley Creek and staff is recommending that the maintenance be under the purview of the Home Owners Association with the self storage facility responsible for maintaining their fair share. The setback from the top of the creek bank should be a minimum of 50' and the Final Development Plan should provide the location of the bottom of the channel and the top of bank clearly on the site plan.

Issue #2: Consistency with the General Plan

The General Plan designation for the project site is Business Park, which does not allow for residential or self storage uses; therefore, the project would require a request for a General Plan amendment. The applicant would like to change the designation to Medium Density Residential for the single family homes and Heavy Industrial for the self storage complex. The Medium Density Residential designation is described by the General Plan as accommodating a wide range of living accommodations, including conventional single-family dwellings, small lot single-family detached dwellings, mobile homes, townhouses, and garden apartments. The General

Plan indicates that the Medium Density Residential designation includes generous amounts of public or open space for active and passive recreational uses.

The General Plan does not have a Heavy Industrial designation, but does have a General Industrial designation, which is intended for a range of industrial uses, which for reasons of potential environmental effects are best segregated from other, more sensitive, land uses, such as residential neighborhoods. Staff does not believe General Industrial is an appropriate land use designation adjacent to a residential development; therefore, recommends the applicant modify that request to Light Industrial. Light Industrial is characterized by the General Plan as industrial uses compatible with a location in closer proximity to residential development than General Industrial. Light industrial is more appropriate given the proximity to residential uses.

The zoning designation for the site is Planned Business Center (PBC), which is consistent with the General Plan and would require a zoning amendment for the proposed project. The applicant is proposing Planned Development (PD) as the zoning designation, which is a designation to encourage flexibility in the design and development of land so as to promote the most appropriate use; to allow diversification in the relationship of various uses, structures, and space; to facilitate the adequate and economical provision of streets and utilities; to preserve natural and scenic qualities of open space; to offer recreational opportunities convenient to residents to enhance the appearance of neighborhoods through the preservation of natural green spaces; and to counteract the effects of urban congestion and monotony.

According to the General Plan, achievement of maximum densities are not guaranteed nor implied. The final density is determined by development design; any onsite constraints such as physical or environmental; available infrastructure; and other factors. The maximum allowable density for Medium Density Residential is 10 dwelling units per acre and the proposed density is 6.08 dwelling units per gross acre, which is within the maximum allowable.

While the project is under the maximum allowable density, the plan does not offer any public open space, as described in the General Plan, beyond the required stormwater basins. Therefore, staff is recommending the applicant provide a small central park within the development. Staff is also recommending the park be maintained by the HOA.

Due to the City budgetary issues and the lack of police staffing to meet General Plan standards, residential projects have been conditioned to participate in a community facilities district or other funding mechanism deemed acceptable by the City pertaining to police services. The project will be required to mitigate its impact on police services due to the increase in demand, which is based on the number of individuals that are expected to reside in the new project. The General Plan identifies a performance ratio, of 1.2 to 1.5 police officers per 1,000 individuals. Currently, the district or other funding mechanism has not been formed and the residential development that will be the first to move forward will be required to establish the district or other mechanism. Staff is also recommending that the Rialto Place project be conditioned to establish, if necessary, and participate in the CFD or other funding mechanism.

Issue #3: Site Plan

Residential: The proposed project is a small lot subdivision with the majority of the lots on the site plan having a lot size that is under 4,000 s.f. According to the applicant, the lots will accommodate homes up to 3,000 square feet, which may be difficult to achieve on such small lots while still maintaining the appropriate setbacks and requirements of the City's Design Guidelines.

The majority of the lots back onto Somersville Road, the bio-retention basin (Parcel 'C'), and the Contra Costa Canal. The applicant has not provided any setback information or a typical lot detail. The table below illustrates the setbacks for R-10, which is the zoning designation equivalent to the proposed Medium Density Residential General Plan designation. Staff is recommending the R-10 setbacks be met as part of the Final Development Plan submittal.

Setback	R-10 Setbacks
Front (Local Street)	20'
Front (Garage)	20'
Rear	10'
Side	5'

Due to not having a typical lot detail illustration, there are no details on driveway widths; however, the City standard detail requires a width of at least 18' which staff is recommending. Staff is also recommending each home shall also have a two car garage with at least a 20' driveway, which is to be at a right angle to the street.

All streets are proposed to be public; therefore, would require annexation into the Streetlight and Landscaping District.

Parking: Per the code, the parking requirements for a single family home are a two car garage and one guest parking space on the street within close proximity to the unit served. For the one proposed cul-de-sac, the applicant has not included the City standard cul-de-sac bulb, which includes angled parking in the middle. The City would be open to the idea of not requiring a City standard cul-de-sac since the bio-retention basin is taking up a majority of the cul-de-sac. However, the applicant would be required to submit a parking plan showing there is ample street parking to meet the minimum requirements for guest parking. The ordinance doesn't specify the placement of the spaces, but small lot subdivisions are typically conditioned to provide a guest parking space within 150-200' of the unit it is serving.

The Zoning Ordinance also requires unrestricted access to the rear yard for recreational vehicles for 25% of single family lots. The applicant's proposed site plan makes it difficult to provide the required number of RV parking spaces. Requiring RV parking may not be practical for this type of development and could be appropriately deterred by prohibiting RV parking in the development's Covenants, Codes and Restrictions (CC&Rs). This is consistent with other approved small-lot subdivisions. The PD zoning allows flexibility with development standards; therefore, the Council has the ability to require or not require RV parking for this project.

Self Storage: The self storage complex is proposed on approximately 4.32 acres on the southern portion of the property. Access would be off of Somersville Road with emergency vehicle access between lots 59 and 60. There are 12 buildings proposed as well as an office. The plans do not indicate the number of rental units that would be provided, which dictates the number of parking spaces to be provided onsite. The parking ratio provided in the code is one parking space per 100 rental units plus one per caretaker. This information shall be required to be provided as part of the Final Development Plan to ensure the parking ratio is sufficient to meet the code requirements. Lastly, staff has concerns regarding the dead ending of aisles within the self storage complex. The Final Development Plan should be revised to eliminate the dead end aisles with pass through circulation.

Issue #4: Infrastructure and Off-Site Improvements

The developer is required to provide all infrastructure necessary to serve the site. This includes utility tie-ins such as water, streets, sanitary sewer and storm drainage systems.

Somersville Road: The widening of Somersville Road is currently underway for the full length of the project frontage; however, it does not include a sidewalk or landscaping. The applicant is proposing a 20' setback between the face of curb and the sound wall with a detached sidewalk. The applicant shall work with staff on a landscape plan for the public right of way. The cross section of Somersville Road is shown as a 32' wide from centerline to the face of curb; however, this distance should be 40'.

Sequoia Drive: Sequoia Drive is proposed to terminate within the subject development and not connect to the existing terminus of Sequoia Drive as originally contemplated. In order to connect the two drives it would require connections over Markley Creek and the Contra Costa Canal. Staff is agreeable to vehicular traffic not connecting through; however, would like to explore the option of a pedestrian connection given the proximity of the Delta de Anza Regional Trail which follows the adjacent canal.

Staff will also require a traffic signal to be placed at the intersection of Somersville Road and Sequoia Drive. Somersville Road is an arterial street with a substantial traffic flow and due to safety concerns with vehicles leaving and entering the proposed subdivision, as well as the rate of speed on arterials, a traffic signal will have to be installed at this intersection. Sequoia Drive will also have to be widened to 46' in street width to accommodate the turning movements out of the subdivision.

Stormwater: Two parcels (Parcel 'C' and Parcel 'D') have been identified as stormwater basins for the project. Parcel 'C' is 1.38 acres and is located on the eastern portion of the property and Parcel 'D' is .72 acres and is located on the northern portion of the property. The bio-retention areas shall also be landscaped, which shall be shown on the Final Development Plan. The self storage complex will be using Parcel 'C' to accommodate their stormwater therefore will be required to pay their fair share of maintenance of the basin, which shall be memorialized in a recorded document or other mechanism as deemed acceptable by the City.

Utilities: Due to the smaller lots, staff has concerns about the placement of the required utility boxes. In some cases on small-lot developments, the utility boxes can be placed in a manner that dramatically reduces front yard landscaping. Therefore, staff is recommending the applicant submit a utility plan as part of the final development plan submittal showing the placement of all utility boxes.

Issue #5: Architecture, Landscaping and Walls

The applicant has not proposed any architecture, landscaping, fences, or walls with this application. As part of the future development application, staff wants to ensure architecturally enhanced elevations will be submitted for homes sited on the corners. It is typical to require that for homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the "front" elevations should also be placed on the side elevations facing the street. Self storage complexes can be an aesthetic eyesore if not designed in an architecturally pleasing manner. Staff is recommending the design and architecture shall be of high quality and in compliance with the City's Design Guidelines.

The City's Design Guidelines discuss having entries that incorporate special paving, architectural elements, and landscaping to set the overall tone for the community's character. Staff has suggested adding a project entry feature to set the overall character of the project.

Walls: The Antioch Municipal Code requires walls between commercial and residential uses shall be of masonry construction. As part of the Final Development Plan, the applicant should submit a site plan showing a wall between the single family homes and the self storage complex. Further, a sound wall shall also be provided along the entire length of the property along Somersville Road. A design has not been proposed; however, the height has been identified by the applicant as six feet. As part of the analysis in the CEQA document, a noise study will be conducted in order to determine if the wall has to be higher than six feet for noise attenuation. The masonry wall will also have to wrap around at Sequoia Drive up to lots 1 and 81. The design of both walls shall also be submitted for review. The walls shall be maintained by the self storage complex and the HOA, which shall be memorialized to the satisfaction of the City.

Issue #6: Other Issues

Outside Agency Comments: Comments from the Contra Costa Flood Control District, Contra Costa Fire Protection District, and the Central Valley Regional Water Quality Control Board are included as Attachment "D". The Flood Control District's letter mainly focuses on the payment of drainage fees and wanting to ensure that the storm drain facilities for the project are adequate to collect and convey stormwater entering or originating within the development. The Fire District wants to ensure the project's compliance with the California Fire Code. The Water Quality Control Board wants to ensure protection of State waters by ensuring compliance with state permits for stormwater and for the project to not violate water quality standards. The applicant should address these comments with the Final Development Plan submittal.

Street Names: The only street name that has been identified thus far is the existing Sequoia Drive. Staff is recommending that street names be included in the Final Development Plan submittal.

CONCLUSION

As stated previously, the purpose of a preliminary plan is to gather feedback from the Planning Commission, the City Council and outside agencies in order for the applicant to become aware of concerns and/or issues prior to Final Development Plan submittal. As standard practice, preliminary plans are not approved or conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final plan hearing. Staff suggests the following issues, along with any issues brought up by the Planning Commission at the June 18th hearing and the City Council at the July 22nd hearing, be addressed in the Final Development Plan submittal, recognizing that other issues may be raised through the entitlement process:

1. Where practical, the developer shall stagger the front yard setbacks of adjacent lots to provide for a varied streetscape.
2. Each home shall include at least a 20 foot deep driveway apron, which shall be at a right angle to the street.

3. A HOA shall be established for the project and will be responsible for maintaining all open space, internal streets, street lighting, the masonry walls, perimeter landscaping, and water quality basins.
4. The project shall provide guest parking spaces within 150' – 200' of the unit each space serves. The applicant shall submit a parking plan with the final development plan submittal that numbers each unit and its corresponding parking space in order to verify the distance from each unit.
5. For homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the "front" elevations shall also be placed on the side elevations facing the street.
6. The project's CC&Rs will not allow any RV's, boats or jet skis to be parked within the project.
7. The developer design and construct storm drain facilities to adequately collect and convey stormwater entering or originating within the development to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed, per Title 9 of the County Ordinance Code.
8. The applicant shall submit a utility plan showing the location of water meter boxes; backflows for fire sprinklers; sewer cleanouts; cable, phone, and power boxes as it relates to frontage of the houses. The utility plan shall also show a proposed easement for the public utilities that will be located in the private streets.
9. The Final Development Plan shall include a project entry feature and landscaping to set the overall character of the development. The entry feature shall incorporate some of the following: lighting, public art, large specimen trees, stone wall features, architectural monumentation and water features. The entry feature shall include authentic materials such as brick, stone, wood, or iron work.
10. The Final Development Plan shall include a central park.
11. Environmental studies pertaining to soil contamination and off gassing shall be completed to assess the adjacent landfill and residential use adjacent to the closed landfill. The studies shall be completed by third party consultants that are under contract with the City and paid for by the applicant.
12. At least one floor plan shall be a single story.
13. Included with the Final Development Plan submittal, a site plan shall show the location where garbage cans will be located on the main streets for trash pickup days. The areas shall be able to accommodate three bins plus three feet between the bins.
14. The project shall be annexed into the Streetlight and Landscape District.
15. The project shall establish, if necessary, and participate in the community facilities district or other mechanism deemed acceptable by the City.
16. Reduce retaining walls to the maximum extent practical and eliminate retaining walls within the public right-of-way.

17. The project's architecture shall comply with the City's Residential Design Guidelines.
18. The lots shall be at least 3,000 square feet.
19. The applicant shall adhere to the R-10 zoning designation setbacks.
20. The applicant's request for a General Plan amendment for the self storage complex should be changed from Heavy Industrial to Light Industrial.
21. The self storage complex shall be redesigned to eliminate the dead end aisles and provide pass through circulation.
22. The distance between the centerline of Somersville Road and the face of curb shall be 40'.
23. A sidewalk and landscaping shall be provided on Somersville Road the length of the property.
24. A traffic signal shall be constructed at the intersection of Somersville Road and Sequoia Drive. The width of Sequoia Drive shall be 46' of street width to accommodate the turning movements from the subdivision.
25. The applicant shall explore with staff the possibility of a pedestrian connection between the development and existing terminus of Sequoia Drive.
26. The bio-retention areas shall be landscaped.
27. The design and architecture of the self storage complex shall be of high quality and in compliance with the City's Design Guidelines.
28. A masonry wall shall be constructed the length of the property along Somersville Road with the height to be determined by a noise study. The wall shall wrap around onto Sequoia Drive up to lots 1 and 81. A masonry wall shall also be constructed between the single family homes and the self storage complex. The design of both walls shall be submitted with the Final Development Plan.
29. The self storage complex shall contribute its fair share for the maintenance of the stormwater control basin, Parcel 'C', the masonry walls, as well as maintain Markley Creek along its property line. The maintenance requirements shall be memorialized to the satisfaction of the City.

ATTACHMENTS

- A: Aerial Photograph
- B: Staff Report from the June 18, 2014 Planning Commission Hearing
- C: Minutes from the June 18, 2014 Planning Commission Hearing
- D. CCFCD Letter, CCCFPD Letter, and CVRWQCB Letter
- E. Applicant's Description

ATTACHMENT "A"

Aerial Photograph



ATTACHMENT "B"

STAFF REPORT TO THE CITY OF ANTIOCH PLANNING COMMISSION FOR CONSIDERATION AT THE MEETING OF JUNE 18, 2014

Prepared by: Mindy Gentry, Senior Planner *MG*
Approved by: Tina Wehrmeister, Community Development Director *AW*
Date: June 12, 2014
Subject: Preliminary Development Plan for the Rialto Place (PDP-14-02)

RECOMMENDATION

It is recommended that the Planning Commission provide feedback to the applicant and staff regarding the proposal and to provide direction to the applicant for the Final Development Plan submittal.

REQUEST

The applicant is requesting preliminary plan review of a proposal to develop a 93 unit residential subdivision and a self storage complex on 21.29 acres. The project site is located on Somersville Road approximately 1,200 feet north of the intersection of Somersville Road and James Donlon Boulevard. (APNs 076-010-030, -031, -032, and -034). (Attachment "A").

The purpose of a preliminary plan is to gather feedback from the Planning Commission and outside agencies in order for the applicant to become aware of concerns and/or issues prior to final development plan and tentative map submittal. As standard practice, preliminary plans are not conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final development plan hearing.

ENVIRONMENTAL

Preliminary plan review is a non-entitlement action and does not require environmental review. The Final Development Plan will require compliance with the California Environmental Quality Act (CEQA).

ANALYSIS

Issue #1: Project Overview

The proposed project consists of 93 single family homes and a self storage complex on approximately 21.29 acres. The self storage complex is proposed on the southern side of the property and would be on 4.32 acres. There are two proposed water quality basins to manage the stormwater for the property. One basin is located in the northern

portion of the property (Parcel 'D') and is 0.72 acres in size and the other basin is on the eastern portion of the property (Parcel 'C') and is 1.38 acres. The lots range in size from 3,150 s.f. to 6,859 s.f. with an average lot size of 3,858 s.f. The applicant has not included architecture as part of the application; therefore, a design discussion is absent from this staff report. Staff has recommended that the architecture comply with the City's Design Guidelines.

A homeowner's association (HOA) will be required for the project, which will be responsible for maintaining the water quality basin, the parcel containing Markley Creek (Parcel 'I'), the landscape parcels, and the recommended park, which is discussed in more detail below.

This project is adjacent to the closed landfill to the south, which is identified as a Superfund site by the federal Environmental Protection Agency; however, the site has been removed from the National Priority List. Staff does have concerns regarding the adjacent landfill and possible soil contamination as well as off gassing. Staff is recommending the applicant perform studies and consult with regulatory agencies to ensure the subject property is safe for a residential use.

Markley Creek runs on the eastern side of the property and has been subdivided into its own parcel that is 1.37 acres. The applicant has not indicated who would be the responsible entity for the maintenance of Markley Creek and staff is recommending that the maintenance be under the purview of the Home Owners Association. The setback from the top of the creek bank should be a minimum of 50' and the Final Development Plan should provide the location of the bottom of the channel and the top of bank clearly on the site plan.

Issue #2: Consistency with the General Plan

The General Plan designation for the project site is Business Park, which does not allow for residential or self storage uses; therefore, the project would require a request for a General Plan amendment. The applicant would like to change the designation to Medium Density Residential for the single family homes and Heavy Industrial for the self storage complex. The Medium Density Residential designation is described by the General Plan as accommodating a wide range of living accommodations, including conventional single-family dwellings, small lot single-family detached dwellings, mobile homes, townhouses, and garden apartments. The General Plan indicates that the Medium Density Residential designation includes generous amounts of public or open space for active and passive recreational uses.

The General Plan does not have a Heavy Industrial designation, but does have a General Industrial designation, which is intended for a range of industrial uses, which for reasons of potential environmental effects are best segregated from other, more sensitive, land uses, such as residential neighborhoods. Staff does not believe General Industrial is an appropriate land use designation adjacent to a residential development; therefore, recommends the applicant modify that request to Light Industrial. Light

Industrial is characterized by the General Plan as industrial uses compatible with a location in closer proximity to residential development than General Industrial. Light industrial is more appropriate given the proximity to residential uses.

The zoning designation for the site is Planned Business Center (PBC), which is consistent with the General Plan and would require a zoning amendment for the proposed project. The applicant is proposing Planned Development (PD) as the zoning designation, which is a designation to encourage flexibility in the design and development of land so as to promote the most appropriate use; to allow diversification in the relationship of various uses, structures, and space; to facilitate the adequate and economical provision of streets and utilities; to preserve natural and scenic qualities of open space; to offer recreational opportunities convenient to residents to enhance the appearance of neighborhoods through the preservation of natural green spaces; and to counteract the effects of urban congestion and monotony.

According to the General Plan, achievement of maximum densities are not guaranteed nor implied. The final density is determined by development design; any onsite constraints such as physical or environmental; available infrastructure; and other factors. The maximum allowable density for Medium Density Residential is 10 dwelling units per acre and the proposed density is 6.08 dwelling units per gross acre, which is within the maximum allowable.

While the project is under the maximum allowable density, the plan does not offer any public open space, as described in the General Plan, beyond the required stormwater basins. Therefore, staff is recommending the applicant provide a small central park within the development. Staff is also recommending the park be maintained by the HOA.

Due to the City budgetary issues and the lack of police staffing to meet General Plan standards, residential projects have been conditioned to participate in a community facilities district or other funding mechanism deemed acceptable by the City pertaining to police services. The project will be required to mitigate its impact on police services due to the increase in demand, which is based on the number of individuals that are expected to reside in the new project. The General Plan identifies a performance ratio, which is 1.2 to 1.5 police officers per 1,000 individuals. Currently, the district or other funding mechanism has not been formed and the residential development that will be the first to move forward will be required to establish the district or other mechanism. Staff is also recommending that the Rialto Place project be conditioned to establish, if necessary, and participate in the CFD or other funding mechanism.

Issue #3: Site Plan

Residential: The proposed project is a small lot subdivision with the majority of the lots on the site plan having a lot size that is under 4,000 s.f. According to the applicant, the lots will accommodate homes up to 3,000 square feet, which may be difficult to achieve

on such small lots while still maintaining the appropriate setbacks and requirements of the City's Design Guidelines.

The majority of the lots back onto Somersville Road, the bioretention basin (Parcel 'C'), and the Contra Costa Canal. The applicant has not provided any setback information or a typical lot detail. The table below illustrates the setbacks for R-10, which is the zoning designation equivalent to the proposed Medium Density Residential General Plan designation. Staff is recommending the R-10 setbacks be met as part of the Final Development Plan submittal.

Setback	R-10 Setbacks
Front (Local Street)	20'
Front (Garage)	20'
Rear	10'
Side	5'

Due to not having a typical lot detail illustration, there are no details on driveway widths; however, the City standard detail requires a width of at least 18' which staff is recommending. Staff is also recommending each home will also have to have a two car garage with at least a 20' driveway, which is to be at a right angle to the street.

All streets are proposed to be public; therefore, would require annexation into the Streetlight and Landscaping District.

Parking: Per the code, the parking requirements for a single family home are a two car garage and one guest parking space on the street within close proximity to the unit served. For the one proposed cul-de-sac, the applicant has not included the City standard cul-de-sac bulb, which includes angled parking in the middle. The City would be open to the idea of not requiring a City standard cul-de-sac since the bioretention basin is taking up a majority of the cul-de-sac. However, the applicant would be required to submit a parking plan showing there is ample street parking to meet the minimum requirements for guest parking. The ordinance doesn't specify the placement of the spaces, but small lot subdivisions are typically conditioned to provide a guest parking space within 150-200' of the unit it is serving.

The Zoning Ordinance also requires unrestricted access to the rear yard for recreational vehicles for 25% of single family lots. The applicant's proposed site plan makes it difficult to provide the required number of RV parking spaces. Requiring RV parking may not be practical for this type of development and could be appropriately deterred by prohibiting RV parking in the development's Covenants, Codes and Restrictions (CC&Rs). This is consistent with other approved small-lot subdivisions. The PD zoning allows flexibility with development standards; therefore, the Commission has the ability to require or not require RV parking for this project.

Self Storage: The self storage complex is proposed on approximately 4.32 acres on the southern portion of the property. Access would be off of Somersville Road with emergency vehicle access between lots 59 and 60. There are 12 buildings proposed as well as an office. The plans do not indicate the number of rental units that would be provided, which dictates the number of parking spaces to be provided onsite. The parking ratio provided in the code is one parking space per 100 rental units plus one per caretaker. This information shall be required to be provided as part of the Final Development Plan to ensure the parking ratio is sufficient to meet the code requirements. Lastly, staff has concerns regarding the dead ending of aisles within the self storage complex. The Final Development Plan should be revised to eliminate the dead end aisles with pass through circulation.

Issue #4: Infrastructure and Off-Site Improvements

The developer is required to provide all infrastructure necessary to serve the site. This includes utility tie-ins such as water, streets, sanitary sewer and storm drainage systems.

Somersville Road: The widening of Somersville Road is currently underway for the full length of the project frontage; however, it does not include a sidewalk or landscaping. The applicant is proposing a 20' setback between the face of curb and the sound wall with a detached sidewalk. The applicant shall work with staff on a landscape plan for the public right of way. The cross section of Somersville Road is shown as a 32' wide from centerline to the face of curb; however, this distance should be 40'.

Sequoia Drive: Sequoia Drive is proposed to terminate within the subject development and not connect to the existing terminus of Sequoia Drive as originally contemplated. In order to connect the two drives it would require connections over Markley Creek and the Contra Costa Canal. Staff is agreeable to vehicular traffic not connecting through; however, would like to explore the option of a pedestrian connection given the proximity of the Delta De Anza Regional Trail which follows the adjacent canal.

Staff will also require a traffic signal to be placed at the intersection of Somersville Road and Sequoia Drive. Somersville Road is an arterial street with a substantial traffic flow and due to safety concerns with vehicles leaving and entering the proposed subdivision, as well as the rate of speed on arterials, a traffic signal will have to be installed at this intersection. Sequoia Drive will also have to be widened to 46' in street width to accommodate the turning movements out of the subdivision.

Stormwater: Two parcels (Parcel 'C' and Parcel 'D') have been identified as stormwater basins for the project. Parcel 'C' is 1.38 acres and is located on the eastern portion of the property and Parcel 'D' is .72 acres and is located on the northern portion of the property. The bioretention areas shall also be landscaped, which shall be shown on the Final Development Plan.

Utilities: Due to the smaller lots, staff has concerns about the placement of the required utility boxes. In some cases on small lot developments, the utility boxes can be placed in a manner that dramatically reduces front yard landscaping. Therefore, staff is recommending the applicant submit a utility plan as part of the final development plan submittal showing the placement of all utility boxes.

Issue #5: Architecture, Landscaping and Walls

The applicant has not proposed any architecture, landscaping, fences, or walls with this application. As part of the future development application, staff wants to ensure architecturally enhanced elevations will be submitted for homes sited on the corners. It is typical to require that for homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the “front” elevations should also be placed on the side elevations facing the street. Self storage complexes can be an aesthetic eyesore if not designed in an architecturally pleasing manner. Staff is recommending the design and architecture shall be of high quality and in compliance with the City’s Design Guidelines.

The City’s Design Guidelines discuss having entries that incorporate special paving, architectural elements, and landscaping to set the overall tone for the community’s character. Staff has suggested adding a project entry feature to set the overall character of the project.

Walls: The Antioch Municipal Code requires walls between commercial and residential uses shall be of masonry construction. As part of the Final Development Plan, the applicant should submit a site plan showing a wall between the single family homes and the self storage complex. Further, a sound wall shall also be provided along the entire length of the property along Somersville Road. A design has not been proposed; however, the height has been identified by the applicant as six feet. As part of the analysis in the CEQA document, a noise study will be conducted in order to determine if the wall has to be higher than six feet for noise attenuation. The masonry wall will also have to wrap around at Sequoia Drive up to lots 1 and 81. The design of both walls shall also be submitted for review.

Issue #6: Other Issues

Outside Agency Comments

Comments from the Contra Costa Flood Control District, Contra Costa Fire Protection District, and the Central Valley Regional Water Quality Control Board are included as Attachment “B”. The applicant should address these comments with the Final Development Plan submittal.

Street Names: The only street name that has been identified thus far is the existing Sequoia Drive. Staff is recommending that street names be included in the Final Development Plan submittal.

CONCLUSION

The purpose of a preliminary plan is to gather feedback from the Planning Commission and outside agencies in order for the applicant to become aware of concerns and/or issues prior to Final Development Plan submittal. As standard practice, preliminary plans are not conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final plan hearing. Staff suggests the following along with any issues brought up by the Planning Commission at the June 18th hearing, be addressed in the Final Development Plan submittal:

1. Where practical, the developer shall stagger the front yard setbacks of adjacent lots to provide for a varied streetscape.
2. Each home shall include at least a 20 foot deep driveway apron, which shall be at a right angle to the street. The driveways shall also be at least 18 feet in width.
3. The Final Development Plan shall include a central park.
4. A HOA shall be established for the project and will be responsible for maintaining the water quality basin, park, landscape parcel, and Parcel 'I' (Markley Creek).
5. The project shall provide guest parking spaces within 150' – 200' of the unit each space serves. The applicant shall submit a parking plan with the final development plan submittal that numbers each unit and its corresponding parking space in order to verify the distance from each unit.
6. Homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the "front" elevations shall also be placed on the side elevations facing the street.
7. The project's CC&Rs will not allow any RV's, boats or jet skis to be parked within the project.
8. The developer shall design and construct storm drain facilities to adequately collect and convey storm water entering or originating within the development to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed, per Title 9 of the County Ordinance Code.
9. The applicant shall submit a utility plan showing the location of water meter boxes; backflows for fire sprinklers; sewer cleanouts; cable, phone, and power boxes as it relates to frontage of the houses.
10. The Final Development Plan shall include a project entry feature and landscaping for the residential component to set the overall character of the

development. The entry feature shall incorporate some of the following: lighting, public art, large specimen trees, stone wall features, architectural monumentation and water features. The entry feature shall include authentic materials such as brick, stone, wood, or iron work.

11. Environmental studies pertaining to soil contamination and off gassing shall be completed to assess the adjacent landfill and residential use adjacent to the closed landfill.
12. At least one floor plan shall be a single story.
13. Included with the Final Development Plan submittal, a site plan shall show the location where garbage cans will be located on the main streets for trash pickup days. The areas shall be able to accommodate three bins plus three feet between the bins.
14. The project shall be annexed into the Streetlight and Landscape District.
15. The project shall establish, if necessary, and participate in the community facilities district or other mechanism deemed acceptable by the City.
16. Reduce retaining walls to the maximum extent practical and eliminate retaining walls within the public right-of-way.
17. The project's architecture shall comply with the City's Residential Design Guidelines.
18. The lots shall be at least 3,000 square feet.
19. The applicant shall adhere to the R-10 zoning designation setbacks.
20. The applicant's request for a General Plan amendment for the self storage complex should be changed from Heavy Industrial to Light Industrial.
21. The self storage complex shall be redesigned to eliminate the dead end aisles and provide pass through circulation.
22. The distance between the centerline of Somersville Road and the face of curb shall be 40'.
23. A sidewalk and landscaping shall be provided on Somersville Road the length of the property.
24. A traffic signal shall be constructed at the intersection of Somersville Road and Sequoia Drive. The width of the Sequoia Drive shall be 46' of street width to accommodate the turning movements from the subdivision.

25. The applicant shall explore with staff the possibility of a pedestrian connection between the development and existing terminus of Sequoia Drive.
26. The bioretention areas shall be landscaped.
27. The design and architecture of the self storage complex shall be of high quality and in compliance with the City's Design Guidelines.
28. A masonry wall shall be constructed the length of the property along Somersville Road with the height to be determined by a noise study. The wall shall wrap around onto Sequoia Drive until lots 1 and 81. A masonry wall shall also be constructed between the single family homes and the self storage complex. The design of both walls shall be submitted with the Final Development Plan.

ATTACHMENTS

- A. Aerial Photograph
- B. CCFCD Letter, CCCFPD Letter, and CVRWQCB Letter
- C. Applicant's Description

ATTACHMENT "C"

viability of a commercial parcel, that the shape of the lot is such that it is not going to be popular for national retailers and that it would need to market as a niche project site but this is not a typical commercial site configuration.

Vice Chair Motts stated that this would not be marketed to large retail but neighborhood oriented retail.

Commissioner Pinto asked staff if the City was aggressively pursuing interest in research centers for this site to which CDD Wehrmeister said that the Economic Development Department is always looking at potentials.

Chair Hinojosa said that she has the same comments concerning small lots and this parcel having commercial zoning and being adjacent to a landfill because of her own professional experience. She said how do you justify putting homes which will be attractive to seniors, young families, and those that may not economically have other ownership housing choices next to the landfill which becomes a very hard sell for her. That she is also thinking about the general concept of shift to different housing products. She said she wants to make sure that we have this issue thoroughly researched and look into the history of the site. That if this project moves forward, there needs to be deed restrictions or CCRs that residents are aware of. She said that the applicant deserves due process.

Commissioner Baatrup said that he would support understanding what the previous decision making process was for the current general plan designation and that they need to be very careful before contemplating changing that designation.

- 4. PDP-14-02 – Rialto Place Preliminary Development Plan – SPPI – Somersville requests the review of a preliminary development plan, which is not an entitlement, for the development of 93 single family homes and a self storage complex on approximately 21.29 acres. The project site is located on Somersville Road approximately 1,200 feet north of the intersection of Somersville Road and James Donlon Boulevard (APNs 076-010-030, -031, -032, and -034).**

CDD Wehrmeister provided a summary of the staff report dated June 12, 2014.

In response to Chair Hinojosa, CDD Wehrmeister said that Attachment A reflects the current parcel configuration.

Chair Hinojosa said that the list to be assumed by the HOA is much greater than previous projects and includes maintaining the Markley Creek parcel Also what type of encroachments are allowed within the setback.

CDD Wehrmeister said that staff will note comments and address as part of the final development plan.

Chair Hinojosa clarified with staff that townhomes would be acceptable. She asked staff to clarify the Somersville improvements and whether they included sidewalks or bike

trails. ACE Filson said that there are bike lanes and sidewalks along the west side of the roadway.

OPENED PUBLIC HEARING

Applicant, Louis Parsons, said that they are totally onboard with modifying their General Plan amendment request for the ministorage parcel from heavy industrial to light industrial. That Somersville Road is being widened now. That this new C3 requirement is something that has been imposed on cities and developers, that they do understand why the City is reluctant to maintain C3 basins, and that it makes sense for HOAs to maintain. He said that he understands the creek was remediated and there is a monitoring plan in place and that long term maintenance of that is not going to require a lot of maintenance but that he is not prepared to answer that tonight. He did want to communicate that as far as the connection to the south, it is going to be expensive to cross the creek to provide some development there; that it is not off the table and will look at with staff. The density here is consistent with density on other projects with very similar density right across the street on the west side of Somersville.

Chair Hinojosa asked about the long term monitoring plan for Markley Creek and that burden pushed off on the HOA to which applicant said not necessarily, that he doesn't want to misspeak and that he is not prepared to answer that question.

CLOSED PUBLIC HEARING

Commissioner Baatrup dittoed previous comments as far as lot size and landscaping. He said that he doesn't think this is the right place for residential until or unless we can get certainty that people will not see any form of harm from that landfill; planners before them designated not residential and we need to respect that.

Commissioner Pinto recommended that the sentence in the staff report, page 2 "Staff is recommending the applicant perform studies and consult with regulatory agencies to ensure the subject property is safe for a residential use" be modified removing "recommending" and put in "directing".

Vice Chair Motts dittoed all concerns of Commissioners Baatrup and Pinto. He said that he is less concerned on airborne environmental given winds, he is less concerned with commercial but that he does think this being a larger piece of property he is concerned with the small lot size.

Chair Hinojosa said that it may be a better option to use an overlay district for the ministorage area. She said that she likes to see open space features, that she would consider town homes in this area, that she has concerns being next to a landfill but if all issues are sorted out she could support something more dense such as town homes. She said that she likes the suggestion about pedestrian connection to the De Anza Trail and on Somersville Road.

Vice Chair Motts clarified that although he supports higher density, it is not appropriate everywhere and that the trail connection is a great idea.

12

Commissioner Baatrup suggested a modification from what Commissioner Pinto had said that in the studies rather than have the developer perform them, his preference is to say either the City perform them to be funded by the developer so the City is selecting the consultant who is conducting studies or collaborating to bring in an unbiased perspective to give the City representation of concerns.

Chair Hinojosa agreed and wondered if this would happen as part of the CEQA review or separately to which CDD Wehrmeister said that is certainly something that must be done and would work with CEQA consultants.

Commissioner Pinto said that his comments would be that the developer, with help of staff, consider an option that would include both townhomes as well as single family homes rather than everything single family homes. He said that having a park located at one end of the project forces residents on the other side to drive so why not relocate the park in the middle of the project for everyone to access.

Vice Chair Motts asked staff about him reading somewhere in Bart's plan that Somersville was mentioned as a future substation. CDD Wehrmeister and Chair Hinojosa both said they had not heard anything about that.

ORAL COMMUNICATIONS

CDD Wehrmeister said that recruitment for the Associate Planner position closed. She said that the recruitment for the Planning Commissioner also closed and there was one applicant.

Chair Hinojosa suggested a land use subcommittee meeting once a month to talk about project pipeline to facilitate regular communication and dialogue.

WRITTEN COMMUNICATIONS

None.

COMMITTEE REPORTS

Vice Chair Motts reported on his attendance at Transplan on June 12.

ADJOURNMENT

Chair Hinojosa adjourned the Planning Commission at 8:55 p.m.

Respectfully Submitted,
Cheryl Hammers

ATTACHMENT "D"



Contra Costa County
Flood Control
& Water Conservation District

R. Bueren,
ex officio Chief Engineer
Steve Kowalewski,
Deputy Chief Engineer

May 14, 2014

Mindy Gentry
City of Antioch
P.O. Box 5007
Antioch, CA 94531

RECEIVED

MAY 19 2014

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

RE: PDP-14-02 Rialto Place
Our File: 1002-9345

Dear Ms. Gentry:

We received the Project Referral and Preliminary Development Plan for Subdivision 9345 Rialto Place located on Somersville Rd north of James Donlon Blvd and just south of the Contra Costa Canal on April 15, 2014. We have the following comments:

1. This project is located within Drainage Area 55, for which a drainage fee is due in accordance with Flood Control Ordinance Number 2002-23. By ordinance, all building permits or subdivision maps filed in this area are subject to the provisions of the drainage fee ordinance. Effective January 1, 2014, the current fee in this drainage area is \$0.84 per square foot of newly created impervious surface. The drainage area fee for this lot should be collected prior to filing the final map.
2. The Contra Costa County Flood Control & Water Conservation District (FC District) is not the approving local agency for this project as defined by the Subdivision Map Act. As a special district, the FC District has an independent authority to collect drainage fees that is not restricted by the Subdivision Map Act. The FC District reviews the drainage fee rate every year the ordinance is in effect and adjusts the rate annually on January 1 to account for inflation. The drainage fee rate does not vest at the time of tentative map approval. The drainage fees due and payable will be based on the fee in effect at the time of fee collection.
3. The Drainage Area 55 (DA 55) fee for this project is estimated to be \$498,311 based on the Preliminary Development Plan for Rialto Place Subdivision 9345, dated March 2014. Please see the enclosed spreadsheet for our drainage fee calculation.

Fees are due for any impervious surface constructed on Parcels B through I; however, the amount of impervious surface to be constructed on these parcels cannot be determined based on the plans submitted. The developer's engineer should submit a worksheet, which includes a scalable map, that calculates the amount of impervious surface to be constructed on these parcels, so the correct fees can be charged.

4. According to the DA 55 Hydrology Map, this development is within subwatershed A-6, which drains to Markley Creek. The southern half of the project drains to a bioretention basin on the western bank of Markley Creek, which then outfalls to Markley Creek. Draining the site in this manner is consistent with the DA 55 Drainage Plan. However, the portion of the project north of Sequoia Dr. drains to a bioretention basin at the northern corner of the development. The plans submitted do not appear to show where this basin drains to because no outfall facilities are shown within the basin, but it appears that it is intended to drain to a storm drain on Somersville Rd. There is potential for a diversion from DA 55 to Drainage Area 70 (DA 70) at this location because the centerline of Somersville Rd. is the border between these two drainage areas. The east side of the road is in DA 55 and the west side is in DA 70. The FC District does not have information on the Somersville Rd. storm drain system, because it is not a regional storm drain line and it is located within the City of Antioch (City). Therefore, we cannot determine if draining the north basin to the line on Somersville Rd. will be a diversion.

The City should require the developer to keep runoff from this project within DA 55. The runoff needs to ultimately drain to Markley Creek. The FC District does not allow diversions, because they increase runoff to the downstream system and increase the risk of flooding. If the City determines that the developer is proposing a diversion to DA 70 then, **prior to accepting the tentative map as complete**, please require the developer's engineer to either 1) modify the site drainage to eliminate the diversion of watersheds or 2) provide a hydrology and hydraulic report that shows how this project will balance the stormwater diversion. Review of development plans and hydrology and hydraulic calculations for conformance with our drainage area plan falls under our Fee-For-Service program. The FC District is available to provide technical assistance for meeting these requirements under this program.

5. The developer should be required to submit a geotechnical report to the City showing that the bioretention basin located adjacent to Markley Creek will not negatively impact the stability of the Markley Creek bank.

6. We recommend that the City condition the developer to design and construct storm drain facilities to adequately collect and convey stormwater entering or originating within the development to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed.
7. The developer should be required to submit hydrology and hydraulic calculations to the City that prove the adequacy of the in-tract drainage system and the downstream drainage system. We defer review of the local drainage to the City. However, the FC District is available to provide technical review under our Fee-for-Service program.
8. We recommend that the City condition the developer to contact the appropriate environmental regulatory agencies, such as the U.S. Army Corps of Engineers, State Department of Fish and Game, and State Regional Water Quality Control Board, to obtain all the necessary permits for this project or show that such permits are not necessary.
9. The applicant should be required to comply with the current National Pollutant Discharge Elimination System (NPDES) requirements under the City Stormwater Management and Discharge Control Ordinances and the C.3 Guidebook. We support the State's goal of providing Best Management Practices to achieve the permanent reduction or elimination of stormwater pollutants and downstream erosion from new development.

We appreciate the opportunity to review plans involving drainage fee matters and welcome continued coordination. If you have any questions, please contact me via e-mail at kschu@pw.cccounty.us or by phone at (925) 313-2179.

Sincerely,



Kara Schuh-Garibay
Civil Engineer
Contra Costa County Flood Control
& Water Conservation District

KSG:cw
G:\fldctl\CurDev\CITIES\Antioch\Sub 9345 Rialto Place\Prelim Dev Plan May 2014.docx
Enclosures

c: Mike Carlson, Flood Control
Tim Jensen, Flood Control
Teri E. Rie, Flood Control
c/enc: Marsha Brown, Finance
L. Parsons, SPPI — Somersville, Inc.
1800 Willow Pass Road
Concord, CA 94520

Contra Costa County



Fire Protection District

May 6, 2014

Ms. Mindy Gentry
City of Antioch
Community Development
P.O. Box 5007
Antioch, CA 94531-5007

Subject: Rialto Place, Subdivision 9345
Somerville at Sequoia Drive, Antioch
CCCFPD Project No.: P-2014-02520

Dear Ms. Gentry:

We have reviewed the preliminary development plan application to establish a 93-lot residential subdivision and self-storage facility at the subject location. The following is required for Fire District approval in accordance with the 2013 California Fire Code (CFC), the 2013 California Building Code (CBC), the 2013 California Residential Code (CRC), and adopted ordinances and standards:

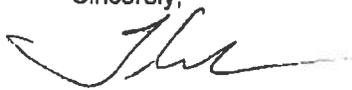
1. Access throughout the proposed residential development is consistent with Fire District requirements, **however** access throughout the proposed self-storage facility does not appear to comply with minimum turning radius requirements and provisions for the turning around of Fire District apparatus. Dead-end emergency apparatus access roadways in excess of 150 feet in length require approved turnarounds. (503) CFC, (503.2.5) CFC
2. Access gates for Fire District apparatus shall be a minimum of 20-feet wide. Access gates shall slide horizontally or swing inward and shall be located a minimum of 30 feet from the street. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved Fire District lock. (D103.5) CFC.
3. The developer shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code. (507.1) CFC
4. The developer shall provide hydrants of the East Bay type. Hydrants shall be spaced such that all portions of property frontage are within 250 feet of a hydrant. The proposed self-storage facility shall have hydrants located within 250 feet of any storage building, yet located such that all fire department connections are within 150 feet of a hydrant. (C103.1) CFC, CCCFPD Standard
5. The developer shall submit three (3) copies of site improvement plans indicating all proposed hydrant locations and fire apparatus access for review and approval prior to obtaining a building permit. **Final placement of hydrants shall be determined by this office.** (501.3) CFC

6. **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
7. All homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 13D or Section R313.3 of the 2013 California Residential Code. All buildings within the self-storage facility that exceed 5,000 square feet shall be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 13. (903.2) CFC, (R313.3) CRC, Contra Costa County Ordinance 2013-22
8. The developer shall submit three (3) 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).
9. The developer shall submit three (3) complete sets of plans and specifications of the of the following required submittals, to the Fire District for review and approval **prior to** construction/installation to ensure compliance with minimum requirements related to fire and life safety. Plan review and inspection fees shall be submitted at the time of plan review submittal. (105.4.1) CFC, (901.2) CFC, (107) CBC
 - Building construction plans (storage facility)
 - Private underground fire service water mains (storage facility)
 - Fire sprinklers (storage facility and single-family homes)
 - Fire alarm/sprinkler monitoring (storage facility)

Our preliminary review comments shall not be construed to encompass the complete project. Additional plans and specifications may be required after further review.

If you have any questions regarding this matter, please contact this office at (925) 941-3300.

Sincerely,



Ted Leach
Fire Inspector

c: SPPI-Somersville, Inc.
1800 Willow Pass Road
Concord, CA 94520

File:P-2014-02520.ltr



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

RECEIVED

24 April 2014

APR 28 2014

Mindy Gentry
City of Antioch Planning Division
P.O. Box 5007
Antioch, CA 94531

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT
CERTIFIED MAIL
7013 2250 0000 3465 9786

COMMENTS TO REQUEST FOR REVIEW FOR THE RIALTO PLACE PROJECT, CONTRA COSTA COUNTY

Pursuant to the City of Antioch Planning Division's 14 April 2014 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review* for the Rialto Place Project Project, located in Contra Costa County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

DL

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

If you have questions regarding these comments, please contact me at (916) 464-4684 or tcleak@waterboards.ca.gov.

A handwritten signature in black ink, appearing to read "Trevor Cleak". The signature is written in a cursive, flowing style.

Trevor Cleak
Environmental Scientist

APR 03 2014

RECEIVED

RIALTO PLACE
PROJECT CHARACTERISTICS
PRELIMINARY DEVELOPMENT PLAN

The proposed Rialto Place Project consists of 93 single family residential lots on the northern 12.73 acre portion of the property and a self-storage facility on the 4.32 acre southerly portion of the property. Combined this project totals a little more than 21 acres. This project, currently referred to as the Sequoia Business Park is located on the east side of Somersville Rd., north of James Donlon Blvd. and south of the Contra Costa Canal.

The proposed density of the residential portion of this project is about 5.5 units per acre and the average lots size is approximately 4000 sq. ft. These lot sizes will accommodate homes sizes likely up to 3000 sq. ft. These lot sizes and density are similar to the lot size and density being proposed on the Tuscan Meadows project located immediately to the west.

The current General Plan for this parcel calls for Business Park. We believe that this land use designation is not practical or viable given the location of this property. This property is surrounded by existing and planned residential to the west, north and east with a closed facility immediately to the south and then additional residential. We do not believe that construction and the sale or leasing of business park facilities in this location would be prudent as there is no demonstrated need for these uses in this area. Given the location of this property, we believe that developing a residential project is much more viable and is more consistent with existing nearby projects and land use designations. Furthermore, due to the existing and planned residential construction in the immediate vicinity, we believe that a self-storage site would work very well in this location which is why we are proposing an M-2 designation on the 4.32 acre southern portion of this property

We are proposing two access points into the project off of Somersville Rd. and an Emergency Vehicle Access driveway. The primary access point is the Sequoia Drive intersection which will be signalized in the future. We are also proposing two bioretention areas on parcels C and D within the project site to comply with C.3 requirements.

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

Prepared by: Mindy Gentry, Senior Planner *MG*
Approved by: Tina Wehrmeister, Community Development Director *TW*
Date: July 17, 2014
Subject: **Preliminary Development Plan for the Sorrento Village Subdivision (PDP-14-01)**

RECOMMENDATION

It is recommended that the City Council provide feedback to the applicant and staff regarding the proposal and provide direction to the applicant for the Final Development Plan submittal.

REQUEST

The applicant is requesting a preliminary plan review of a proposal to develop a 93 unit residential subdivision on 20.24 acres. The project site is located at the intersection of James Donlon Boulevard and Pintail Drive on the north side of James Donlon Boulevard (APN 056-130-012) (Attachment "A").

The purpose of a preliminary plan is to gather feedback from the Planning Commission, the City Council, and outside agencies in order for the applicant to become aware of concerns and/or issues prior to final development plan and tentative map submittal. No entitlements or land use approvals are considered. As standard practice, preliminary plans are not conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final development plan hearing.

BACKGROUND INFORMATION

The Planning Commission provided feedback on the subject project at the June 18, 2014 hearing (Attachment "B"). The Planning Commission provided the following feedback to the applicant (Attachment "C"):

- Concerns over the small lot size, which will result in the homes being close together.
- Need to provide a useable yard as well as be able to meet the Medium Density (R-10) setbacks.
- Concerns over the proximity of the proposed development to the closed landfill and the belief that the vacant parcel was intended to be a "buffer" between the landfill and residential uses. The Planning Commission's direction was to have the City hire third party consultants to conduct the appropriate environmental studies pertaining to residential uses in close proximity to the landfill, which shall be paid for by the applicant.
- Concerns with higher density homes adjacent to a closed landfill that are targeted to seniors, young families, and those that might not economically have other homeownership opportunities.
- Some, but not all Commissioners stated that higher density residential uses such as townhomes mixed with single family homes were seen as favorable.

ENVIRONMENTAL

Preliminary plan review is a non-entitlement action and does not require environmental review. The Final Development Plan will require compliance with the California Environmental Quality Act (CEQA).

ANALYSIS

Issue #1: Project Overview

The proposed project consists of 93 single family homes on approximately 20.24 acres. There are two proposed water quality basins to manage the stormwater for the property. One basin is located in the northeasterly corner of the property (Parcel 'A') and is 1.67 acres in size and the other basin is in the far western corner of the property (Parcel 'C') and is 0.31 acres. The lots range in size from 3,149 s.f. to 19,557 s.f. with an average lot size of 4,977 s.f., which is comparable in size to the Almondridge subdivision which is just west of Almondridge Park. The applicant has not included architecture as part of the application; therefore, a design discussion is absent from this staff report. Staff has recommended that the architecture comply with the City's Design Guidelines.

A homeowner's association (HOA) will be required for the project, which will be responsible for maintaining the water quality basins, the landscape parcels, the masonry wall, and the recommended park, which is discussed in more detail below.

This project is adjacent to the closed landfill to the north, which has been identified as a Superfund site (a site contaminated by hazardous substances) by the federal Environmental Protection Agency; however, the site has been removed from the National Priority List. The site is also on the State's EPA Cortese list of contaminated properties. Staff does have concerns regarding the adjacent landfill and possible soil contamination as well as off gassing. Staff is recommending the applicant perform studies and consult with regulatory agencies as appropriate to ensure the subject property is safe for a residential use.

Issue #2: Consistency with the General Plan

The General Plan designation for the project site is Commercial Office, which does not allow for residential uses; therefore, the project would require a General Plan amendment. The applicant would like to change the designation to Medium Density Residential, which is described in the General Plan as accommodating a wide range of living accommodations, including conventional single-family dwellings, small lot single-family detached dwellings, mobile homes, townhouses, and garden apartments. The General Plan indicates that the Medium Density Residential designation includes generous amounts of public or open space for active and passive recreational uses.

The zoning designation for the site is Commercial Office (CO), which is consistent with the General Plan and would require a zoning amendment for the proposed project. The applicant is proposing Planned Development (PD) as the zoning designation, which is a designation to encourage flexibility in the design and development of land so as to promote the most appropriate use; to allow diversification in the relationship of various uses, structures, and space; to facilitate the adequate and economical provision of streets and utilities; to preserve natural and scenic qualities of open space; to offer recreational opportunities convenient to residents to enhance the appearance of neighborhoods through the preservation of natural green spaces; and to counteract the effects of urban congestion and monotony.

According to the General Plan, achievement of maximum densities are not guaranteed nor implied. The final density is determined by development design; any onsite constraints such as physical or environmental; available infrastructure; and other factors. The maximum allowable density for Medium Density Residential is 10 dwelling units per acre and the proposed density is 4.59 dwelling units per gross acre, which is within the maximum allowable.

While the project is under the maximum allowable density, the plan does not offer any public open space, as described in the General Plan, beyond the required stormwater basins. Therefore, staff is recommending that if the project proceeds, the applicant provide a small central park within the development. Another possibility to meet this requirement would be to eliminate parcels 51 to 57 to create a park adjacent to the stormwater basin and exploring the possibility of creating a sports field within the water quality basin. Staff is also recommending the park be maintained by the HOA.

Due to the City budgetary issues and the lack of police staffing to meet General Plan standards, residential projects have been conditioned to participate in a community facilities district or other funding mechanism deemed acceptable by the City pertaining to police services. The project will be required to mitigate its impact on police services due to the increase in demand, which is based on the number of individuals that are expected to reside in the new project. The General Plan identifies a performance ratio, of 1.2 to 1.5 police officers per 1,000 individuals. Currently, the district or other funding mechanism has not been formed and the residential development that will be the first to move forward will be required to establish the district or other mechanism. Staff is also recommending that the Sorrento Village project be conditioned to establish, if necessary, and participate in the CFD or other funding mechanism.

Issue #3: Site Plan

The proposed project is a small lot subdivision with the majority of the lots on the site plan having a lot size that is under 5,000 s.f. The lots back onto James Donlon Boulevard and vacant land adjacent to the landfill. The applicant has not provided any setback information, but has provided a non-dimensioned typical lot detail, which shows the majority of the house covering the small lot. The table below illustrates the setbacks for R-10, which is the zoning designation equivalent to the proposed Medium Density Residential General Plan designation. Staff is recommending the R-10 setbacks be met as part of the Final Development Plan submittal.

Setback	R-10 Setbacks
Front (Local Street)	20'
Front (Garage)	20'
Rear	10'
Side	5'

Further, the width of the typical driveway is shown at only 16' and the City standard detail requires a width of at least 18'. The driveways will have to be widened in order to meet this minimum requirement. Each home shall have a two car garage with at least a 20' driveway, with staff recommending the driveways be at a right angle to the street.

All streets are proposed to be public; therefore, would require annexation into the Streetlight and Landscaping District.

Staff wants the applicant to provide more details on the north end of Pintail Drive to determine the drainage and the vehicular turnaround.

Parking: Per the code, the parking requirements for a single family home are a two car garage and one guest parking space on the street within close proximity to the unit served. The applicant has included parking within the cul-de-sac design, which provides parking for the units around the cul-de-sac; however, the design is not the City standard. The cul-de-sac parking should be changed with the Final Development Plan submittal to the City standard cul-de-sac bulb. Due to the larger lots and houses being only on one side of the street; the City would be open to the idea of not requiring a City standard cul-de-sac on Siena Court as long as a parking plan was submitted showing there is ample street parking to meet the minimum requirements for guest parking. The ordinance doesn't specify the placement of the spaces, but small lot subdivisions are typically conditioned to provide a guest parking space within 150-200' of the unit it is serving.

The Zoning Ordinance also requires unrestricted access to the rear yard for recreational vehicles for 25% of single family lots. The applicant's proposed site plan makes it difficult to provide the required number of RV parking spaces. Requiring RV parking may not be practical for this type of development and could be appropriately deterred by prohibiting RV parking in the development's Covenants, Codes and Restrictions (CC&Rs). This is consistent with other approved small-lot subdivisions. The PD zoning allows flexibility with development standards; therefore, the Council has the ability to require or not require RV parking for this project.

Issue #4: Infrastructure and Off-Site Improvements

The developer is required to provide all infrastructure necessary to serve the site. This includes utility tie-ins such as water, streets, sanitary sewer and storm drainage systems. Any requirements to signalize the intersections will be analyzed in the CEQA document for the project.

James Donlon Boulevard: James Donlon Boulevard is already a four lane arterial road; however, the full improvements have not been completed. The applicant will be required to construct a 6' detached sidewalk with landscaping up to the masonry wall for the full length of the property. Staff is also recommending the sidewalk be extended from its current eastern terminus along the frontage of the water tank site to ensure there will not be any gaps in the sidewalk. At the western most property line, after the sidewalk is terminated, the applicant shall construct a 6' decomposed granite pathway to the intersection of Somersville Road to ensure there is pedestrian access.

Since the lots back onto James Donlon Boulevard, a masonry wall will be required to run the entire length of the property. A design has not been proposed; however, the height has been identified by the applicant as six feet. Staff is recommending the wall be maintained by the HOA. As part of the analysis in the CEQA document a noise study will be conducted in order to determine if the wall has to be higher than six feet for noise attenuation. The masonry wall will also have to wrap around at Hummingbird Drive and Pintail Drive at Lots 5, 6, 43, and 44. Architectural plans were not submitted, so the design of the wall is not being considered.

Stormwater: Two parcels (Parcel 'A' and Parcel 'C') have been identified as stormwater basins for the project. Parcel 'A' is 1.67 acres and is located on the northeastern portion of the property and Parcel 'C' is .31 acres on the western portion of the property. The bio-retention areas shall also be landscaped.

Utilities: Due to the smaller lots, staff has concerns about the placement of the required utility boxes. In some cases on small-lot developments, the utility boxes can be placed in a manner that dramatically reduces front yard landscaping. Therefore, staff is recommending the applicant submit a utility plan as part of the final development plan submittal showing the placement of all utility boxes.

Also, staff is recommending the overhead utility lines be undergrounded.

Issue #5: Architecture, Landscaping and Walls

The applicant has not proposed any architecture, landscaping, fences, or walls with this application. As part of the future development application, staff wants to ensure architecturally enhanced elevations will be submitted for homes sited on the corners. It is typical to require that for homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the “front” elevations should also be placed on the side elevations facing the street.

The City's Design Guidelines discuss having entries that incorporate special paving, architectural elements, and landscaping to set the overall tone for the community's character. Staff has suggested adding a project entry feature to set the overall character of the project.

Issue #6: Other Issues

Outside Agency Comments: Comments from the Contra Costa Flood Control District (CCCFCD), Contra Costa Fire Protection District (CCCFPD), and the Central Valley Regional Water Quality Control Board (CVRWQCB) are included as Attachment “D”. The letter from the Flood Control District mainly focuses on the payment of drainage fees and wanting to ensure that the storm drain facilities for the project are adequate to collect and convey stormwater entering or originating within the development. The letter from the Fire District wants to ensure the project's compliance with the California Fire Code. The letter from the Water Quality Control Board wants to ensure protection of State waters by ensuring compliance with state permits for stormwater and for the project to not violate water quality standards. The applicant should address these comments with the Final Development Plan submittal. Lastly, the City also received a letter from an Antioch citizen expressing concern regarding the construction of residential uses adjacent to the landfill (Attachment “D”).

Street Names: Staff is recommending that the street name Sorrento Place be replaced by Sorrento Court and that Sorrento Court be replaced with an entirely new street name. This will eliminate confusion when navigating the development.

CONCLUSION

As previously stated, the purpose of a preliminary plan is to gather feedback from the Planning Commission, the City Council, and outside agencies in order for the applicant to become aware of concerns and/or issues prior to Final Development Plan submittal. As standard practice, preliminary plans are not approved or conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final plan hearing. Staff suggests the following issues, along with any issues brought up by the Planning Commission at the June 18th hearing and the City Council at the July 22nd hearing, be addressed in the Final Development Plan submittal, recognizing that other issues may be raised through the entitlement process:

1. Where practical, the developer shall stagger the front yard setbacks of adjacent lots to provide for a varied streetscape.
2. Each home shall include at least a 20 foot deep driveway apron, which shall be at a right angle to the street. The driveways shall also be at least 18 feet in width.
3. The Final Development Plan shall include a central park or the removal of lots 51-57 to create a park feature adjacent to the stormwater basin.
4. A HOA shall be established for the project and will be responsible for maintaining the water quality basin, landscape parcels, the masonry wall, and the park.
5. The project shall provide guest parking spaces within 150' – 200' of the unit each space serves. The applicant shall submit a parking plan with the final development plan submittal that numbers each unit and its corresponding parking space in order to verify the distance from each unit. The applicant can explore the possibility of removing the City standard cul-de-sac on Siena Court if the minimum parking requirements can be met.
6. For homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the “front” elevations shall also be placed on the side elevations facing the street.
7. The project’s CC&Rs will not allow any RV’s, boats or jet skis to be parked within the project.
8. The developer shall design and construct storm drain facilities to adequately collect and convey stormwater entering or originating within the development to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed, per Title 9 of the County Ordinance Code.
9. The applicant shall submit a utility plan showing the location of water meter boxes; backflows for fire sprinklers; sewer cleanouts; cable, phone, and power boxes as it relates to frontage of the houses.
10. The above ground utility lines shall be undergrounded.
11. The Final Development Plan shall include a project entry feature and landscaping to set the overall character of the development. The entry feature shall incorporate some of the following: lighting, public art, large specimen trees, stone wall features, architectural monumentation and water features. The entry feature shall include authentic materials such as brick, stone, wood, or iron work.
12. Environmental studies pertaining to soil contamination and off gassing shall be completed to assess the adjacent landfill and residential use adjacent to the closed landfill. The studies shall be completed by third party consultants that are under contract with the City and paid for by the applicant.
13. At least one floor plan shall be a single story.
14. Included with the Final Development Plan submittal, a site plan shall show the location where garbage cans will be located on the main streets for trash pickup days. The areas shall be able to accommodate three bins plus three feet between the bins.

15. A detached sidewalk shall be constructed on James Donlon Boulevard from the current eastern terminus along the water tower property as well as along the length of the subject property. A 6' decomposed granite walkway shall be constructed from the western property line to Somersville Road.
16. The project shall be annexed into the Streetlight and Landscape District.
17. The project shall establish, if necessary, and participate in the community facilities district or other mechanism deemed acceptable by the City.
18. Reduce retaining walls to the maximum extent practical and eliminate retaining walls within the public right-of-way.
19. The project's architecture shall comply with the City's Residential Design Guidelines.
20. Provide grading details for Lot 50 due to the steep slopes.
21. The downward slope on Lots 67-79 shall be incorporated into Parcel 'B', which shall be maintained by the HOA.
22. The lots shall be at least 3,000 square feet.
23. The applicant shall adhere to the R-10 zoning designation setbacks.
24. A masonry wall shall be constructed the length of the property along James Donlon Boulevard and shall be at least six feet in height. A noise study shall be conducted to determine if the wall needs to be taller than six feet for noise attenuation. The wall shall also wrap around at Pintail Drive and Hummingbird Way at Lots 5, 6, 43, and 44. The wall shall be decorative and a design shall be submitted with the Final Development Plan.
25. The bio-retention areas shall be landscaped.
26. As part of the Final Development Plan, the applicant shall provide more details on the north end of Pintail Drive to determine the drainage and vehicular turnaround.

ATTACHMENTS

- A: Aerial Photograph
- B: Staff Report from the June 18, 2014 Planning Commission Hearing
- C: Minutes from the June 18, 2014 Planning Commission Hearing
- D. CCFCD Letter, CCCFPD Letter, CVRWQCB Letter, and Antioch Citizen Letter
- E. Applicant's Description

ATTACHMENT "A"

Aerial Photograph



ATTACHMENT "B"

STAFF REPORT TO THE CITY OF ANTIOCH PLANNING COMMISSION FOR CONSIDERATION AT THE MEETING OF JUNE 18, 2014

Prepared by: Mindy Gentry, Senior Planner *MG*
Approved by: Tina Wehrmeister, Community Development Director *TW*
Date: June 12, 2014
Subject: Preliminary Development Plan for the Sorrento Village
Subdivision (PDP-14-01)

RECOMMENDATION

It is recommended that the Planning Commission provide feedback to the applicant and staff regarding the proposal and to provide direction to the applicant for the Final Development Plan submittal.

REQUEST

The applicant is requesting preliminary plan review of a proposal to develop a 93 unit residential subdivision on 20.24 acres. The project site is located at the intersection of James Donlon Boulevard and Pintail Drive on the north side of James Donlon Boulevard (**APN 056-130-012**) (Attachment "A").

The purpose of a preliminary plan is to gather feedback from the Planning Commission and outside agencies in order for the applicant to become aware of concerns and/or issues prior to final development plan and tentative map submittal. As standard practice, preliminary plans are not conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final development plan hearing.

ENVIRONMENTAL

Preliminary plan review is a non-entitlement action and does not require environmental review. The Final Development Plan will require compliance with the California Environmental Quality Act (CEQA).

ANALYSIS

Issue #1: Project Overview

The proposed project consists of 93 single family homes on approximately 20.24 acres. There are two proposed water quality basins to manage the stormwater for the property. One basin is located in the northeasterly corner of the property (Parcel 'A') and is 1.67 acres in size and the other basin is in the far western corner of the property (Parcel 'C')

and is 0.31 acres. The lots range in size from 3,149 s.f. to 19,557 s.f. with an average lot size of 4,977 s.f. The applicant has not included architecture as part of the application; therefore, a design discussion is absent from this staff report. Staff has recommended that the architecture comply with the City's Design Guidelines.

A homeowner's association (HOA) will be required for the project, which will be responsible for maintaining the water quality basins, the landscape parcels, and the recommended park, which is discussed in more detail below.

This project is adjacent to the closed landfill to the north, which is identified as a Superfund site by the federal Environmental Protection Agency; however, the site has been removed from the National Priority List. Staff does have concerns regarding the adjacent landfill and possible soil contamination as well as off gassing. Staff is recommending the applicant perform studies and consult with regulatory agencies as appropriate to ensure the subject property is safe for a residential use.

Issue #2: Consistency with the General Plan

The General Plan designation for the project site is Commercial Office, which does not allow for residential uses; therefore, the project would require a request for a General Plan amendment. The applicant would like to change the designation to Medium Density Residential, which is described in the General Plan as accommodating a wide range of living accommodations, including conventional single-family dwellings, small lot single-family detached dwellings, mobile homes, townhouses, and garden apartments. The General Plan indicates that the Medium Density Residential designation includes generous amounts of public or open space for active and passive recreational uses.

The zoning designation for the site is Commercial Office (CO), which is consistent with the General Plan and would require a zoning amendment for the proposed project. The applicant is proposing Planned Development (PD) as the zoning designation, which is a designation to encourage flexibility in the design and development of land so as to promote the most appropriate use; to allow diversification in the relationship of various uses, structures, and space; to facilitate the adequate and economical provision of streets and utilities; to preserve natural and scenic qualities of open space; to offer recreational opportunities convenient to residents to enhance the appearance of neighborhoods through the preservation of natural green spaces; and to counteract the effects of urban congestion and monotony.

According to the General Plan, achievement of maximum densities are not guaranteed nor implied. The final density is determined by development design; any onsite constraints such as physical or environmental; available infrastructure; and other factors. The maximum allowable density for Medium Density Residential is 10 dwelling units per acre and the proposed density is 4.59 dwelling units per gross acre, which is within the maximum allowable.

While the project is under the maximum allowable density, the plan does not offer any public open space, as described in the General Plan, beyond the required stormwater basins. Therefore, staff is recommending the applicant provide a small central park within the development. Another possibility to meet this requirement would be to eliminate parcels 51 to 57 to create a park adjacent to the storm water basin and exploring the possibility of creating a sports field within the water quality basin. Staff is also recommending the park be maintained by the HOA.

Due to the City budgetary issues and the lack of police staffing to meet General Plan standards, residential projects have been conditioned to participate in a community facilities district or other funding mechanism deemed acceptable by the City pertaining to police services. The project will be required to mitigate its impact on police services due to the increase in demand, which is based on the number of individuals that are expected to reside in the new project. The General Plan identifies a performance ratio, which is 1.2 to 1.5 police officers per 1,000 individuals. Currently, the district or other funding mechanism has not been formed and the residential development that will be the first to move forward will be required to establish the district or other mechanism. Staff is also recommending that the Sorrento Village project be conditioned to establish, if necessary, and participate in the CFD or other funding mechanism.

Issue #3: Site Plan

The proposed project is a small lot subdivision with the majority of the lots on the site plan having a lot size that is under 5,000 s.f. The lots back onto James Donlon Boulevard and vacant land adjacent to the landfill. The applicant has not provided any setback information, but has provided a non-dimensioned typical lot detail, which shows the majority of the house covering the small lot. The table below illustrates the setbacks for R-10, which is the zoning designation equivalent to the proposed Medium Density Residential General Plan designation. Staff is recommending the R-10 setbacks be met as part of the Final Development Plan submittal.

Setback	R-10 Setbacks
Front (Local Street)	20'
Front (Garage)	20'
Rear	10'
Side	5'

Further, the width of the typical driveway is shown at only 16' and the City standard detail requires a width of at least 18'. The driveways will have to be widened in order to meet this minimum requirement. Each home will also have to have a two car garage with at least a 20' driveway, which staff is recommending the driveways be at a right angle to the street.

All streets are proposed to be public; therefore, would require annexation into the Streetlight and Landscaping District.

Staff wants the applicant to provide more details on the north end of Pintail Drive to determine the drainage and the vehicular turnaround.

Parking: Per the code, the parking requirements for a single family home are a two car garage and one guest parking space on the street within close proximity to the unit served. The applicant has included parking within the cul-de-sac design, which provides parking for the units around the cul-de-sac; however, the design is not the City standard. The cul-de-sac parking should be changed with the Final Development Plan submittal to the City standard cul-de-sac bulb. Due to the larger lots and houses being only on one side of the street; the City would be open to the idea of not requiring a City standard cul-de-sac on Siena Court as long as a parking plan was submitted showing there is ample street parking to meet the minimum requirements for guest parking. The ordinance doesn't specify the placement of the spaces, but small lot subdivisions are typically conditioned to provide a guest parking space within 150-200' of the unit it is serving.

The Zoning Ordinance also requires unrestricted access to the rear yard for recreational vehicles for 25% of single family lots. The applicant's proposed site plan makes it difficult to provide the required number of RV parking spaces. Requiring RV parking may not be practical for this type of development and could be appropriately deterred by prohibiting RV parking in the development's Covenants, Codes and Restrictions (CC&Rs). This is consistent with other approved small-lot subdivisions. The PD zoning allows flexibility with development standards; therefore, the Commission has the ability to require or not require RV parking for this project.

Issue #4: Infrastructure and Off-Site Improvements

The developer is required to provide all infrastructure necessary to serve the site. This includes utility tie-ins such as water, streets, sanitary sewer and storm drainage systems. Any requirements to signalize the intersections will be analyzed in the CEQA document for the project.

James Donlon Boulevard: James Donlon Boulevard is already a four lane arterial road; however, the full improvements have not been completed. The applicant will be required to construct a 6' detached sidewalk with landscaping up to the masonry wall for the full length of the property. Staff is also recommending the sidewalk be extended from its current eastern terminus along the frontage of the water tank site to ensure there will not be any gaps in the sidewalk. At the western most property line, after the sidewalk is terminated, the applicant shall construct a 6' decomposed granite pathway to the intersection of Somersville Road to ensure there is pedestrian access.

Since the lots back onto James Donlon Boulevard, a masonry wall will be required to run the entire length of the property. A design has not been proposed; however, the height has been identified by the applicant as six feet. As part of the analysis in the CEQA document a noise study will be conducted in order to determine if the wall has to be higher than six feet for noise attenuation. The masonry wall will also have to wrap

around at Hummingbird Drive and Pintail Drive at Lots 5, 6, 43, and 44. Architectural plans were not submitted, so the design of the wall is not being considered.

Stormwater: Two parcels (Parcel 'A' and Parcel 'C') have been identified as stormwater basins for the project. Parcel 'A' is 1.67 acres and is located on the northeastern portion of the property and Parcel 'C' is .31 acres on the western portion of the property. The bioretention areas shall also be landscaped.

Utilities: Due to the smaller lots, staff has concerns about the placement of the required utility boxes. In some cases on small lot developments, the utility boxes can be placed in a manner that dramatically reduces front yard landscaping. Therefore, staff is recommending the applicant submit a utility plan as part of the final development plan submittal showing the placement of all utility boxes.

Also, staff is recommending the overhead utility lines be undergrounded.

Issue #5: Architecture, Landscaping and Walls

The applicant has not proposed any architecture, landscaping, fences, or walls with this application. As part of the future development application, staff wants to ensure architecturally enhanced elevations will be submitted for homes sited on the corners. It is typical to require that for homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the "front" elevations should also be placed on the side elevations facing the street.

The City's Design Guidelines discuss having entries that incorporate special paving, architectural elements, and landscaping to set the overall tone for the community's character. Staff has suggested adding a project entry feature to set the overall character of the project.

Issue #6: Other Issues

Outside Agency Comments

Comments from the Contra Costa Flood Control District, Contra Costa Fire Protection District, and the Central Valley Regional Water Quality Control Board are included as Attachment "B". The applicant should address these comments with the Final Development Plan submittal.

Street Names: Staff is recommending that the street name Sorrento Place be replaced by Sorrento Court and that Sorrento Court be replaced with an entirely new street name. This will eliminate confusion when navigating the development.

CONCLUSION

The purpose of a preliminary plan is to gather feedback from the Planning Commission and outside agencies in order for the applicant to become aware of concerns and/or

issues prior to Final Development Plan submittal. As standard practice, preliminary plans are not conditioned; rather a list of needed items, information, and issues to be addressed is compiled for the applicant to address prior to a final plan hearing. Staff suggests the following along with any issues brought up by the Planning Commission at the June 18th hearing, be addressed in the Final Development Plan submittal:

1. Where practical, the developer shall stagger the front yard setbacks of adjacent lots to provide for a varied streetscape.
2. Each home shall include at least a 20 foot deep driveway apron, which shall be at a right angle to the street. The driveways shall also be at least 18 feet in width.
3. The Final Development Plan shall include a central park or the removal of lots 51-57 to create a park feature adjacent to the stormwater basin.
4. An HOA shall be established for the project and will be responsible for maintaining the water quality basin, landscape parcels, and the park.
5. The project shall provide guest parking spaces within 150' – 200' of the unit each space serves. The applicant shall submit a parking plan with the final development plan submittal that numbers each unit and its corresponding parking space in order to verify the distance from each unit. The applicant can explore the possibility of removing the City standard cul-de-sac on Siena Court if the minimum parking requirements can be met.
6. Homes located on corner lots, the design treatments (e.g. a built-up stucco or stone veneer) found on the "front" elevations shall also be placed on the side elevations facing the street.
7. The project's CC&Rs will not allow any RV's, boats or jet skis to be parked within the project.
8. The developer shall design and construct storm drain facilities to adequately collect and convey storm water entering or originating within the development to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed, per Title 9 of the County Ordinance Code.
9. The applicant shall submit a utility plan showing the location of water meter boxes; backflows for fire sprinklers; sewer cleanouts; cable, phone, and power boxes as it relates to frontage of the houses.
10. The above ground utility lines shall be undergrounded.
11. The Final Development Plan shall include a project entry feature and landscaping to set the overall character of the development. The entry feature

- shall incorporate some of the following: lighting, public art, large specimen trees, stone wall features, architectural monumentation and water features. The entry feature shall include authentic materials such as brick, stone, wood, or iron work.
12. Environmental studies pertaining to soil contamination and off gassing shall be completed to assess the adjacent landfill and residential use adjacent to the closed landfill.
 13. At least one floor plan shall be a single story.
 14. Included with the Final Development Plan submittal, a site plan shall show the location where garbage cans will be located on the main streets for trash pickup days. The areas shall be able to accommodate three bins plus three feet between the bins.
 15. A detached sidewalk shall be constructed on James Donlon Boulevard from the current eastern terminus along the water tower property as well as along the length of the subject property. A 6' decomposed granite walkway shall be constructed from the western property line to Somersville Road.
 16. The project shall be annexed into the Streetlight and Landscape District.
 17. The project shall establish, if necessary, and participate in the community facilities district or other mechanism deemed acceptable by the City.
 18. Reduce retaining walls to the maximum extent practical and eliminate retaining walls within the public right-of-way.
 19. The project's architecture shall comply with the City's Residential Design Guidelines.
 20. Provide grading details for Lot 50 due to the steep slopes.
 21. The downward slope on Lots 67-79 shall be incorporated into Parcel 'B', which shall be maintained by the HOA.
 22. The lots shall be at least 3,000 square feet.
 23. The applicant shall adhere to the R-10 zoning designation setbacks.
 24. A masonry wall shall be constructed the length of the property along James Donlon Boulevard and shall be at least six feet in height. A noise study shall be conducted to determine if the wall needs to be taller than six feet for noise attenuation. The wall shall also wrap around at Pintail Drive and Hummingbird

Way at Lots 5, 6, 43, and 44. The wall shall be decorative and a design shall be submitted with the Final Development Plan.

25. The bioretention areas shall be landscaped.
26. As part of the Final Development Plan, the applicant shall provide more details on the north end of Pintail Drive to determine the drainage and vehicular turnaround.

ATTACHMENTS

- A. Aerial Photograph
- B. CCFCD Letter, CCCFPD Letter, and CVRWQCB Letter
- C. Applicant's Description

ATTACHMENT "C"

staff's recommendation covers most of his concerns and that this is a pretty good project.

Commissioner Baatrup reiterated his comments made earlier about traffic and mitigating landscaping when the project comes back. He said that he is not real excited about high density projects, and that while he cannot form an opinion against this project given there is some need for a smaller product, he is not in favor of revisiting prior approvals to significantly change what was approved. He said that the market will improve and he would hate to see a bunch of small product.

- 3. PDP-14-01 – Sorrento Village Preliminary Development Plan –** Albert D. Seeno Construction Company requests the review of a preliminary development plan, which is not an entitlement, for the development of 93 single family homes on approximately 20.24 acres. The project site is located at the intersection of James Donlon Boulevard and Pintail Drive on the north side of James Donlon Boulevard (**APNs 076-021-010, -011, and -013**).

CDD Wehrmeister provided a summary of the staff report dated June 12, 2014.

In response to Vice Chair Motts, CDD Wehrmeister said that whether this property should remain commercial specifically is something that would warrant further study. She said the extension of James Donlon could increase drive by trips.

Commissioner Baatrup asked staff about the reuse of the landfill to anything other than open space to which CDD Wehrmeister responded that there has not been any discussion regarding use of that site and that given that it is an unincorporated island there is no zoning or General Plan designation other than former sanitary landfill site.

Chair Hinojosa asked staff about setbacks with backyards so small, what type of flexibility with lot coverage and said that she doesn't want housing projects where they are not able to build covers, patios, etc because they are maxed out on coverage. CDD Wehrmeister said that small lots could be limiting.

In response to Chair Hinojosa, CDD Wehrmeister said that staff has looked at the slopes to the north and are concerned about having areas difficult to maintain for property owners, that sometimes those areas get ignored and it may be better to have the HOA maintain those areas.

Chair Hinojosa stated that she would like to understand the history of the zoning on these parcels to which CDD Wehrmeister said that more background can be provided when the final project comes back to the Commission.

Commissioner Pinto said that it appears that the proposed interior street that leads to James Donlon, Sorrento Drive, is over 2,000 feet long with driveways where cars back out and the potential for people driving fast is high. He said that perhaps a secondary street be created in this long stretch as a cross street.

CDD Wehrmeister said that there is also potential safety concerns on James Donlon

with additional intersections and there could be opportunity for traffic calming measures to be incorporated into the project.

ACE Filson said that on James Donlon, there are median breaks where applicant proposed the intersections. She said there probably wouldn't be much traffic using that street and that traffic calming may be a better solution.

OPENED PUBLIC HEARING

Applicant, Louis Parsons, said that dual use basins pose some difficulty during wet season as they are detention vs. retention basins. He said that they did look at all of staff's comments and are pretty much in agreement with all of them. He wanted to point out, looking at alternative land uses, they have projects where there are isolated office commercial sites looking at doing conversions. From their standpoint, they don't see how they can get a commercial user in there and that is why they are looking at residential land use. He said that there is a very real possibility that back slope area of some lots would be neglected but that it is not that severe of a slope and it would be prudent for the HOA to maintain. They would be amenable to traffic calming measures. He said that while he understands the concerns with smaller lot projects, they are building this now in many jurisdictions and it seems that this is marketable for them and a change from larger lots with larger houses. They do recognize that this is a difficult site.

In response to Chair Hinojosa, applicant said the only concern he has is when you do a single story on a smaller lot, they may request higher lot coverage for single stories to get a viable single story product. He said that they can put in an open space element maintained by the HOA.

In response to Commissioner Pinto, applicant said that they pre-wire houses to be solar, and while they don't want to force it on people, he would guess that you will see it more and more. Commissioner Pinto said they may want to consider a percentage of them having solar to which Vice Chair Motts agreed.

Commissioner Baatrup said that he is not satisfied with lots in the 3,000 range; that he thinks this is too much house on too small of lots. He said that he is having a hard time getting on board with this project next to the landfill and that he sees problems given this project is lower than other developments in the area. He said that he has concerns with risks to people and animals. That if we are going to put in small lots targeting older or single individuals, it should have more single story homes. He said that landscaping needs to be towards an environmentally friendly development.

CLOSED PUBLIC HEARING

Vice Chair Motts said that he is concerned about the project being next to an old dump site and that everything hinges on contamination testing and the results but thinks there are some other things to think about such as prevailing winds and outgasing.

CDD Wehrmeister said that she agrees with the applicant's comments regarding

CZ

viability of a commercial parcel, that the shape of the lot is such that it is not going to be popular for national retailers and that it would need to market as a niche project site but this is not a typical commercial site configuration.

Vice Chair Motts stated that this would not be marketed to large retail but neighborhood oriented retail.

Commissioner Pinto asked staff if the City was aggressively pursuing interest in research centers for this site to which CDD Wehrmeister said that the Economic Development Department is always looking at potentials.

Chair Hinojosa said that she has the same comments concerning small lots and this parcel having commercial zoning and being adjacent to a landfill because of her own professional experience. She said how do you justify putting homes which will be attractive to seniors, young families, and those that may not economically have other ownership housing choices next to the landfill which becomes a very hard sell for her. That she is also thinking about the general concept of shift to different housing products. She said she wants to make sure that we have this issue thoroughly researched and look into the history of the site. That if this project moves forward, there needs to be deed restrictions or CCRs that residents are aware of. She said that the applicant deserves due process.

Commissioner Baatrup said that he would support understanding what the previous decision making process was for the current general plan designation and that they need to be very careful before contemplating changing that designation.

4. **PDP-14-02 – Rialto Place Preliminary Development Plan – SPPI – Somersville requests the review of a preliminary development plan, which is not an entitlement, for the development of 93 single family homes and a self storage complex on approximately 21.29 acres. The project site is located on Somersville Road approximately 1,200 feet north of the intersection of Somersville Road and James Donlon Boulevard (APNs 076-010-030, -031, -032, and -034).**

CDD Wehrmeister provided a summary of the staff report dated June 12, 2014.

In response to Chair Hinojosa, CDD Wehrmeister said that Attachment A reflects the current parcel configuration.

Chair Hinojosa said that the list to be assumed by the HOA is much greater than previous projects and includes maintaining the Markley Creek parcel Also what type of encroachments are allowed within the setback.

CDD Wehrmeister said that staff will note comments and address as part of the final development plan.

Chair Hinojosa clarified with staff that townhomes would be acceptable. She asked staff to clarify the Somersville improvements and whether they included sidewalks or bike

ATTACHMENT "D"



Contra Costa County Flood Control & Water Conservation District

JULIA R. BUEREN,
ex officio Chief Engineer
STEVE KOWALEWSKI,
Deputy Chief Engineer

May 16, 2014

RECEIVED

MAY 21 2014

Mindy Gentry
City of Antioch
P.O. Box 5007
Antioch, CA 94531

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

RE: PDP-14-01 Sorrento Village
Our File: 1002-9346

Dear Ms. Gentry:

We received the Project Referral and Preliminary Development Plan for Subdivision 9346 Sorrento Village (APNs: 076-021-017, -018), located on James Donlon Blvd at Pintail Dr., on April 15, 2014. We have the following comments:

1. This project is located within Drainage Area 55 (DA 55), for which a drainage fee is due in accordance with Flood Control Ordinance Number 2002-23. By ordinance, all building permits or subdivision maps filed in this area are subject to the provisions of the drainage fee ordinance. Effective January 1, 2014, the current fee in this drainage area is \$0.84 per square foot of newly created impervious surface. The drainage area fee for this lot should be collected prior to filing the final map.
2. The Contra Costa County Flood Control & Water Conservation District (FC District) is not the approving local agency for this project as defined by the Subdivision Map Act. As a special district, the FC District has an independent authority to collect drainage fees that is not restricted by the Subdivision Map Act. The FC District reviews the drainage fee rate every year the ordinance is in effect and adjusts the rate annually on January 1 to account for inflation. The drainage fee rate does not vest at the time of tentative map approval. The drainage fees due and payable will be based on the fee in effect at the time of fee collection.
3. The DA 55 fee for this project is estimated to be \$348,541 based on the Preliminary Development Plan for Sorrento Village Subdivision 9346 dated March 2014. Please see the enclosed spreadsheet for our drainage fee calculation.

Fees are due for any impervious surface constructed on Parcels A through F; however, the amount of impervious surface to be constructed on these parcels cannot be determined based on the plans submitted. The developer's engineer should submit a worksheet, which includes a scalable map, that calculates the amount of impervious surface to be constructed on these parcels, so the correct fees can be charged.

4. The majority of parcel 076-021-017 within this project is located within DA 55 Subwatershed B-1, which drains towards the east to West Antioch Creek. Parcel 076-021-018 and a small portion on the western side of parcel 076-021-017 are in DA 55 Subwatershed A-5, which drains towards the west to Markley Creek. The development plans indicate that there will be two storm drain systems; one draining to a bioretention basin at the west end of the project, and one draining to a bioretention basin at the east end of the project. The boundary between the tributary areas to these systems appears to, more or less, correspond to the boundary between DA 55 Subwatersheds B-1 and A-5; therefore, the project is in accord with the DA 55 hydrology map and Drainage Plan in this respect. The project's eastern storm drain system is also in agreement with the DA 55 Drainage Plan.

It is more difficult to confirm that the project's western storm drain system is in accordance with the DA 55 Drainage Plan, because the details on the submitted plans are difficult to read. The system appears to outfall to a 36" storm drain in James Donlon Blvd. that is either existing or will be constructed, which appears to drain westerly along the north side of the street. As James Donlon Blvd. bends to the north, the storm drain crosses the street, continuing to the west. The FC District does not have information on the James Donlon Blvd. storm drain system, because it is not a regional storm drain line and it is located within the City of Antioch (City). Therefore, based on the general direction of flow in the storm drain system, as shown on the plans, we assume that this system drains to Markley Creek as it should per the DA 55 Drainage Plan, but we cannot determine that for certain. The City should confirm that the westerly portion of the development, beginning a few parcels east of Pintail Dr., does in fact drain to Markley Creek. Drainage to any other facility would be a diversion, which the FC District does not allow because diversions increase runoff to the downstream system and increase the risk of flooding.

5. We recommend that the City condition the developer to design and construct storm drain facilities to adequately collect and convey stormwater entering or originating within the development to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed.

6. The developer should be required to submit hydrology and hydraulic calculations to the City that prove the adequacy of the in-tract drainage system and the downstream drainage system. We defer review of the local drainage to the City. However, the FC District is available to provide technical review under our Fee-for-Service program.
7. We recommend that the City condition the developer to contact the appropriate environmental regulatory agencies, such as the U.S. Army Corps of Engineers, State Department of Fish and Game, and State Regional Water Quality Control Board, to obtain all the necessary permits for this project or show that such permits are not necessary.
8. The applicant should be required to comply with the current NPDES (National Pollutant Discharge Elimination System) requirements under the City Stormwater Management and Discharge Control Ordinances and the C.3 Guidebook. We support the State's goal of providing Best Management Practices to achieve the permanent reduction or elimination of stormwater pollutants and downstream erosion from new development. The FC District is available to provide technical assistance for meeting these requirements under our Fee-for-Service program.

We appreciate the opportunity to review plans involving drainage fee matters and welcome continued coordination. If you have any questions, please contact me via e-mail at kschu@pw.cccounty.us or by phone at (925) 313-2179.

Sincerely,



Kara Schuh-Garibay
Civil Engineer
Contra Costa County Flood Control
& Water Conservation District

KSG:cw
G:\fldctl\CurDev\CITIES\Antioch\Sub 9346 Sorrento Village\Prelim Dev Plan May 2014.docx
Enclosure

c: M. Carlson, Flood Control
T. Jensen, Flood Control
T. Rie, Flood Control
c/enc: M. Brown, Finance
L. Parsons, Albert D. Seeno Construction Co, Inc.
4021 Port Chicago Hwy
Concord, CA 94520

Contra Costa County



Fire Protection District

May 6, 2014

Ms. Mindy Gentry
City of Antioch
Community Development
P.O. Box 5007
Antioch, CA 94531-5007

Subject: Sorrento Village, Subdivision 9346
James Donlon at Pintail Drive, Antioch
CCCFPD Project No.: P-2014-02517

Dear Ms. Gentry:

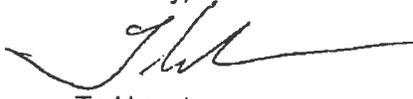
We have reviewed the preliminary development plan application to establish a 93-lot residential subdivision at the subject location. The following is required for Fire District approval in accordance with the 2013 California Fire Code (CFC), the 2013 California Residential Code (CRC), and adopted ordinances and standards:

1. Roadway widths throughout the proposed residential development are consistent with Fire District requirements; **however** the proposed cul-de-sac turnarounds do not appear to comply with the minimum outside turning radius of 45 feet. (503.2.5) CFC
2. The developer shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code. (507.1) CFC
3. The developer shall provide hydrants of the East Bay type. Hydrants shall be spaced such that all portions of property frontage are within 250 feet of a hydrant. (C103.1) CFC
4. The developer shall submit three (3) copies of revised site improvement plans indicating all proposed hydrant locations and fire apparatus access for review and approval prior to obtaining a building permit. **Final placement of hydrants shall be determined by this office.** (501.3) CFC
5. **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
6. All homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 13D or Section R313.3 of the 2013 California Residential Code. (903.2) CFC, (R313.3) CRC
7. The developer shall submit three (3) 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).

Our preliminary review comments shall not be construed to encompass the complete project. Additional plans and specifications may be required after further review.

If you have any questions regarding this matter, please contact this office at (925) 941-3300.

Sincerely,



Ted Leach
Fire Inspector

c: Albert D. Seeno Construction Co, Inc.
4021 Port Chicago Highway
Concord, CA 94520

File:P-2014-02517.ltr



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

24 April 2014

RECEIVED

APR 28 2014

Mindy Gentry
City of Antioch Planning Division
P.O. Box 5007
Antioch, CA 94531

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

CERTIFIED MAIL
7013 2250 0000 3465 9779

**COMMENTS TO REQUEST FOR REVIEW FOR THE SORRENTO VILLAGE PROJECT,
CONTRA COSTA COUNTY**

Pursuant to the City of Antioch Planning Division's 14 April 2014 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review* for the Sorrento Village Project, located in Contra Costa County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

D6

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

If you have questions regarding these comments, please contact me at (916) 464-4684 or tcleak@waterboards.ca.gov.

A handwritten signature in black ink, appearing to read "Trevor Cleak". The signature is written in a cursive, flowing style.

Trevor Cleak
Environmental Scientist

Gentry, Mindy

From: Wehrmeister, Tina
Sent: Monday, June 30, 2014 9:19 AM
To: Gentry, Mindy
Subject: FW: City Website Comment Form

From: johndt@sbcglobal.net [mailto:johndt@sbcglobal.net]
Sent: Saturday, June 28, 2014 3:38 PM
To: Wehrmeister, Tina
Subject: City Website Comment Form

John Thomas
3804 Dove Ct.
Antioch
CA
94509
johndt@sbcglobal.net
Tel: 925-754-1299
Fax:

In response to the proposed Sorrento development (my letter of June 6 was returned by the Post Office), my concerns are that Antioch could become the latest version of the infamous "Love Canal" and be subject to very costly lawsuits if residents become ill from living in such close proximity to old toxic chemical waste ponds. I am also concerned about the proximity to natural gas and petroleum pipelines, as well as the methane collection pipes and incinerator at the dump. If despite these dangers, Antioch approves Sorrento, please have two entrances/exits with stoplights due to the hill and curve on James Donlon which make seeing oncoming traffic difficult for those of us entering from Hummingbird and Pintail. Also, please extensive fencing and landscaping between Sorrento and Mt. Trashmore (the dump site). Thanks. I'm sorry for the late response.

ATTACHMENT "E"

SORRENTO VILLAGE
PROJECT CHARACTERISTICS
PRELIMINARY DEVELOPMENT PLAN

RECEIVED

APR 03 2014

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

The proposed Sorrento Village Project consists of 93 single family residential lots on two existing parcels totaling a little more than 20 acres. This project is located north of James Donlon Blvd., across from the Mira Vista residential project, east of Somersville Rd.

The proposed density of this project is about 4.5 units per acre and the average lots size is approximately 5000 sq. ft. These lot sizes will accommodate homes sizes likely up to 3500 sq. ft. These lot sizes are similar to the lot sizes across the street in the Mira Vista subdivision.

The current General Plan for this parcel calls for office uses. We believe that this land use designation is not practical or viable given the location of this property. This property is surrounded by residential to the west, south and east with a closed facility to the north. We do not believe that construction and the sale or leasing of office facilities in this location would be prudent as there is no demonstrated need for these uses in this area. Given the location of this property, we believe that developing a residential project is much more viable and is more consistent with existing nearby projects.

We are proposing two access points into the project opposite existing roadways (Hummingbird Dr. & Pintail Dr.). We will continue to provide access to the closed facility to the north via the Pintail Dr. extension. We are also proposing two bioretention areas on parcels A and B within the project site to comply with C.3 requirements.

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

Prepared by: Victor Carniglia, Planning Consultant
Reviewed by: Steven Duran, City Manager 
Date: July 15, 2014
Subject: First Amendment to the Out of Agency Services and Project Agreement between the City of Antioch and NRG for the Marsh Landing Generating Station (MLGS)

RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution approving the First Amendment to the Out of Agency Service and Project Agreement between the City of Antioch and NRG for the Marsh Landing Generating Station (MLGS) (Attachment A) and authorize the City Manager to execute the First Amendment with language substantially similar to the proposed language.

BACKGROUND:

On April 13, 2011 LAFCO granted the City of Antioch the authority to enter into an Out of Agency Service Agreement with NRG (then known as GenOn) for a proposed approximately 700 plus megawatt power plant, referred to as the March Landing Generating Station (MLGS). In June 2011 the City Council approved the Out Of Agency Services/Project Agreement between the City and NRG Energy, and authorized the City Manager to execute the Agreement. The Agreement was subsequently executed by the City and NRG on September 1, 2011 and recorded in the County Recorder's Office on September 8, 2011.

The "Out of Agency Service and Project Agreement"(Agreement) has benefitted both the City and NRG by providing the City with a new revenue and other benefits, while granting NRG the ability to connect the MLGS to City services, including sewer and water, prior to the completion of annexation. One of the provisions in the Agreement contains an incentive for the City (and also for the County) to complete the annexation of the MLGS property by December 31, 2012, a date that was approximately 15 months in the future from when the Agreement was executed in September 2011. According to the terms of the Agreement, the City would receive from NRG \$100,000 per year over a ten (10) year period (for a total of \$1,000,000) if annexation of the MLGS was completed on or before this December 31, 2012 deadline. A similar arrangement was offered to the County. When the Agreement was executed in September 2011, it was felt by all parties that fifteen months was sufficient time to complete the annexation of the MLGS property as part of the Northeast Antioch Annexation, due in large part to the

5
07-22-14

progress the City and County were making to resolve infrastructure issues, and coming to consensus on the terms of the Tax Exchange Agreement.

However, as the Northeast Antioch annexation process moved forward to public hearings in early 2012, the City received a number of letters and verbal comments from attorney Kristina Lawson on behalf of Seeno Homes/Discovery Builders challenging the adequacy of the annexation's environmental documentation. As a result of these challenges, a decision was made by the City to minimize potential legal exposure by updating the annexation's environmental documentation, which at that point in time was approximately eighteen months "old". This update process added a minimum of nine months to the timing of the annexation process. The end result of this delay was that the City was not able to meet the December 31, 2012 deadline for completing the annexation of the MLGS located in Annexation Area #1. As City Council is aware, the annexation of Area #1 and the MLGS site was finalized in February 2014. During this time period following the December 31, 2012 deadline, City and County staff kept in close contact with senior NRG staff, who understood the circumstances as to why the City was not able to meet the December 2012 deadline.

ANALYSIS:

Overview: Given the fact that the circumstances that directly resulted in the City missing the December 31, 2012 deadline were beyond the City's (and County's) control (namely the unexpected CEQA challenge), NRG has verbally indicated to City staff that they will honor their commitment to pay the City (and the County) the annexation "incentive" payment of \$100,000 per year for 10 years. This flexibility on the part of NRG is consistent with their ongoing commitment to be supportive of the City and the East Contra Costa County region. The County is in the process of working out a similar arrangement with NRG, with the goal that they will also receive from NRG the annexation "incentive" payment of \$100,000 per year over 10 years.

Proposed Changes: The following are the proposed wording changes to current text of the Out of Agency/Project Agreement in "redline" format. These changes are to Section II.F.4. of the executed Agreement. A copy of the executed September 2011 Out of Agency/Project Agreement is attached to this staff report (See Attachment B).

NRG concurs with the following proposed wording changes to Section II.F4 of the Agreement as set forth in Exhibit 1 to the attached resolution:

~~"As agreed to by GenOn Marsh Landing at the March 9, 2011 LAFCO hearing, GenOn Marsh Landing NRG shall make an annual payment of \$100,000 per year to the City's General Fund for 10 years in the event the MLGS Property is annexed to the City prior to December 31, 2014. For the purposes of this section 4, "annexed" shall mean the date that the Antioch City Council approves the annexation after it has been authorized by LAFCO annexation of the MLGS property to the City is complete as determined by LAFCO. This payment shall be made in conjunction with and in addition to the Post-Annexation Payments and~~

payments irrespective of annexation as described in this Agreement. The foregoing payment shall not be due or owing if the MLGS Property is not annexed to the City prior to December 31, 2014."

As can be seen, the proposed changes to the Agreement are relatively minor. The most obvious and primary modification is to change the "deadline" for the completion of the annexation of the MLGS property from December 31, 2012 to December 31, 2014. Since the annexation of the MLGS property already occurred in February of this year, as memorialized in the recital to the First Amendment, the proposed contingent wording is a formality, but an important formality.

Since the date for the first required Post-Annexation payment has already occurred (the date was July 1, 2014), NRG has agreed to make the first \$100,000 payment to the City as soon as practical after the changes to the Agreement are approved and the revised Agreement is executed.

The attached resolution authorizes the City Manager to execute the modified Out of Agency/Project Agreement with the text changes to Section II.F.4., as contained in this report.

OPTIONS: The City Council could decide not to approve the changes to the Agreement, in which case the City would not receive the \$100,000/year for 10 years annexation incentive payment, as the December 31, 2012 cutoff date for annexation was not met. While the Council could also seek other wording changes to the Agreement, it should be noted that NRG would have to agree to any other changes potentially delaying this process.

FISCAL IMPLICATIONS: The fiscal implications are straightforward. If the City approves the proposed changes the City will receive \$100,000/year over 10 years, for a total of \$1 million. If the City does not approve the wording changes, it will not receive the funds.

ATTACHMENTS:

A: Resolution of Approval with proposed First Amendment as Exhibit 1 to the Resolution

B: Out of Agency/Project Agreement executed on September 1, 2011

RESOLUTION NO. 2014/_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH APPROVING THE FIRST AMENDMENT TO THE OUT OF AGENCY SERVICE AND PROJECT AGREEMENT (AGREEMENT) BETWEEN THE CITY OF ANTIOCH AND NRG, CONCERNING THE MARSH LANDING GENERATING STATION (MLGS) LOCATED ON THE NORTH SIDE OF WILBUR AVENUE, WITHIN ANNEXATION AREA #1

WHEREAS, pursuant to Resolution No. 2011/54 dated August 9, 2011, the City of Antioch and NRG executed an Out of Agency Service and Project Agreement on September 1, 2011 for the purpose of the City providing City services to the MLGS prior to annexation, with NRG providing monetary and other benefits to the City in consideration for the City providing such services ("Agreement"); and

WHEREAS, the Agreement was recorded in the Contra Costa Recorder's Office on September 8, 2011 as Document No. 20110183389; and

WHEREAS, due to circumstances beyond the City's direct control, the City was not able to meet a provision in the Agreement requiring the City to complete the annexation of the MLGS site to the City by December 31, 2012 in order for the City to receive what is referred to in the Agreement as a "Financial Incentive to Complete Annexation by a Certain Date" of \$100,000 a year over 10 years, for a total of \$1 million; and

WHEREAS, NRG understands the circumstances leading to the City's inability to meet the December 31, 2012 Agreement "deadline" to annex to the City the property on which the MLGS is located, and therefore NRG supports the proposed changes to the executed Agreement to extend the annexation "deadline" date from December 31, 2012 to December 31, 2014; and

WHEREAS, the annexation to the City of Annexation Area #1, which contains the MLGS site, was completed in February 2014, thereby meeting the proposed December 31, 2014 "deadline" for the annexation the MLGS property; and

WHEREAS, the City Council finds that the previously adopted Mitigated Negative Declaration for the Northeast Antioch Annexation adequately addresses any potential environmental impacts of the proposed First Amendment to the Out of Agency Services and Project Agreement and particularly finds that there have been no substantial changes in the project or circumstances under which the project is undertaken, or new information of substantial importance that would require a Subsequent EIR or other environmental review prior to approving this First Amendment pursuant to the California Environmental Quality Act (CEQA) and implementing regulations including but not limited to Section 15162 of the CEQA Guidelines; and

WHEREAS, on July 22, 2014 the City Council duly held a public meeting on the matter, and received and considered testimony, both oral and documentary;

NOW THEREFORE BE IT RESOLVED, that the City Council hereby approves the attached First Amendment to the Out of Agency Services and Project Agreement and authorizes the City Manager to execute the First Amendment with language substantially similar to that in Exhibit 1.

* * * * *

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 _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK OF THE CITY OF ANTIOCH

Recording Requested by and
when Recorded Return to:

City Attorney
City of Antioch
P.O. Box 5007
Antioch, CA94531-5007

APN:051-031-018

DOCUMENTARY TRANSFER TAX \$
NONE

**FIRST AMENDMENT TO
OUT OF AGENCY SERVICES AND PROJECT AGREEMENT BETWEEN
THE CITY OF ANTIOCH AND GENON MARSH LANDING, LLC**

This First Amendment to Out of Agency Services and Project Agreement (“**First Amendment**”) dated as of the ____ day of _____, 2014 (the “**Effective Date to the First Amendment**”), is between the City of Antioch, California, a municipal corporation (“**City**”) and **NRG Marsh Landing LLC, a limited liability company formerly known as GenOnMarsh Landing, LLC**, and also formerly known as Mirant Marsh Landing, LLC (“**NRG**”). The **City** and **NRG** are referred to individually as a “**Party**”, and collectively as “**Parties**”. All other references and abbreviations are as set forth in the **Out of Agency Services and Project Agreement** dated September 1, 2011 and recorded in the Contra Costa Recorder’s Office on September 9, 2011 as Document No. 20110183389 (“**Agreement**”).

I: RECITALS

WHEREAS, NRG owns approximately 27 acres of unincorporated land located within the Northeast Antioch Reorganization Area in proximity to the City of Antioch, more particularly depicted in Attachment A and described in the legal description in Attachment B (the “**MLGS Property**”); and

WHEREAS, the MLGS Property was previously part of 114 acre parcel of property in unincorporated land located within the Northeast Antioch Reorganization Area with the remaining 87 acres owned by **NRG Delta LLC**, formerly known as **GenOn Delta, LLC** (“**NRG Delta**”) (the “**NRG Delta Property**”), which is depicted in Attachment C and described more particularly in the legal description in Attachment D; and

WHEREAS, NRG constructed a 760 megawatt natural gas-fired electricity generating facility known as the Marsh Landing Generating Station ("**MLGS**") on the **MLGS Property**; and

WHEREAS, due to circumstances beyond the City's control, the annexation of the **MLGS Property** to the City was not completed until February 2014, with **LAFCO** now determining that the annexation is complete; and

WHEREAS, nonetheless, in recognition of the City's efforts to provide services to the **MLGS Property** and to support the construction of the **MLGS**, **NRG** has agreed to provide the payment set forth in Section II.F of the **Agreement**;

NOWHEREFORE, in consideration of the mutual interests of the **City** and **NRG** in appropriately addressing the need for infrastructure to serve the **MLGS**, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the **Parties** agree as follows:

1. Section II.F.4 of the **Agreement** is amended to read as follows:

4) Financial Incentive to Complete Annexation by a Date Certain: **NRG** shall make an annual payment of \$100,000 per year to the **City's** general fund for 10 years in the event the **MLGS Property** is annexed to the **City** prior to December 31, 2014. For the purposes of this section 4, "annexed" shall mean the date that the annexation of the **MLGS Property** to the City is complete as determined by **LAFCO**. This payment shall be made in conjunction with and in addition to the **Post-Annexation Payments** and payments irrespective of annexation as described in this **Agreement**. The foregoing payment shall not be due or owing if the **MLGS Property** is not annexed to the **City** prior to December 31, 2014.

2. Section III.N of the **Agreement** is amended to read as follows:

Notices. Notices provided under the terms of this **Agreement** shall be in writing and transmitted by mail or overnight mail service. Notices to the **City** shall be addressed to:

City Manager
City of Antioch
P.O. Box 5007
Antioch, California 94531-5007
Telephone: 925-779-7011

With a copy to: City Attorney
City of Antioch
P.O. Box 5007
Antioch, California 94531-5007
Telephone: 925-779-7015

Notices to **NRG** (formerly **GenOnMarsh Landing**) shall be addressed to:

NRG Marsh Landing LLC
696 West 10th Street
Pittsburg, California 94565
Attention: John Chillemi, President
Telephone: 925-427-3560

with a copy to:

NRG Marsh Landing LLC
696 West 10th Street
Pittsburg, California 94565
Attention: Sean Beatty, Regional General
Counsel
Telephone: 925-427-3483

3. All other provisions of the **Agreement** remain in full force and effect.

NRG Marsh Landing LLC

City of Antioch

By: _____

By: _____
Steve Duran, City Manager

Name: _____

Title: _____

Attest:

Arne Simonsen, City Clerk

Approved as to Form:

Lynn Tracy Nerland, City Attorney

[signatures to be notarized]

Attachments A and B – Description and Depiction of MLGS Property

Attachments C and D – Description and Depiction of GenOn Delta Property

**ATTACHMENT B-
MLGS PROPERTY**

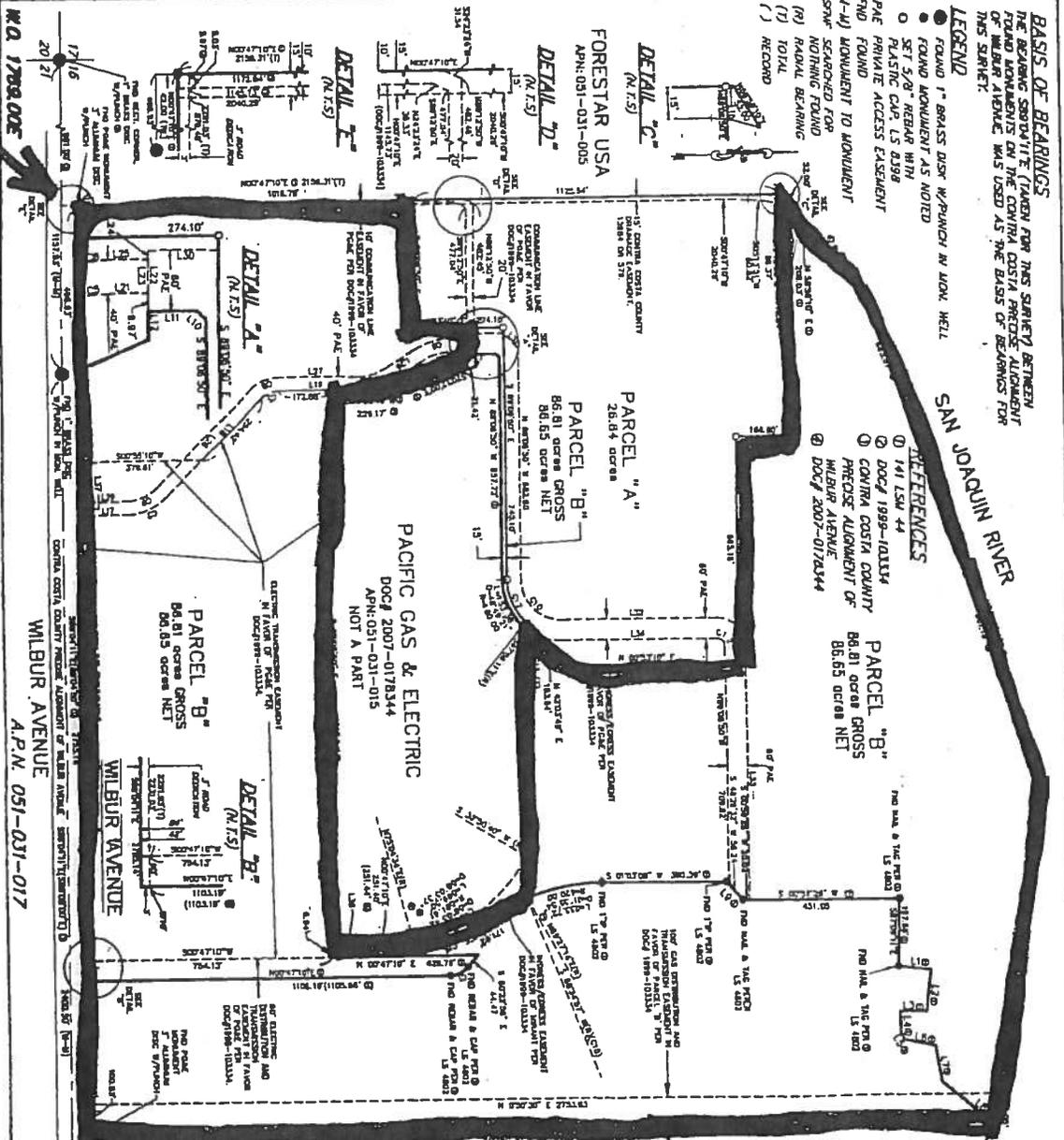
A PORTION OF SECTION 16, TOWNSHIP 2 NORTH, RANGE 2 EAST, MOUNT DIABLO
BASE AND MERIDIAN MORE PARTICULARLY DESCRIBED AS FOLLOWS:
PARCEL "A" OF MINOR SUBDIVISION 09-0011, AS RECORDED IN BOOK 205 OF PARCEL
MAPS AT PAGE 39, CONTRA COSTA COUNTY RECORDS, TOGETHER WITH THE
NONEXCLUSIVE EASEMENT FOR INGRESS AND EGRESS TO AND FROM SAID PARCEL "A"
OVER AND ACROSS THE PROPERTY DELINEATED AS "PRIVATE ACCESS EASEMENT" OR
"PAE" ON SUCH PARCEL MAP AND LOCATED ON PARCEL "B" OF SUCH PARCEL MAP, AND
ALL OF THE FOREGOING SUBJECT TO ANY EASEMENTS OR ENCUMBRANCES DELINEATED
ON SUCH PARCEL MAP AND LOCATED ON SUCH PARCEL OR SUCH PRIVATE ACCESS
EASEMENT AND ALL OTHER MANERS OF RECORD ENCUMBERING SUCH PARCEL OR
SUCH PRIVATE ACCESS EASEMENT.

ATTACHMENT B

BASIS OF BEARINGS
 THE BEARING SUBMITTE (TAKEN FROM THIS SURVEY BETWEEN FOUND MONUMENTS ON THE CONTRA COSTA PRECISE ALIGNMENT OF WILBUR AVENUE WAS USED AS THE BASIS OF BEARINGS FOR THIS SURVEY.

LEGEND
 ● FOUND MONUMENT AS NOTED
 ○ FOUND MONUMENT AS NOTED
 ○ SET 3/08 REBAR WITH PLASTIC CAP, L.S. 2008
 P.A.E. PRIVATE ACCESS EASEMENT
 P.A.E. FOUND
 (A-U) MONUMENT TO MONUMENT
 S.W.M. SEARCHED FOR NOTHING FOUND
 (N) RADIAL BEARING
 (T) TOTAL
 () RECORD

REFERENCES
 ① 141 L.S.W. 44
 ② DOC# 1999-101114
 ③ CONTRA COSTA COUNTY PRECISE ALIGNMENT OF WILBUR AVENUE
 ④ DOC# 2007-0178344



PARCEL MAP

SUBDIVISION MS 09-0011
 BEING A PORTION OF SECTION 16, T22N, R2E, M.D.M.
 CONTRA COSTA COUNTY, CALIFORNIA
 RONALD GREENWELL AND ASSOCIATES
 ANTIPOCH CALIFORNIA
 SCALE: 1"=200'
 SEPTEMBER 2010



WILBUR AVENUE
 FLEMING RD.
 HIGHWAY 160
 BRIDGEHEAD RD.
 MONTIC MAP (N.T.S.)

LINE TABLE

LINE	LENGTH	BEARING
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CURVE TABLE

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205-40
 SHEET 2 OF 2

**ATTACHMENT D-
GENON DELTA PROPERTY**

A PORTION OF SECTION 16, TOWNSHIP 2 NORTH, RANGE 2 EAST, MOUNT DIABLO
BASE AND MERIDIAN MORE PARTICULARLY DESCRIBED AS FOLLOWS:
PARCEL "B" OF MINOR SUBDIVISION 09-0011, AS RECORDED IN BOOK 205 OF PARCEL
MAPS AT PAGE 39, CONTRA COSTA COUNTY RECORDS, TOGETHER WITH THE
NONEXCLUSIVE EASEMENT FOR INGRESS AND EGRESS TO AND FROM SAID PARCEL "B"
OVER AND ACROSS THE PROPERTY DELINEATED AS "PRIVATE ACCESS EASEMENT" OR
"PAE" ON SUCH PARCEL MAP AND LOCATED ON PARCEL "A" OF SUCH PARCEL MAP, AND
ALL OF THE FOREGOING SUBJECT TO ANY EASEMENTS OR ENCUMBRANCES DELINEATED
ON SUCH PARCEL MAP AND LOCATED ON SUCH PARCEL OR SUCH PRIVATE ACCESS
EASEMENT AND ALL OTHER MANERS OF RECORD ENCUMBERING SUCH PARCEL OR
SUCH PRIVATE ACCESS EASEMENT.

ATTACHMENT D

Recording Requested by and
when Recorded Return to:

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

09/08/2011, 20110183389

APN: 051-031-018

DOCUMENTARY TRANSFER TAX \$
NONE

OUT OF AGENCY SERVICES AND PROJECT AGREEMENT BETWEEN THE CITY OF ANTIOCH AND GENON MARSH LANDING LLC

This Out of Agency Services and Project Agreement ("Agreement") dated as of the 1 day of Sept, 2011 (the "Effective Date"), is between the City of Antioch, California, a municipal corporation ("City") and **GenOn Marsh Landing, LLC**, a limited liability company formerly known as Mirant Marsh Landing, LLC ("**GenOn Marsh Landing**")., The **City** and **GenOn Marsh Landing** are referred to individually as a "**Party**", and collectively as "**Parties**". This **Agreement** incorporates relevant provisions of the September 8, 2009 Project Agreement and hereby supersedes the Project Agreement.

I: RECITALS

WHEREAS, **GenOn Marsh Landing** owns approximately 27 acres of unincorporated land located within the Northeast Antioch Reorganization Area in proximity to the City of Antioch, more particularly depicted in Attachment A and described in the legal description in Attachment B (the "**MLGS Property**"); and

WHEREAS, the **MLGS Property** was previously part of 114 acre parcel of property in unincorporated land located within the Northeast Antioch Reorganization Area with the remaining 87 acres owned by GenOn Delta, LLC ("**GenOn Delta**") (the "**GenOn Delta Property**"), which is depicted Attachment C and described more particularly in the legal description in Attachment D; and

WHEREAS, **GenOn Marsh Landing** is constructing a 760 megawatt natural gas-fired electricity generating facility known as the Marsh Landing Generating Station ("**MLGS**") on the **MLGS Property**; and

WHEREAS, GenOn Marsh Landing supports the annexation of the **MLGS Property** to the City and desires to receive City services, and also supports annexation of the same area to Delta Diablo Sanitation District ("**DDSD**") and desires to receive sewer treatment services; and

WHEREAS, the City Council of the **City** on June 26, 2007 initiated the reorganization process, known as the Northeast Antioch Reorganization, for 481 acres of primarily industrial land referred to as "Area 1" of the Northeast Antioch Reorganization Area (as depicted in Attachment E). This reorganization would bring the **MLGS Property** owned by **GenOn Marsh Landing** into the **City** and **DDSD**, along with the **GenOn Delta Property** owned by **GenOn Delta**. This reorganization application was subsequently filed with the Contra Costa County (the "**County**") Local Agency Formation Commission ("**LAFCO**") by City staff in August 2007; and

WHEREAS, LAFCO staff, upon receipt of the reorganization application, requested that the **City** include as part of the reorganization Area 2a (as depicted in Attachment E), consisting of 94 acres of primarily marina and industrial uses, and Area 2b (as depicted in Attachment E), consisting of 103 acres, with the primary land use being an existing residential neighborhood with approximately 120 existing single family homes, along with some multiple family housing. Including Areas 2a and 2b with Area 1 would increase the size of the Northeast Antioch Reorganization Area to a total of approximately 688 acres; and

WHEREAS, it is the policy of **LAFCO** not to deem an annexation or reorganization application complete until such time as the Tax Transfer Agreement is negotiated and executed between the **City** and the County; and

WHEREAS, in September 2007 the **City** retained the economic consulting firm of Gruen + Gruen Associates to quantify the projected tax revenue from the Northeast Antioch Reorganization Area, along with the cost of providing **City** services and infrastructure to the Northeast Antioch Reorganization Area. The primary purpose of this analysis was to provide both the **City** and County with relevant information regarding negotiation of the terms of the Tax Transfer Agreement; and

WHEREAS, on September 8, 2009 the City Council approved an Annexation Agreement dated October 8, 2009 between the City and Mirant Delta now known as "**GenOn Delta**" to address support of the annexation of the **MLGS Property** and **GenOn Delta Property** into the City of Antioch, which was recorded as Instrument No. 2009-0264285 on November 5, 2009 ("**Agreement Regarding Annexation**"); and

WHEREAS, on September 8, 2009, the City Council approved a Project Benefit Agreement dated October 8, 2009 between the **City** and Mirant Marsh Landing, now known as **GenOn Marsh Landing** to address community benefits and support of the **MLGS** ("**Project Agreement**"); and

WHEREAS, due to challenges in negotiating the Tax Transfer Agreement between the **City** and County, the **City** and the County prepared a Work Program to

implement a Joint City/County Economic Development Strategy for the Northeast Antioch Reorganization Area, which the Antioch City Council approved on January 11, 2011 and County's Board of Supervisors approved on February 8, 2011; and

WHEREAS, the **City** appointed two members to serve on the Northeast Antioch Annexation Subcommittee and the County's Board of Supervisors appointed one member to serve on the Northeast Antioch Annexation Subcommittee; and

WHEREAS, on April 13, 2011 **LAFCO** appointed two members to serve as non-voting participants on the Northeast Antioch Annexation Subcommittee, and

WHEREAS, since the time **City** staff filed the reorganization application with **LAFCO** in August 2007, **GenOn Marsh Landing** has received the necessary approval from the California Energy Commission ("**CEC**"), which was granted in a decision issued by the **CEC** on August 25, 2010 in **CEC** Docket No. 08-AFC-3 (as amended and modified from time to time, the "**CEC Decision**"), and the necessary approval from the Bay Area Air Quality Management District ("**BAAQMD**"), to construct the **MLGS** on the **MLGS Property**; and

WHEREAS, **GenOn Marsh Landing** has to date waited over three years for the Northeast Antioch Reorganization process to be completed and requires that in order to address financing concerns and to meet its construction schedule for the **MLGS**, the long-term provision of the needed sewer and water infrastructure and services for the **MLGS** needs to be resolved as expeditiously as possible; and

WHEREAS, given the aforementioned circumstances, **GenOn Marsh Landing** is not in a position to be able to wait the extensive time necessary for the Work Program to be implemented, the Tax Transfer Agreement to be resolved, and the Northeast Antioch Reorganization to be completed; and

WHEREAS, California Government Code Section 56133 allows a jurisdiction to enter into an "Out of Agency Services Agreement" to permit the extension of services to property located outside of the boundaries of the jurisdiction in anticipation of reorganization, subject to **LAFCO** granting the **City** that authority; and

WHEREAS, it was necessary to execute this Agreement in order for **GenOn Marsh Landing** to ensure its financing and construction schedule, and related contractual obligations concerning the delivery of electricity under its long-term power purchase agreement, be met; and

WHEREAS, the authority to enter into an Out of Agency Services Agreement was previously granted to the **City** by **LAFCO** for the Pacific Gas and Electric Company ("**PG&E**") Gateway Generating Station, which is located on a site near and to the east of the **MLGS Property**; and

WHEREAS, the precedent already exists for providing City services to **GenOn Marsh Landing** and to the **MLGS Property**, as the City currently provides potable water to the existing power plant owned by **GenOn Delta** located on the **GenOn Delta**

Property under an arrangement that was initiated at a time before State law required the use of Out of Agency Services Agreements; and

WHEREAS, the City Council of the City on October 26, 2010 authorized **City** staff to submit to **LAFCO** an application for the authority to enter into an Out of Agency Services Agreement with **GenOn Marsh Landing** which would allow (1) the **City** to provide the **MLGS** with **Potable Water**, sewer collection services, and the authority to provide process water to the power plant, and (2) **DDSD** to provide **MLGS** with sewer treatment services; and

WHEREAS, the **CEC** in its approval of the **MLGS** in the **CEC Decision** specified that the **MLGS** would utilize **City** and **DDSD** services, and also allowed the **MLGS** to utilize either well water that would be treated on site for use as process water, or **City** water for process water; and

WHEREAS, **GenOn Marsh Landing** prefers the use of **City** water as it addresses certain feasibility issues associated with the use of well water, and irrespective of the source of process water, the **CEC Decision** specifies that **City** water will be used at the **MLGS** to meet potable water needs; and

WHEREAS, a Mitigated Negative Declaration was prepared and was adopted by the City Council of the City on June 8, 2010 that adequately addressed the environmental impacts of the Northeast Antioch Reorganization, with the scope of the Mitigated Negative Declaration being sufficient to address this **Agreement** and was utilized by **LAFCO** in their action on the issue of this **Agreement**; and

WHEREAS, on February 9, 2011 **LAFCO** authorized the **City** to enter into an Out of Agency Services Agreement with **GenOn Marsh Landing** for the purpose of allowing the **City** to provide process water, potable water, and sewer collection services for the **MLGS**, and also authorized **DDSD** to provide sewer treatment services to the **MLGS**; and

WHEREAS, on June 6th, 2011, **DDSD** and **GenOn Marsh Landing, LLC** entered into an Out of Agency Agreement to provide sewer treatment services to the **MLGS**.

NOW THEREFORE, in consideration of the mutual interests of the **City** and **GenOn Marsh Landing** in appropriately addressing the need for infrastructure to serve the **MLGS**, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

II: Terms of Agreement Between the City and GenOn Marsh Landing

A. **Water and Sewer Infrastructure and Service**: The **City** will make available potable water service (such service as described in this **Agreement** and subject to the

terms and conditions of the Agreement is referred to as the "**Water Service**"), and sewer collection service (such service as described in this **Agreement** and subject to the terms and conditions of the **Agreement** is referred to as the "**Sewer Service**") to **GenOn Marsh Landing** for the **MLGS**. The **Water Service** and the **Sewer Service** are collectively referred to as the "**City Services**." These **City Services** will be specifically made available to the **MLGS Property**, which is the approximately 27 acre parcel on which the **MLGS** is being constructed, as more particularly defined in the recitals above.

The **City** will make available to **GenOn Marsh Landing**, for use at the **MLGS**, treated water meeting all laws, ordinances, standards, and regulations promulgated by any federal, state or local governmental authority as may be in effect and modified from time to time (collectively "**Governmental Regulations**") that are applicable to the provision, sale, or distribution of water used for human drinking and consumption purposes within the jurisdictional boundaries of the **City** ("**Potable Water**"). **City** also will make available sewer collection service to the **MLGS** in accordance with all **Governmental Regulations** applicable to the provision of sewer collection within the jurisdictional boundaries of the **City**. **City** will make all reasonable efforts to make available to **GenOn Marsh Landing Potable Water** in sufficient quantities to meet the requirements of the **MLGS** for **Potable Water** and in accordance with the following terms and conditions:

- 1) The quantity of **Potable Water** desired by **GenOn Marsh Landing** for the **MLGS** is estimated to be:
 - a) Approximately 0.2 acre feet per year for personal and sanitary uses ("**Basic Water Needs**"); plus
 - b) As much as, but no more than, fifty (50) acre feet per year for power plant process uses as authorized in the CEC Decision ("**Process Water Needs**").
- 2) **Potable Water** will be made available by the **City** to **GenOn Marsh Landing** with the goal of attaining **GenOn Marsh Landing's** desired water pressure of between 90 pounds per square inch ("**PSI**") and 130 PSI and with a desired capacity of 420 gallons per minute, with the understanding that the **City** cannot guarantee this water pressure and volume.
- 3) The rates applicable to the provision of the **City Services** to the **MLGS** shall be the same annual rates as established citywide by the **City** that are in effect at the time **City Services** are provided to the **MLGS**. The **City** agrees that the percentage change of any future rate increase for **City Services** provided to the **MLGS** shall not exceed the percent increase in water and sewer rates applicable to water and sewer users citywide.
- 4) In accordance with the **CEC Decision**, **GenOn Marsh Landing** shall make the annual mitigation payments to the **City** established by the **CEC** for the use of **Potable Water** for **Process Water Needs**, as specified in the **CEC Decision** in

Condition of Certification SOIL & WATER 6 (attached hereto as Attachment F) ("**CEC Mitigation Payments**"). The City shall ensure that the **CEC Mitigation Payments** are directed to a water conservation program, as contemplated in the **CEC Decision** and Condition of Certification SOIL & WATER 6, and shall cooperate with and assist **GenOn Marsh Landing** in preparing data and information regarding such water conservation program so as to enable **GenOn Marsh Landing** to provide compliance reports to the **CEC** as required in Condition of Certification SOIL & WATER 6 and the associated verification. The Parties expressly acknowledge and agree that the **CEC Mitigation Payments** adequately mitigate all potential environmental impacts associated with the use of **Potable Water** at the **MLGS Property** to the full extent required by the California Environmental Quality Act. The **CEC Mitigation Payments** only apply to the extent that **Potable Water** is used by **MLGS** as power plant process water, and the payments do not apply to any **Potable Water** that is used for **Basic Water Needs**.

5) As specified in Section 1 above, the **City** will make available for purchase by **GenOn Marsh Landing** sufficient quantities of **Potable Water** to serve the **Process Water Needs** of the **MLGS**. **GenOn Marsh Landing**, at its sole discretion, may choose to utilize **Potable Water** supplied by the **City** as the primary water source for its **Process Water Needs**, or may decide to utilize well water to serve its **Process Water Needs**, as allowed by the **CEC**, in which case **GenOn Marsh Landing** would utilize **Potable Water** as the backup and emergency source for **Potable Water** needs and the **City** would supply **Potable Water** in sufficient quantities to meet the **Potable Water** needs when called upon as a backup or emergency supply, recognizing that in a city-wide emergency the **City** will allocate water and other resources according to the greatest need for the public health, welfare and safety.

6) In the event of water rationing due to drought conditions, the **City** commits to the extent allowed by law to minimize any water rationing required of the **MLGS** if such rationing would impact the ability of the **MLGS** to operate when called upon by any purchaser of the project's output, the California Independent System Operator, or any agency or entity with authority to require the **MLGS** to operate.

7) Regardless of whether **GenOn Marsh Landing** uses the **City's Potable Water** as a primary process water source or as a backup/emergency process water source, the terms and obligations in this **Agreement** shall remain in full force.

B. **Support for Annexation:** **GenOn Marsh Landing** agrees to use all reasonable efforts to support any **LAFCO** administered election and to vote in favor of the reorganization/annexation of the **MLGS Property** to the **City** and **DDSD** as part of the Northeast Antioch Reorganization process previously initiated by the **City**, or subsequent reorganization/annexation application filed in the future by the **City**. **GenOn Marsh Landing** agrees not file an annexation application or support an application to annex the **MLGS Property** that does not include concurrent annexation to the **City of Antioch**.

C. **Reimbursement of City Staff and Consultant Costs:** **GenOn Marsh Landing** agrees to reimburse the **City** for staff and consultant costs related to processing the

Northeast Antioch Reorganization through **LAFCO** and the Antioch City Council, as specified in the Reimbursement Agreement between the City of Antioch and **GenOn Marsh Landing**, initially dated as of May 13, 2009, subject to the review by **GenOn Marsh Landing** of such costs as provided for in the Reimbursement Agreement. This requirement to reimburse **City** staff and consultant costs shall extend and be in effect until the **Commencement Date** of the **MLGS**, as the term is defined in this **Agreement**, at which date it shall expire. This funding by **GenOn Marsh Landing** will also include **City** costs relating to the implementation of the Joint City/County Economic Development Program for the Northeast Antioch Reorganization Area, including the costs of a facilitator to expedite the annexation process as agreed to by the Parties and **LAFCO**, provided that **GenOn Marsh Landing** shall have the right to review and approve all such costs on the same terms as provided in the Reimbursement Agreement. The amount of reimbursement allowed under this provision shall not exceed a total \$200,000 for charges incurred by the City occurring after the **Effective Date** of this **Agreement** and prior to the **Commencement Date** of the **MLGS**.

D. **Annexation Fees:** Within 60 days after the effective date of the annexation of the **MLGS Property**, **GenOn Marsh Landing** agrees to pay to the **City** the annexation fee attributable to the approximately 27 acre **MLGS Property** being annexed to the **City**. The amount of the annexation fee paid shall be calculated based on the rate of one thousand fifty dollars per acre (\$1050/acre).

E. **Limitations Concerning Requests to CEC:** The **MLGS** has been approved by the **CEC** to use **City Sewer Service** and to use **Potable Water** supplied by the **City** for Basic Water Needs and, subject to certain conditions specified in the **CEC Decision**, to use **Potable Water** supplied by the **City** for power plant process water purposes. The **CEC Decision** allows the **MLGS** to use groundwater from wells drilled on the site adjacent to the **MLGS Property** as the primary water source to serve power plant process needs (with **Potable Water** supplied by the **City** to be available and used as a backup and emergency supply), or alternately to use **Potable Water** supplied by the **City** as the primary water source to serve power plant process water purposes (with groundwater from the wells to be available and used as a backup and emergency supply). Provided that the **City** makes available and provides the **City Services** in accordance with the terms of this **Agreement** on a continuous basis and without deliberate and intended interruption or delay, **GenOn Marsh Landing** agrees not to request or otherwise seek **CEC** approval to allow the **MLGS** to utilize any means to dispose of **MLGS** process water other than the City's sewer collection system, nor to utilize any source of **Potable Water** other than **Potable Water** supplied by the **City**. For the avoidance of doubt, the foregoing shall not restrict **GenOn Marsh Landing's** ability to utilize groundwater in the manner authorized in the **CEC Decision**, including as the primary source of process water or as a backup source of process water if **Potable Water** supplied by the **City** becomes the primary source.

F. **Financial Contributions by GenOn Marsh Landing to the City:** As an acknowledgement of the benefits to **GenOn Marsh Landing** of receiving the **City Services** prior to the annexation of the **MLGS Property** to the **City**, and as an acknowledgement of the assurances that benefit **GenOn Marsh Landing** after

annexation of the **MLGS Property**, as contained within this **Agreement**, **GenOn Marsh Landing** agrees to fulfill the obligations in this **Agreement**, including but not limited to making payments to the **City** in the following manner:

1) Pre Annexation Payments to City's General Fund: During the time period prior to the annexation of the **MLGS Property** to the **City**, **GenOn Marsh Landing** agrees to make pre-annexation payments to the **City** that are representative of the amount of property tax revenue the **City** would have otherwise received if the **MLGS Property** were located within the jurisdictional boundaries of the **City**.

a) Calculation of the Representative Tax Revenue Payment. A representative tax revenue payment shall be calculated as follows: Using a rate of ten cents (\$0.10) per one hundred dollars (\$100.00) of assessed value on the **MLGS Property**, with the **MLGS Property** deemed for purposes of this **Agreement** (and regardless of any assessment that may be made for other purposes) to have an assessed value of five hundred million dollars (\$500,000,000), which assessed value includes the full value of the **MLGS** and all associated improvements after construction. Under this calculation, the representative tax revenue payment equals five hundred thousand dollars (\$500,000) per year, which (i) shall not be adjusted up or down due to inflation, changes in tax rate, or changes in property value, and shall not be increased or decreased due to any other circumstance; and (ii) shall be offset and reduced by the full amount of the **CEC Mitigation Payments** that are required to be paid for the **MLGS** in the same annual period, but shall not be otherwise reduced to reflect other payments due under this **Agreement** (the resulting payment, after adjustment and offset/reduction in accordance with the foregoing, is the "**Representative Tax Revenue Payment**").

b) Commencement of Payment. The **Representative Tax Revenue Payment** shall be paid to the **City** on an annual basis beginning on the commencement of commercial operation of the **MLGS** (the "**Commencement Date**"). The **Commencement Date** shall be deemed to have occurred on the date when power generated by the **MLGS** is first purchased by **PG&E** or a successor to **PG&E** under the Power Purchase Agreement for the **MLGS** between **GenOn Marsh Landing** and **PG&E** dated as of September 2, 2009 (the "**PPA**"); or if the **PPA** ceases to be in effect, then either (i) when power generated by the **MLGS** is purchased by **PG&E** under a new or revised power purchase agreement containing terms and conditions that are reasonably comparable to the **PPA**; or (ii) when power generated by the **MLGS** is purchased by a party other than **PG&E** under a power purchase agreement containing terms and conditions that are reasonably comparable to the **PPA**.

c) Payment Schedule. The **Representative Tax Revenue Payment** shall be paid to the **City** in the following manner until the earlier to occur of: (i) annexation of the **MLGS Property** to the **City**; or (ii) the 10th anniversary of the **Commencement Date**:

i) The first **Representative Tax Revenue Payment**, which shall be made for the year in which the **Commencement Date** occurs, shall be paid to the **City** within thirty (30) days after the **Commencement Date**. For each succeeding

calendar year after the year in which the **Commencement Date** occurs, **GenOn Marsh Landing** shall pay the **Representative Tax Revenue Payment** in two equal installments, with the first installment to be paid prior to or on June 30 of such calendar year, and the second installment to be paid prior to or on December 31 of such calendar year. Notwithstanding anything herein to the contrary, unless extended pursuant to clauses (F)(1)(d) or (F)(2)(d), **GenOn Marsh Landing** shall not pay in excess of an aggregate of ten (10) annual **Representative Tax Revenue Payments** and **Post-Annexation Payments**;

ii) The **Representative Tax Revenue Payment** shall be paid in accordance with this **Agreement** until the earlier of the date when the annexation of the **MLGS Property** is complete or the 10th anniversary of the **Commencement Date**, at which time **GenOn Marsh Landing's** obligation to pay the **Representative Tax Revenue Payment** shall cease, unless extended as provided for in this **Agreement**.

iii) Due to the inherent delays between completion of the Annexation to the **City** and the **MLGS Property** appearing on the **City's** property tax rolls, and provided that the 10th anniversary of the **Commencement Date** has not yet occurred, a pro rata portion of the unpaid **Representative Tax Revenue Payment** for the fiscal year in which Annexation is completed shall be made by **GenOn Marsh Landing** within thirty (30) days after annexation of the **MLGS Property** to the **City** (calculated as \$500,000.00 multiplied by a fraction the numerator of which is the number of days from January 1st of the year until the completion of Annexation and the denominator is 365, less any installment payment of the Representative Tax Payment made in that year).

d) Extended PPA before Annexation. If the 10th anniversary of the **Commencement Date** occurs before the **MLGS Property** is annexed to the **City**, then subject to **GenOn Marsh Landing** or successor entering into a power purchase agreement or other contractual arrangement for the **MLGS** that contains terms and conditions that are reasonably comparable to the **PPA** and that provides substantially the same economic return to **GenOn Marsh Landing** as the **PPA** (an "**Extended PPA**"), the Parties will enter into an agreement extending the **Representative Tax Revenue Payment** such that it continues until the earlier to occur of (i) annexation of the **MLGS Property** to the **City**; or (ii) the expiration of a period commensurate with the term of the **Extended PPA**. As part of this extension process, the **Representative Tax Revenue Payment** negotiated between **GenOn Marsh Landing** and the **City** will be modified to reflect the terms of the **Extended PPA** as compared to the **PPA**.

2) Post-Annexation Payments by GenOn Marsh Landing to City's General Fund: Upon completion of the annexation of the **MLGS Property** to the **City**, **GenOn Marsh Landing** shall make to the **City** post-annexation payments of \$250,000 per year (provided, however, that for the initial Post-Annexation Payment such amount shall be adjusted pro rata and calculated as \$250,000.00 multiplied by a fraction the numerator of which is the number of days from the completion of Annexation to December 31st and the denominator is 365), which shall be offset and reduced by the full amount of the **CEC Mitigation Payments** that are required to be paid for the **MLGS** in the same

annual period, but shall not be otherwise reduced to reflect other payments under this **Agreement** (the resulting payment, after offset/reduction in accordance with the foregoing is the "**Post-Annexation Payment**").

a) Payment Schedule. The **Post-Annexation Payment** shall be paid to the **City** on an annual basis beginning the calendar year the **MLGS Property** is annexed to the **City**, and ending on the 10th anniversary of the **Commencement Date**. Notwithstanding anything herein to the contrary, unless extended pursuant to clauses (F)(1)(d) or (F)(2)(d), GenOn Marsh Landing shall not pay in excess of an aggregate of ten (10) annual **Representative Tax Revenue Payments** and **Post-Annexation Payments**.

b) Annexation before the Commencement Date. If the annexation of the **MLGS Property** to the **City** precedes the **Commencement Date**, then the **Post-Annexation Payment** will not be due or payable until the calendar year in which the **Commencement Date** occurs. **GenOn Marsh Landing** shall make the **Post-Annexation Payment** in a single installment, with the payment made prior to or on June 30 of each calendar year for which the **Post-Annexation Payment** is due; provided, however, that the first **Post-Annexation Payment** shall be paid to the **City** within thirty (30) days after annexation of the **MLGS Property** to the **City**.

c) Extended PPA after Annexation. If the 10th anniversary of the **Commencement Date** occurs after the **MLGS Property** is annexed to the **City**, then if **GenOn Marsh Landing** or successor enters into an **Extended PPA**, the **Parties** will enter into an agreement extending the **Post-Annexation Payment** such that it continues until the expiration of a period commensurate with the term of the **Extended PPA**. As part of this extension process, the **Post-Annexation Payment** negotiated between **GenOn Marsh Landing** and the **City** will be modified to reflect the terms of the **Extended PPA** as compared to the **PPA**.

3) Payment by GenOn Marsh Landing to City's General Fund Irrespective of Annexation Status: In order to provide the **City** with needed funding prior to the **Commencement Date** of the **MLGS**, **GenOn Marsh Landing** agrees to make the following payments to the **City**. Such payments shall be made to the **City** irrespective of the status of the Northeast Antioch Annexation and irrespective of whether the **Commencement Date** has occurred:

- a) On or before January 1, 2012 **GenOn Marsh Landing** shall make a payment of \$500,000 to the **City**.
- b) On or before July 1, 2012 **GenOn Marsh Landing** shall make a payment of \$500,000 to the **City**.
- c) On or before January 1, 2013 **GenOn Marsh Landing** shall make a payment of \$300,000 to the **City**.

4) Financial Incentive to Complete Annexation by a Date Certain: As agreed to by **GenOn Marsh Landing** at the March 9, 2011 **LAFCO** hearing, **GenOn Marsh**

Landing shall make an annual payment of \$100,000 per year to the **City's** general fund for 10 years in the event the **MLGS Property** is annexed to the **City** prior to December 31, 2012. For the purposes of this section 4, "annexed" shall mean the date that the Antioch City Council approves the annexation after it has been authorized by **LAFCO**. This payment shall be made in conjunction with and in addition to the **Post-Annexation Payments** and payments irrespective of annexation as described in this **Agreement**. The foregoing payment shall not be due or owing if the **MLGS Property** is not annexed to the **City** prior to December 31, 2012.

G. Contributions to the Antioch Community Centers Foundation: GenOn Marsh Landing agrees to make contributions to support operations of the Community Centers in Antioch through a non-profit Antioch Community Centers Foundation (the "**Foundation**") as specified in the following sections. These contributions by **GenOn Marsh Landing** are contingent on the **MLGS Property** being annexed to the **City** and the **Commencement Date** of the **MLGS** occurring (and, shall not be due until both annexation and the **Commencement Date** have occurred), with the exception of the \$300,000 payment required by Section G.1 below and the \$50,000 payment to create the **Foundation** required by Section G.4 below:

1) Initial Contribution. Subject to **GenOn Marsh Landing** securing the required permits and authorizations for the construction and operation of the **MLGS**, and **GenOn Marsh Landing** closing on a non-recourse debt financing of the **MLGS**, both of which **GenOn Marsh Landing** acknowledges to have occurred as of the Effective Date of this Agreement, **GenOn Marsh Landing** will contribute \$300,000 to the **Foundation** within 60 calendar days of the **Effective Date** of this **Agreement**. If the **Foundation** is yet to be created at that time, then the payment shall be made to the **City** for support of the Community Centers in Antioch.

2) Annual Contribution. Contingent upon both the **Commencement Date** of the **MLGS** and the annexation to the **City** of the **MLGS Property** occurring, **GenOn Marsh Landing** shall contribute additional funds to the **Foundation** for support of the Community Centers in Antioch. These contributions shall be due on the dates specified below. Each contribution in subsections (b) through (f) below will be subject to adjustment based on the percentage change in San Francisco Bay Area Consumer Price Index (CPI) from the month of this Agreement to the date of such payment, but in no event shall it exceed 5% per year.

a) **GenOn Marsh Landing** shall make a contribution to the **Foundation** in the amount of \$400,000 ("**Initial Foundation Payment**") on the earlier of annexation of the **MLGS Property** to the **City** or the first anniversary of the date when the last **Representative Tax Revenue Payment** is made ("**Initial Foundation Payment Date**").

b) **GenOn Marsh Landing** shall make a contribution to the **Foundation** in the amount of \$250,000 on the first anniversary of the **Initial Foundation Payment Date**.

c) **GenOn Marsh Landing** shall make a contribution to the **Foundation** in the amount of \$200,000 on the second anniversary of the **Initial Foundation Payment Date**.

d) **GenOn Marsh Landing** shall make a contribution to the **Foundation** in the amount of \$150,000 on the third anniversary of the **Initial Foundation Payment Date**.

e) **GenOn Marsh Landing** shall make a contribution to the **Foundation** in the amount of \$100,000 on the fourth anniversary of the **Initial Foundation Payment Date**.

f) **GenOn Marsh Landing** shall make a contribution to the **Foundation** in the amount of \$50,000 on the fifth, sixth, seventh, eighth, ninth, and tenth anniversary of the **Initial Foundation Payment Date**.

3) Payment to Foundation for Other Community Needs: For any payment that is due and payable to the **Foundation** as specified above, beginning on the first anniversary of the **Initial Foundation Payment Date**, **GenOn Marsh Landing** will also contribute an additional total amount on the same payment dates equal to ten percent (10%) of the payment then due. This additional contribution shall be for community projects and needs designated by the **Foundation**. If the CPI adjustment applies to the payment due under the section above, the CPI adjustment shall also apply to the extra 10% payment due under this section, with the CPI adjustment not to exceed five percent (5%).

4) Creation of the Foundation: The costs associated with the formation of the **Foundation** shall be borne by **GenOn Marsh Landing**, in an amount not to exceed \$50,000. The Parties agree that the **Foundation** will be governed by an independent board of three (3) members, which will include one (1) **GenOn Marsh Landing** appointee. Upon the **Effective Date** of this **Agreement**, **GenOn Marsh Landing** agrees to work with the **City** to advance these start-up costs if necessary.

5) Naming Rights: In addition, as consideration for its support of the **Foundation** and Community Centers and upon the first payment made pursuant to this section, the **City** will grant the naming rights at a facility supported by **GenOn Marsh Landing**, subject to the **City's** naming protocols and reasonable approval, and only for the period of time that **GenOn Marsh Landing** provides such support. The **City** will arrange to have **GenOn Marsh Landing** added to the sponsor wall at the facility. All other signage shall be at the cost of **GenOn Marsh Landing** and be subject to the reasonable approval of the **City**.

6) Extension of Community Benefits: After the 11th anniversary of the **Commencement Date** and subject to **GenOn Marsh Landing** entering into an **Extended PPA**, the Parties will enter into an extension of the community benefits program described in this section.

H. **Termination of the Project Agreement.** Upon the **Effective Date** of this **Agreement**, the Parties agree that the Project Agreement between the **Parties** effective October 8, 2009 shall be terminated and of no further force and effect, and neither **Party** shall have any obligations under the Project Agreement.

I. **Wilbur Avenue Frontage Improvements:**

1) **Required Wilbur Improvements.** **GenOn Marsh Landing** shall construct or cause to be constructed the Wilbur Avenue frontage improvements along the entire Wilbur Avenue frontage (approximately 2200 lineal feet) of the **GenOn Delta Property**, as specified in the final plans that are filed with the Antioch Public Works Department and dated October 14, 2010 and pursuant to the conditions of approval of the Parcel Map approved by the County in July 2010 (the "**Final Plans**"). These improvements are known as the **Required Wilbur Improvements** and shall be installed as required by the conditions of the County Parcel Map, but no later than the **Commencement Date** of the **MLGS**.

2) **Final Design.** The **City** agrees that the design of the **Required Wilbur Improvements** filed as the Final Plans constitute the design of the ultimate frontage improvements that the **City** will require for the approximately 2200 lineal feet of Wilbur Avenue adjacent to the **GenOn Delta Property**, and no further frontage improvements will be required of **GenOn Marsh Landing** in the future by the **City**. The exception to this provision is that the **City** may in the future require minor improvements to the Wilbur Avenue frontage, such as turn pockets needed to address improvements proposed on the **GenOn Delta Property**.

J. **Utility Pipelines.**

1) **Construction of Required Pipelines.** **GenOn Marsh Landing** is responsible, at its cost and expense, for designing, constructing, and installing all pipelines and related equipment that are necessary to connect the **MLGS Property** and facilities with the **City's Potable Water** supply system to obtain the **Water Service**, and to connect the **MLGS Property** with the **City's** sewer system to obtain the **Sewer Service** (collectively, "**Required Pipelines**"). **GenOn Marsh Landing** also is responsible, at its cost and expense, for obtaining any permits that may be required under applicable **Governmental Regulations** to construct and install the **Required Pipelines**, including any environmental clearances, encroachment permits and connection fees that may be required from the **City** or other agencies in accordance with applicable **Governmental Regulations**.

2) **Construction of the Wilbur Avenue Sewer Extension.** **GenOn Marsh Landing** is also responsible, at its costs and expense, for designing, constructing and installing all pipelines and related equipment to extend the existing **City** sewer line from its current terminus in Wilbur Avenue along the entire Wilbur Avenue frontage to the western edge of the **GenOn Delta Property**, which is a total distance of approximately 2200 lineal feet (this segment of pipeline is the "**Wilbur Avenue Sewer Extension**"). However, assuming that **GenOn Marsh Landing** complies with state prevailing wage

laws in the construction of the **Wilbur Avenue Sewer Extension, GenOn Marsh Landing** shall not be obligated or required to incur more than seven hundred thousand dollars (\$700,000) in the aggregate for all costs, fees, charges, and expenses associated with the **Wilbur Avenue Sewer Extension** (including with respect to its design, construction, installation, and permitting, and acquisition of any encroachment permits but excluding any connection fees). Construction of the **Wilbur Avenue Sewer Extension** shall occur with the construction of the **Required Wilbur Improvements**, unless otherwise agreed to by the City Engineer.

3) Plans. **GenOn Marsh Landing** shall submit plans for the design, construction and installation of the **Wilbur Avenue Sewer Extension** to the **City** for review and approval prior to the initiation of construction, which approval shall not be unreasonably withheld, conditioned or delayed. The **City** agrees to work cooperatively in its review and approval of all such plans to facilitate construction of all **Required Pipelines** and the **Wilbur Avenue Sewer Extension** in accordance with the overall **MLGS** project construction schedule.

4) Inspection Costs. In designing, constructing, and installing the **Required Pipelines** and the **Wilbur Avenue Sewer Extension, GenOn Marsh Landing** shall pay all inspection costs and all connection, usage fees, and charges as determined by the **City's** Master Fee Resolution.

5) Acceptance of Improvements. Any required pipelines, or any sewer and water improvements required by the provisions of this **Agreement** that are constructed by **GenOn Marsh Landing** within the **City** right of way, including the **Wilbur Avenue Sewer Extension**, are subject to inspection and acceptance by the **City**, and shall be owned by the **City** ("**City Owned Improvements**"). Upon completion of any **City Owned Improvements** and, contingent upon such improvements satisfactorily passing inspection by the **City**, the **City** shall assume ownership of the **City Owned Improvements** and the Parties shall execute a quitclaim bill of sale or other similar instrument to convey ownership to **City**. **GenOn Marsh Landing** agrees to use commercially reasonable efforts to convey any **City Owned Improvements** to **City** free and clear of any liens or encumbrances caused by or arising from **GenOn Marsh Landing's** construction of same.

III: ADMINISTRATIVE PROVISIONS

A. **Term of the Agreement:** Except as agreed to in writing by the Parties, the term of the **Agreement** runs for as long as there are obligations outstanding on either Party. The **Agreement** does not terminate until all obligations, including any financial payments, are met under the **Agreement**.

B. **Default and Dispute Resolution:**

1) **Suspension of City Services.** The **City** retains the right to immediately suspend the **City Services** to the **MLGS** if an **Event of Default** has occurred in which **GenOn Marsh Landing** is the **Defaulting Party**, provided that an **Event of Default** in which the **City** is the **Defaulting Party** is not also then in effect.

2) **Event of Default.** In addition, upon the occurrence and continuance of an **Event of Default**, the **Non-Defaulting Party** shall be entitled to terminate this **Agreement** upon written notice to the **Defaulting Party** and/or, subject to the limitations in Section III.B.3 hereof, to exercise all rights and remedies available at law or in equity, including without limitation, the right to seek specific performance or other equitable remedies. A Party will be deemed to be in default under this **Agreement** ("**Defaulting Party**") upon the occurrence and continuance beyond all applicable cure periods of any of the following (each shall be an "**Event of Default**"):

b) the **Defaulting Party** fails to pay an amount due to the other **Party** under this **Agreement** (the "**Non-Defaulting Party**") and such failure continues for more than fifteen (15) days after the date of written notice from the **Non-Defaulting Party** specifying the amount that is owing and past due in reasonable detail; or

c) the **Defaulting Party** fails to perform any other material obligation under this **Agreement** and such failure continues for more than thirty (30) days after the date of written notice from the **Non-Defaulting Party** specifying such failure to perform in reasonable detail.

3) **No Damages.** In the event of non-performance or default by **City, GenOn Marsh Landing** shall not be entitled to any damages with its only remedy limited to specific performance and the recovery of fees and costs in accordance with Section III.B.4. The **City** would not have entered into this **Agreement** without such limitation.

4) **Prevailing Party.** The prevailing party in any litigation or action to enforce the obligations of this **Agreement** shall be entitled to recover reasonable and substantiated attorneys' fees and costs, including in-house legal costs.

C. Indemnification and Insurance:

1) **GenOn Marsh Landing** shall indemnify, defend, and hold harmless the **City**, its officers, officials, employees and agents from and against any and all loss, damage, claims, demands or causes of action (including reasonable costs of litigation and reasonable fees for attorneys, consultants and experts) from all of the following: a) resulting from **GenOn Marsh Landing's** design or construction of the **Required Pipelines, the Wilbur Avenue Sewer Expansion, and the Required Wilbur Improvements**; b) resulting from the operations of the **MLGS**; or c) resulting from any material misrepresentation, material breach of warranty or covenant, or material non-fulfillment of any representation, covenant or agreement on the part of **GenOn Mirant Marsh Landing** pursuant to this **Agreement**. The foregoing indemnity obligation of **GenOn Marsh Landing** shall not apply to the extent that any claims, causes of action or damages are caused by the sole negligence or intentional misconduct of the **City**, but shall apply if any claims or damages are occasioned by the joint negligence of **GenOn Marsh Landing** and the **City**.

2) **GenOn Marsh Landing** shall indemnify, defend, and hold harmless the **City**, its officers, officials, employees and agents from and against any and all loss, damage, claims, demands or causes of action (including reasonable costs of litigation and reasonable fees for attorneys, consultants and experts) arising) from third party claims against the **City** challenging its execution of this **Agreement**. The foregoing indemnity obligation of **GenOn Marsh Landing** shall not apply to the extent that any claims, causes of action or damages are caused by the sole negligence or intentional misconduct of the **City**, but shall apply if any claims or damages are occasioned by the joint negligence of **GenOn Marsh Landing** and the **City**, but only to the extent of **GenOn Marsh Landing's** own negligence.

3) **GenOn Marsh Landing** shall provide adequate insurance pursuant to the **City's** encroachment permit in accordance with the requirements applied to similarly situated projects and developers.

D. Limitation of Liability: NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY HEREUNDER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, LOSSES, OR LIABILITY OF ANY KIND WHATSOEVER, INCLUDING TO THE EXTENT RESULTING FROM OR ARISING OUT OF ANY INDEMNIFIABLE CLAIM. THE FOREGOING LIMITATION SHALL APPLY FOR ANY AND ALL MANNERS OF LIABILITY INCLUDING LIABILITIES BASED IN CONTRACT, TORT, STATUTORY, REGULATORY, ENVIRONMENTAL OR ANY BASIS IN ANY LAW OR EQUITY.

E. Governing Law; Venue: This **Agreement** shall be governed by, and construed in accordance with, the laws of the State of California and the United States, as appropriate. The **Parties** agree that disputes arising out of this **Agreement** may be brought in the Superior Court of the State of California, in and for the County of Contra

Costa, and in the U.S. District Court for the Northern District of California if federal jurisdiction applies.

F. **Binding on Successors:** This **Agreement** shall run with the land, be recorded against the **MLGS Property** and be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

G. **Assignment:** No **Party** may assign its rights or obligations under this **Agreement** without the prior written consent of the other **Party**. Notwithstanding the foregoing, **GenOn Marsh Landing** shall have the right, without obtaining **City's** consent, to assign its rights and obligations under this **Agreement** to any lender, investor, or party providing financing in connection with the **MLGS** (including any refinancing), or to any entity succeeding to **GenOn Marsh Landing's** ownership interest in the **MLGS Property**. **City** agrees to cooperate with **GenOn Marsh Landing** on reasonable terms to facilitate any assignment that is permitted under the previous sentence, including by executing such acknowledgment, consent and attornment instruments as may be reasonably requested by any such lender, investor, financing party, or successor in interest.

H. **Severability:** If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

I. **Entire Agreement:** This **Agreement** constitutes the entire understanding between the Parties hereto with respect to the transactions contemplated herein and all prior to contemporaneous agreements, understandings, representations, and statements, whether oral or written, are deemed merged into this Agreement with the exception of the Reimbursement Agreement. Neither this Agreement, nor any provisions hereof may be waived, modified, amended, discharged, or terminated except by instrument in writing signed by both Parties and then only to the extent set forth in such agreement. In addition, this **Agreement** supersedes the **Project Agreement** and the **Agreement Regarding Annexation as to the MLGS Property**.

J. **Counterparts:** This **Agreement** may be executed in two or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Execution of duplicates and delivery by facsimile will be binding upon the **Parties** hereto.

K. **Cooperation:** Each **Party** shall from time to time execute and deliver all such further documents and instruments as the other **Party** may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this **Agreement**. The foregoing provisions shall not be construed to require either **Party** to execute, acknowledge or deliver any further documents or instruments, or to take any other actions, which are inconsistent with its rights under this Agreement.

L. **No Third Party Beneficiaries:** This **Agreement** is solely and exclusively between the **Parties** and any obligations created herein shall be the sole obligations of the **Parties**. No **Party** shall have recourse to any affiliate of any other **Party** for performance of such obligations unless the obligations are guaranteed or assumed in writing by the Person against whom recourse is sought.

M. **Modification.** Any modification to this **Agreement** shall be in writing and execute by each Party.

N. **Notices.** Notices provided under the terms of this **Agreement** shall be in writing and transmitted by mail or overnight mail service. Notices to the **City** shall be addressed to:

City Manager
City of Antioch
P.O. Box 5007
Antioch, California 94531-5007
Telephone: 925-779-7011

With a copy to: City Attorney
City of Antioch
P.O. Box 5007
Antioch, California 94531-5007
Telephone: 925-779-7015

Notices to GenOn Marsh Landing shall be addressed to:

GenOn Marsh Landing, LLC
696 West 10th Street
Pittsburg, California 94565
Attention: John Chillemi, President
Telephone: 925-427-3560

with a copy to:

GenOn Marsh Landing, LLC
C/O GenOn Energy, Inc.
1000 Main Street
Houston, Texas 77002
Attention: Steven B. Nickerson, Senior Vice President and
Deputy General Counsel
Telephone: 832-357-6440

O. **Ambiguities:** Each **Party** and its counsel have participated fully in the review and revision of this **Agreement**. Any rule of construction to the effect that ambiguities are to be resolved against the drafting **Party** shall not apply in interpreting this Agreement.

P. **Waiver:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this **Agreement** shall be effective unless it is in writing and signed by the **Party** waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

Q. **Independent Contractors:** The **Parties** are independent contractors and neither **Party** may bind the other **Party**. This **Agreement** shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of any duty, obligation or undertaking pursuant to this **Agreement**.

R. **Representations.** As of the **Effective Date**, each **Party** represents that it has all power and authority to execute this **Agreement** and perform its obligations hereunder, and that this **Agreement** has been validly executed and constitutes a legal, valid, and binding obligation of such **Party**, except as may be limited by applicable bankruptcy laws and equitable defenses. As of the **Effective Date**, each **Party** represents that it is not in violation of any law or internal regulation and that there is no legal or enforcement action pending or threatened related to such **Party**, except as would not have a material adverse effect on its ability to perform its obligations hereunder.

GenOn Marsh Landing, LLC

By: _____

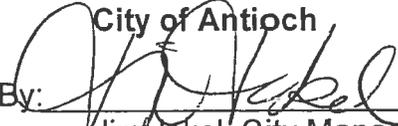
Name: _____

Title: _____

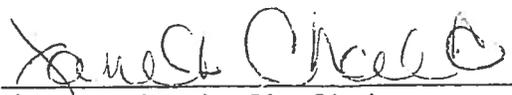
By: _____

Name: _____

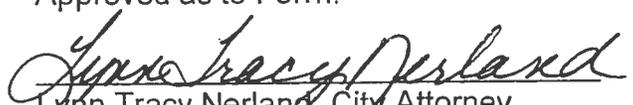
Title: _____

City of Antioch
By: 
Jim Jakel, City Manager

Attest:


Jolene Martin, City Clerk

Approved as to Form:


Lynn Tracy Nerland, City Attorney

[signatures to be notarized]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

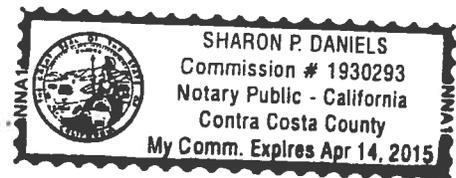
County of Contra Costa

On September 1, 2011 before me, Sharon P. Daniels, Notary Public, personally appeared Jim Jakel who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sharon P. Daniels
Sharon P. Daniels



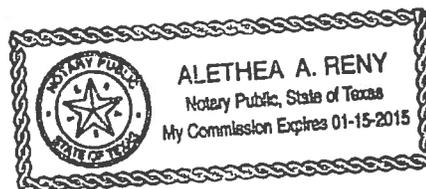
State of Texas
County of Harris

On September 1, 2011 before me, Alethea Remy (insert name and title of the officer) personally appeared Steven B. Nickerson, Sr. Vice President, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Alethea A. Remy (Seal)



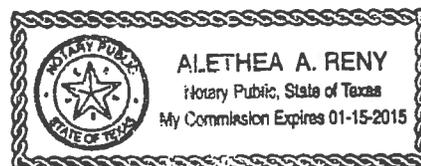
State of Texas
County of Harris

On September 1, 2011 before me, Alethea Remy (insert name and title of the officer) personally appeared John Chillemi, President, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

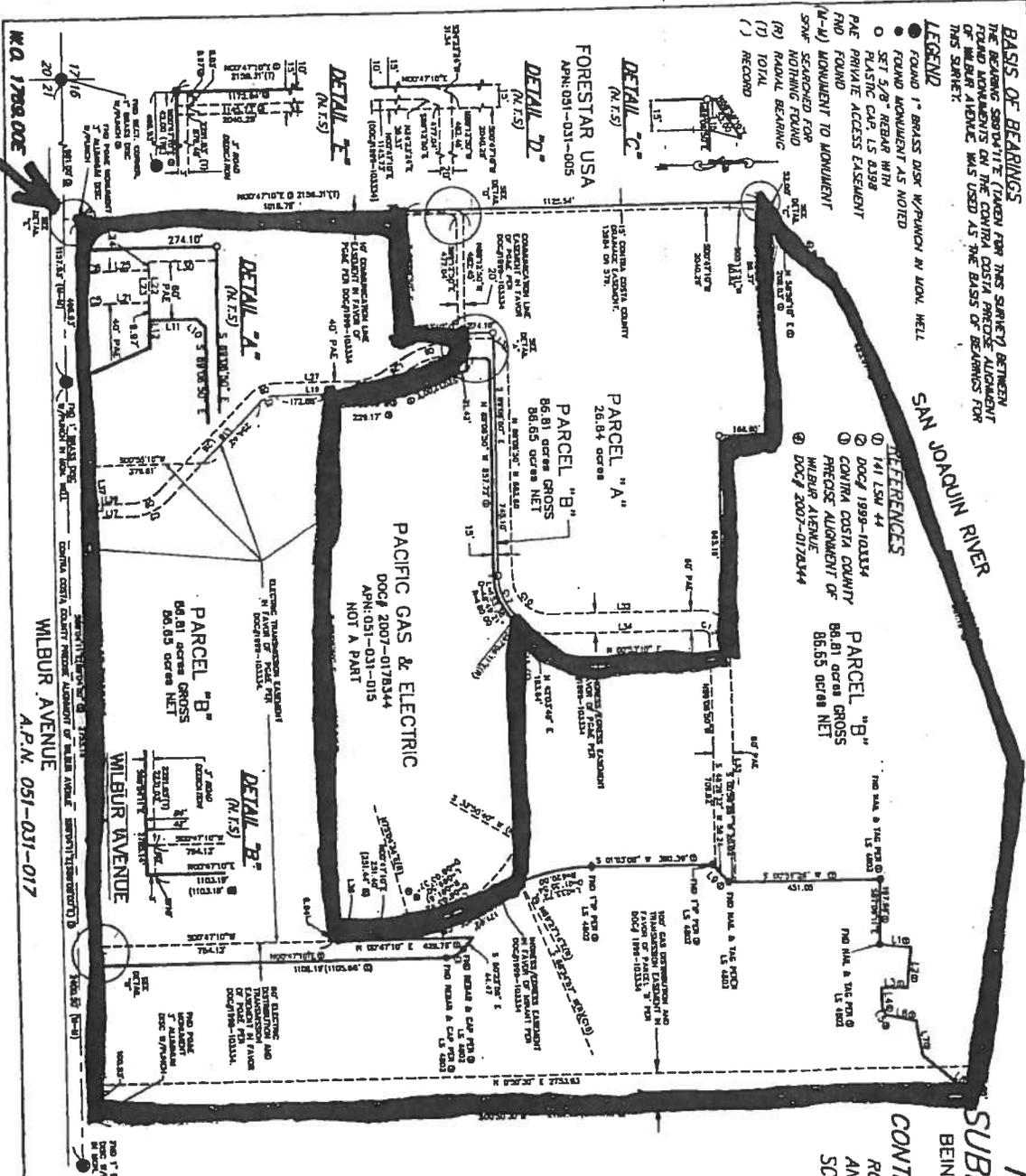
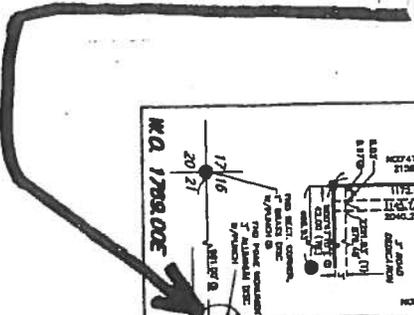
Signature Alethea A. Remy (Seal)



**ATTACHMENT B-
MLGS PROPERTY**

A PORTION OF SECTION 16, TOWNSHIP 2 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN MORE PARTICULARLY DESCRIBED AS FOLLOWS:
PARCEL "A" OF MINOR SUBDIVISION 09-0011, AS RECORDED IN BOOK 205 OF PARCEL MAPS AT PAGE 39, CONTRA COSTA COUNTY RECORDS, TOGETHER WITH THE NONEXCLUSIVE EASEMENT FOR INGRESS AND EGRESS TO AND FROM SAID PARCEL "A" OVER AND ACROSS THE PROPERTY DELINEATED AS "PRIVATE ACCESS EASEMENT" OR "PAE" ON SUCH PARCEL MAP AND LOCATED ON PARCEL "B" OF SUCH PARCEL MAP, AND ALL OF THE FOREGOING SUBJECT TO ANY EASEMENTS OR ENCUMBRANCES DELINEATED ON SUCH PARCEL MAP AND LOCATED ON SUCH PARCEL OR SUCH PRIVATE ACCESS EASEMENT AND ALL OTHER MANERS OF RECORD ENCUMBERING SUCH PARCEL OR SUCH PRIVATE ACCESS EASEMENT.

ATTACHMENT B



BASIS OF BEARINGS
 THE BEARINGS SHOWN WERE TAKEN FROM THE SURVEY BETWEEN FOUND MONUMENTS ON THE CONTRA COSTA COUNTY RECORDS FOR THIS SURVEY. WILBUR AVENUE WAS USED AS THE BASIS OF BEARINGS FOR THIS SURVEY.

LEGEND
 (●) FOUND MONUMENT AS NOTED
 (○) SET 3/8" NEAPAR WITH PLASTIC CAP, L.S. CROSS
 (—) PRIVATE ACCESS EASEMENT
 (M-U) FOUND MONUMENT TO MONUMENT
 (S-W) SEARCHED FOR NOTHING FOUND
 (R) RADIAL BEARING
 (T) TOTAL
 () RECORD

REFERENCES
 (1) 141 L.S. 44
 (2) DOC# 1999-101114
 (3) CONTRA COSTA COUNTY PRECISE ALIGNMENT OF WILBUR AVENUE
 (4) DOC# 2007-0178344

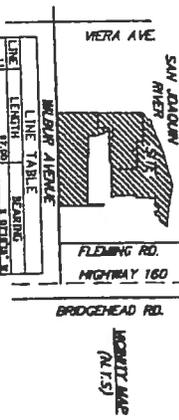
PARCEL "A"
 28.84 ACRES
PARCEL "B"
 86.81 ACRES GROSS
 86.65 ACRES NET
PARCEL "B"
 86.81 ACRES GROSS
 86.65 ACRES NET

FORESTAR USA
 APN: 031-031-005

PACIFIC GAS & ELECTRIC
 DOC# 2007-0178344
 APN: 031-031-015
 NOT A PART

PARCEL MAP

SUBDIVISION MS 09-0011
 BEING A PORTION OF SECTION 16, T22N, R2E, M.D.M.
 CONTRA COSTA COUNTY, CALIFORNIA
 RONALD GREENWELL AND ASSOCIATES
 ANTIPOCH CALIFORNIA
 SCALE: 1"=200'
 SEPTEMBER 2010

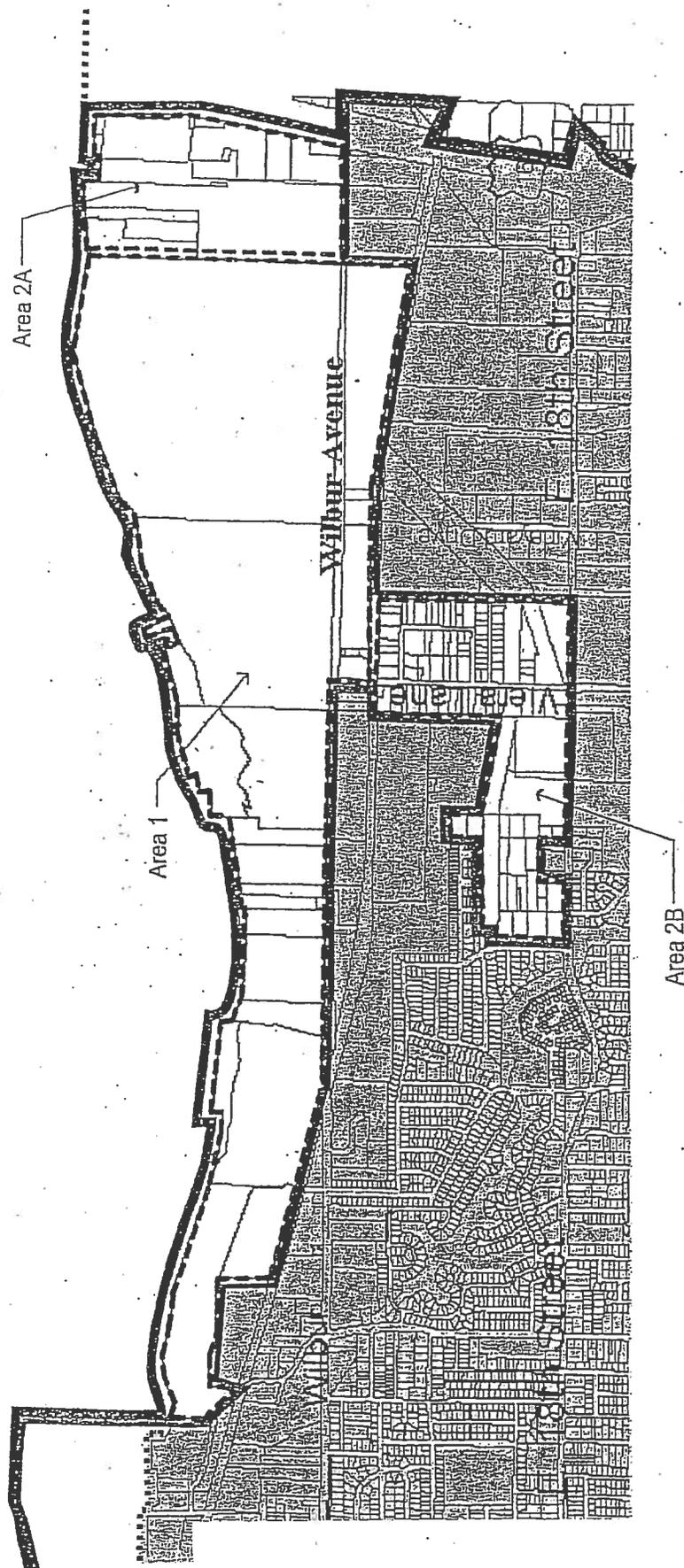


WILBUR AVENUE LINE TABLE

LINE	LENGTH	BEARING
1	132.71	S 89° 00' 00" E
2	132.71	S 89° 00' 00" E
3	132.71	S 89° 00' 00" E
4	132.71	S 89° 00' 00" E
5	132.71	S 89° 00' 00" E
6	132.71	S 89° 00' 00" E
7	132.71	S 89° 00' 00" E
8	132.71	S 89° 00' 00" E
9	132.71	S 89° 00' 00" E
10	132.71	S 89° 00' 00" E
11	132.71	S 89° 00' 00" E
12	132.71	S 89° 00' 00" E
13	132.71	S 89° 00' 00" E
14	132.71	S 89° 00' 00" E
15	132.71	S 89° 00' 00" E
16	132.71	S 89° 00' 00" E
17	132.71	S 89° 00' 00" E
18	132.71	S 89° 00' 00" E
19	132.71	S 89° 00' 00" E
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21	132.71	S 89° 00' 00" E
22	132.71	S 89° 00' 00" E
23	132.71	S 89° 00' 00" E
24	132.71	S 89° 00' 00" E
25	132.71	S 89° 00' 00" E
26	132.71	S 89° 00' 00" E
27	132.71	S 89° 00' 00" E
28	132.71	S 89° 00' 00" E
29	132.71	S 89° 00' 00" E
30	132.71	S 89° 00' 00" E
31	132.71	S 89° 00' 00" E
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34	132.71	S 89° 00' 00" E
35	132.71	S 89° 00' 00" E
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37	132.71	S 89° 00' 00" E
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39	132.71	S 89° 00' 00" E
40	132.71	S 89° 00' 00" E
41	132.71	S 89° 00' 00" E
42	132.71	S 89° 00' 00" E
43	132.71	S 89° 00' 00" E
44	132.71	S 89° 00' 00" E
45	132.71	S 89° 00' 00" E
46	132.71	S 89° 00' 00" E
47	132.71	S 89° 00' 00" E
48	132.71	S 89° 00' 00" E
49	132.71	S 89° 00' 00" E
50	132.71	S 89° 00' 00" E
51	132.71	S 89° 00' 00" E
52	132.71	S 89° 00' 00" E
53	132.71	S 89° 00' 00" E
54	132.71	S 89° 00' 00" E
55	132.71	S 89° 00' 00" E
56	132.71	S 89° 00' 00" E
57	132.71	S 89° 00' 00" E
58	132.71	S 89° 00' 00" E
59	132.71	S 89° 00' 00" E
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63	132.71	S 89° 00' 00" E
64	132.71	S 89° 00' 00" E
65	132.71	S 89° 00' 00" E
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75	132.71	S 89° 00' 00" E
76	132.71	S 89° 00' 00" E
77	132.71	S 89° 00' 00" E
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81	132.71	S 89° 00' 00" E
82	132.71	S 89° 00' 00" E
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86	132.71	S 89° 00' 00" E
87	132.71	S 89° 00' 00" E
88	132.71	S 89° 00' 00" E
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90	132.71	S 89° 00' 00" E
91	132.71	S 89° 00' 00" E
92	132.71	S 89° 00' 00" E
93	132.71	S 89° 00' 00" E
94	132.71	S 89° 00' 00" E
95	132.71	S 89° 00' 00" E
96	132.71	S 89° 00' 00" E
97	132.71	S 89° 00' 00" E
98	132.71	S 89° 00' 00" E
99	132.71	S 89° 00' 00" E
100	132.71	S 89° 00' 00" E

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA
1	132.71	132.71	90° 00' 00"
2	132.71	132.71	90° 00' 00"
3	132.71	132.71	90° 00' 00"
4	132.71	132.71	90° 00' 00"
5	132.71	132.71	90° 00' 00"
6	132.71	132.71	90° 00' 00"
7	132.71	132.71	90° 00' 00"
8	132.71	132.71	90° 00' 00"
9	132.71	132.71	90° 00' 00"
10	132.71	132.71	90° 00' 00"
11	132.71	132.71	90° 00' 00"
12	132.71	132.71	90° 00' 00"
13	132.71	132.71	90° 00' 00"
14	132.71	132.71	90° 00' 00"
15	132.71	132.71	90° 00' 00"
16	132.71	132.71	90° 00' 00"
17	132.71	132.71	90° 00' 00"
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24	132.71	132.71	90° 00' 00"
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27	132.71	132.71	90° 00' 00"
28	132.71	132.71	90° 00' 00"
29	132.71	132.71	90° 00' 00"
30	132.71	132.71	90° 00' 00"
31	132.71	132.71	90° 00' 00"
32	132.71	132.71	90° 00' 00"
33	132.71	132.71	90° 00' 00"
34	132.71	132.71	90° 00' 00"
35	132.71	132.71	90° 00' 00"
36	132.71	132.71	90° 00' 00"
37	132.71	132.71	90° 00' 00"
38	132.71	132.71	90° 00' 00"
39	132.71	132.71	90° 00' 00"
40	132.71	132.71	90° 00' 00"
41	132.71	132.71	90° 00' 00"
42	132.71	132.71	90° 00' 00"
43	132.71	132.71	90° 00' 00"
44	132.71	132.71	90° 00' 00"
45	132.71	132.71	90° 00' 00"
46	132.71	132.71	90° 00' 00"
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51	132.71	132.71	90° 00' 00"
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53	132.71	132.71	90° 00' 00"
54	132.71	132.71	90° 00' 00"
55	132.71	132.71	90° 00' 00"
56	132.71	132.71	90° 00' 00"
57	132.71	132.71	90° 00' 00"
58	132.71	132.71	90° 00' 00"
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65	132.71	132.71	90° 00' 00"
66	132.71	132.71	90° 00' 00"
67	132.71	132.71	90° 00' 00"
68	132.71	132.71	90° 00' 00"
69	132.71	132.71	90° 00' 00"
70	132.71	132.71	90° 00' 00"
71	132.71	132.71	90° 00' 00"
72	132.71	132.71	90° 00' 00"
73	132.71	132.71	90° 00' 00"
74	132.71	132.71	90° 00' 00"
75	132.71	132.71	90° 00' 00"
76	132.71	132.71	90° 00' 00"
77	132.71	132.71	90° 00' 00"
78	132.71	132.71	90° 00' 00"
79	132.71	132.71	90° 00' 00"
80	132.71	132.71	90° 00' 00"
81	132.71	132.71	90° 00' 00"
82	132.71	132.71	90° 00' 00"
83	132.71	132.71	90° 00' 00"
84	132.71	132.71	90° 00' 00"
85	132.71	132.71	90° 00' 00"
86	132.71	132.71	90° 00' 00"
87	132.71	132.71	90° 00' 00"
88	132.71	132.71	90° 00' 00"
89	132.71	132.71	90° 00' 00"
90	132.71	132.71	90° 00' 00"



ATTACHMENT E

**ATTACHMENT F-
CEC MITIGATION PAYMENTS**

**California Energy Commission Final Decision for 08-AFC-3C
Excerpt from Conditions of Certification**

SOIL & WATER-6: Prior to the use of groundwater or potable water for operation of the MLGS, the project owner shall install and maintain metering devices as part of the water supply and distribution system to monitor and record in gallons per day the volume of groundwater and potable water supplied to the MLGS. The metering devices shall be operational for the life of the project. An annual summary of daily water use by the MLGS, differentiating between groundwater, potable water, and recycled water (if applicable) shall be submitted to the CPM in the annual compliance report.

Process water use shall not exceed 50 AFY from any source. Water supplied to MLGS shall be used for evaporative cooler makeup, service water, and water for combustion turbine washes and meet the following condition:

The primary MLGS water source shall be brackish groundwater. Once annually, the project owner shall sample groundwater quality at both pumping wells. The project owner shall treat plant wastewater (effluent) to meet Delta Diablo Sanitation District's (DDSD's) discharge requirements or implement zero liquid discharge technologies to manage the plant's process wastewater. Laboratory test results from the groundwater quality sample and the effluent sample, shall be submitted to the CPM in the annual compliance report.

Prior to installing a connection to the City of Antioch water supply system for an alternative source, the project owner shall provide evidence to the CPM that City has agreed to supply emergency backup water to the project in sufficient quantities to meet the project's needs at a flow rate comparable with the flow rate provided by one on-site well.

For the purpose of this condition, the term emergency shall mean the operation and/or emergency issues that arise with the two proposed wells or with mobile water filtration and ion exchange trailers, or the permanent water treatment plant. The City's supply must provide access to a quantity sufficient to meet MLGS demand due to Acts of God, natural disaster and other circumstances beyond the control of the project owner and it is necessary for the MLGS to continue to operate at peaking load capacity.

Any connection to a water supply line shall be properly metered throughout the period of time of the emergency. The project owner may provide evidence to the CPM that the water source described above is not feasible. Such evidence may be based on technical feasibility and/or project economics.

The project owner, at the recommendation of the CPM, shall identify a primary alternative water supply as described herein:

ATTACHMENT F

The primary alternative MLGS water source shall be City of Antioch fresh water supply. No more than 50 acre-feet of fresh water shall be supplied annually. The project owner shall pay a fee equal to no more than \$1,000 per acrefoot of City of Antioch water consumed annually (potable water for personnel consumption, eyewash stations, showers, and sanitary needs not included) to City of Antioch's water conservation program to implement new water conservation measures.

The water conservation program may change with CPM approval. A payment of \$15,000 shall be made to the City to offset fresh water used for construction and initiate the water conservation program. Water conservation fees are not required for use of recycled water during construction or operation. The project owner shall maintain the facilities necessary to obtain brackish groundwater as a backup water supply. Brackish groundwater or recycled water (when feasible) may be used to supplement the fresh water sources.

Verification: At least 60 days prior to use of any water source for MLGS operation, the project owner shall:

1. submit to the CPM evidence that metering devices have been installed and are operational on the groundwater wells, potable water and recycled water (if applicable) pipelines serving the project, and
2. provide a report on the servicing, testing, and calibration of the metering devices in the annual compliance report.

The project owner shall submit copies to the CPM of all correspondence between the project owner and the City of Antioch regarding alternative sources of water within 10 days of its receipt or submittal. No later than 30 days prior to installing a connection to the City of Antioch potable water main, the project owner shall submit to the CPM evidence that water meters have been installed and are operational. The project shall also provide proof that the City can deliver alternative water to the MLGS in the event of an emergency water interruption at a flow rate comparable with the flow rate provided by one on-site well, up to 420-gpm.

The project owner shall submit a water use summary report to the CPM in the annual compliance report for the life of the project. The annual summary report shall be based on and shall distinguish recorded daily groundwater, potable water, and recycled water (if applicable) use. Included in the annual summary of water use, the project owner shall submit copies of meter records from the City of Antioch documenting the volume of potable water supplied over the previous year. Water supplied to MLGS as an emergency or alternative primary source of water from the City of Antioch shall be reported separately. The report shall include calculated monthly range, monthly average, and annual use by the project in acre-feet. After the first year and for subsequent years, this information shall also include the yearly range and yearly average groundwater, potable water and recycled water used by the project. The

Annual Compliance Report (ACR) shall include the brackish groundwater sample laboratory test results during years when groundwater use is reported.

The project owner shall provide proof that the initial water conservation fee of \$15,000 was paid to the City of Antioch prior to site operations. Annual use payments shall be determined at the rate of \$1,000 per acre-foot of fresh water reported annually in the ACR. Annual use payments to a water conservation program, confirmed by the CPM, shall be made no later than 60 days following CPM approval of the ACR. The project owner shall provide data or information to the CPM describing the water conservation program with estimates of the annual water saved in acre-feet in the subsequent ACR.

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014**

Prepared by: Mindy Gentry, Senior Planner *MS*
Reviewed by: Tina Wehrmeister, Community Development Director *TW*
Date: July 7, 2014
Subject: **Bingo Halls and Bingo Operations Urgency Zoning Ordinance**

RECOMMENDATION

It is recommended that the City Council:

Approve a motion to adopt the attached interim urgency zoning ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or bingo operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof (four-fifths (4/5th) vote required) (Attachment "A");

BACKGROUND INFORMATION

Bingo Hall Games Use Permit Application Requests

Over the past several years, the City has received inquiries regarding the establishment of sole use, continuing bingo halls; however none of these inquiries materialized into land use applications. From a land use perspective, it was determined that the bingo hall/operations use be classified as a public assembly use requiring a use permit in all zoning designations. In the last few months, the City has received two use permit applications to operate bingo halls at the following locations:

- 2317 Buchanan Road (Attachment "B"). The application is proposed in a 2,700 square foot retail space with a zoning designation of Regional Commercial (C-3). The proposed hours of operation are seven days a week from 12:00 PM to 12:00 AM. The floor plan is broken up into four small rooms with tables for those participating in the bingo game as well as a separate room for the call blower. The application was submitted by Ms. Tricia Simmons (former owner of internet access business – Cot on the Web and T's Internet Cafe) in conjunction with Patriotic Heart (Hire Patriots), a nonprofit organization benefiting United States veterans; however staff is in the process of verifying Ms. Simmons's connection to Patriotic Heart as well as their non-profit status, as that is a threshold issue for any bingo operation to operate in conformance with the State Penal Code's limited exceptions for legal bingo games that do not constitute illegal gambling.
- 201 East Eighteenth Street (Attachment "C"). This application proposes bingo games to be conducted within approximately half of a building that was formerly a grocery store with a zoning designation of Neighborhood/Community Commercial (C-2). The maximum capacity of the facility would be 324 players all within the bingo area. There is

an area for purchasing bingo cards and pull tabs as well as a room for security and money storage. The application proposes the hours of operation to be four days week, Wednesday to Sunday, from 4:30 PM to 10:00 PM. The application was submitted by Mr. Al Davis in conjunction with It Takes a Village, a nonprofit organization formed for the express purpose of operating and managing bingo halls.

These two applications are dramatically different than the existing bingo uses in the City, which are typically conducted as an ancillary and occasional use and with little complaints from the community. For example, the Veterans of Foreign Wars operate bingo games which are limited to Tuesday nights at their Fulton Shipyard Road location beginning at 6:45 PM. The Antioch Senior Center has bingo games, which are operated by the Antioch Senior Citizen's Club and are conducted by volunteers on Monday and Thursday afternoons from 1:00 PM to 3:00 PM as a fundraiser. Staff's suggested moratorium is not focused at these long-standing, occasional and ancillary bingo games.

California Penal Code

The Antioch Municipal Code authorizes bingo games to be conducted within the City pursuant the California Penal Code Section 326.5 (Attachment "D"). However, the AMC does not provide any regulations beyond those stated in the State requirements (Attachment "E"). The City's Municipal Code also does not address Penal Code Section 326.3 (Remote Caller Bingo), which was added to State law in 2008. The City's bingo ordinance was adopted in 1980 and does not strictly comply with the provisions of the Penal Code as the ordinance only references Section 326.5 of the Penal Code and does not address remote caller bingo. Further, staff has concerns to the public health, safety, and welfare in regards to bingo games occurring without regulation or City oversight to verify the operation is compliant with the State Penal Code, which is discussed below.

Traditional Bingo (Penal Code Section 326.5) versus Remote Caller Bingo (Penal Code Section 326.3)

Traditional Bingo: Under state law, cities may adopt an ordinance to allow bingo games as long as two basic rules are met:

- 1) The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veteran's organizations).
- 2) The receipts from the games may be used only for charitable purposes.

In addition to the two basic rules, there are other notable regulations and restrictions:

- It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game with the exception that security personnel employed by the organization conducting the bingo game may be paid from the revenues of the bingo games.
- Authorized organizations may only conduct games "on property owned or leased by" the organization, or on property "whose use is donated to the organization" and which property is used by the organization for office space or for the purposes for which the organization was organized.

- A bingo game “shall be operated and staffed only by members” of the non-profit, and those members may not “receive a profit, wage, or salary from any bingo game,” except that the non-profit may employ outside security personnel.
- No one other than the non-profit organization authorized to conduct the bingo games may “hold a financial interest in the conduct of a bingo game.”

Remote Caller Bingo: A remote caller bingo game is a game of bingo in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted. However, the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations.

If a city or county wants to authorize remote caller bingo games in its jurisdiction, a valid ordinance would include the following requirements:

- The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veteran’s organizations).
- Organizations conducting the game must be incorporated or in existence for three or more years.
- Organizations conducting the game must be licensed under Penal Code Section 326.5(l). The City may impose a license fee on organizations authorized to conduct bingo games. The fee, whether for initial license or renewal, may not exceed \$50.00 annually. If an application is denied, one-half of any license fee paid must be refunded to the organization. Additional fees for law enforcement and public safety costs incurred by the City that are directly related to bingo activities may be imposed and will be collected monthly. However, the fee may not exceed actual costs incurred.
- Receipts of the game must be used for charitable purposes only. The organization conducting the game must determine the disbursement of the net receipts of the game.
- The operation of bingo may not be the primary purpose for which the organization is organized.

The Penal Code does provide cities with a model ordinance that may be used to allow remote caller bingo in compliance with the Penal Code. According to the California Gambling Control Commission, a local ordinance must explicitly allow remote caller bingo games to be played or conducted in the city. The City’s Municipal Code does not explicitly allow remote caller bingo and further study of the issue is warranted during the interim moratorium period.

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.

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.

ENVIRONMENTAL

The moratorium is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

DISCUSSION

The City's current rules and regulations pertaining to bingo halls and/or bingo operations are in need of an update and modernization in order to comply with State law. Given that the City has not amended its bingo ordinance since 1980 (nearly 35 years) and the fact that the City has received two applications for new bingo hall operations using new technologies and proposing continued daily uses, the City has established a need to study the impacts of new bingo halls and/or bingo operations as well as the expansion of existing bingo halls and/or bingo operations.

The establishment and/or proliferation of bingo halls and/or bingo operations in the City may have negative public health, safety, and welfare impacts. Bingo halls and/or operations are within a similar vein as internet access businesses and online gaming as it is a form of gambling and are considered illegal lotteries unless conducted in strict conformance with the detailed requirements in the California Penal Code; therefore requiring local jurisdictional control.

In the recent past, the City has had to address criminal activities with other gambling uses such as internet access businesses and card rooms; therefore staff feels that the City should be proactive with these potential issues that may occur at bingo halls and/or bingo operations, particularly given the limited resources of the Police Department. The Police Department recommends adopting the moratorium to allow time to better study the uses and consider appropriate regulations, as opposed to waiting for problems to occur that will tax an already under-staffed Police Department.

Further, other cities such as Pleasant Hill, Concord, and Fairfield, have had incidents involving prostitution, loan-sharking, assaults, theft, and drug dealing, particularly at facilities that appear only to exist for the purpose of running bingo games. A copy of a memo prepared by the Pleasant Hill Police Department is attached (Attachment "F"). Given the criminal activity associated with other gambling uses within the City of Antioch and the issues experienced by other communities, the Police Department is concerned with the public safety, health, and welfare by having an increased demand in services on an already thinly stretched department.

As proposed, the interim urgency ordinance would establish a temporary moratorium on the granting of new permits, licenses, or any other entitlements pertaining to bingo halls and/or operations as well as the expansion of existing bingo halls and/or bingo operations, allowing the City time to study the potential effects of new laws or regulations governing bingo halls and/or bingo operations. Staff is not recommending that the current, occasional bingo games that have been run traditionally on a limited and ancillary basis be closed, but just that they not expand during this moratorium period.

Staff anticipates, but is not limited to, studying the following during the moratorium:

- Determining whether new bingo halls and/or bingo operations (traditional and remote caller) should be permitted anywhere in the City, and if they are allowed, which zoning districts would be appropriate.
- Determining whether bingo halls and/or bingo operations should be conditionally permitted uses, zoning administrator permitted uses, or permitted uses.
- Deciding whether bingo halls and/or bingo operations should be located a minimum distance from other bingo halls and/or bingo operations or other sensitive uses.
- Parking and security requirements for bingo halls and/or bingo operations.
- Determining the costs of the annual licensing fee and potentially any other costs the City may incur pertaining to law enforcement and public safety that are directly related to bingo halls and/or bingo operations.
- Determining whether, in addition to land use regulations, a police licensing process should be established similar to card rooms and computer gaming businesses, which is an approach that other cities have taken.

Urgency Findings

The City presently has two requests received, and anticipates additional requests, for the establishment and operation of bingo halls and/or bingo operations within the City. However, the provisions in the Municipal Code that regulates bingo halls and/or bingo operations in the City are inadequate and need review, study, and revision. The provisions fail to take into consideration the impacts related to the location and manner of the operation of bingo halls and/or bingo operations, 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 City's historic criminal activities and land use impacts associated with gambling at internet access businesses and card rooms, and other jurisdictions having land use and/or criminal activity associated with bingo halls and/or bingo operations, the City has concerns with a potential increase in calls for police services and increased criminal activities such as theft, assault, prostitution, loan sharking, and drug dealing. Further study is required to address these potential issues and to create rules and regulations that are fitting for the needs of the City of Antioch to minimize impacts to the public health, safety, and welfare.

Operation of additional bingo halls and/or bingo operations will increase these negative impacts while the use is being studied. Due to the threat posed to the public health, safety, and welfare the City requires additional time to prepare, evaluate, and adopt reasonable regulations regarding the operation of bingo halls and/or bingo operations.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance. The organizations that are involved with bingo halls and/or bingo operations are non-profits therefore are exempt from the business license tax. There will be staff time expended to draft a regular ordinance and to prepare a zoning amendment, if appropriate.

OPTIONS

1. If the Council chooses not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional bingo halls and/or bingo operations could open with the approval of a use permit in any zoning district without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations or police regulatory requirements.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof
- B. Proposed Bingo Hall Application at 2317 Buchanan Road
- C. Proposed Bingo Hall Application at 201 East Eighteenth Street
- D. Antioch Municipal Code Section 5-15.01
- E. California State Penal Code Section 326.3 – 326.5
- F. Memo of the Pleasant Hill Police Department dated October 3, 2012 regarding issues with Bingo Halls
- G. Newspaper Article on Internet Access Businesses and Gambling

an area for purchasing bingo cards and pull tabs as well as a room for security and money storage. The application proposes the hours of operation to be four days week, Wednesday to Sunday, from 4:30 PM to 10:00 PM. The application was submitted by Mr. Al Davis in conjunction with It Takes a Village, a nonprofit organization formed for the express purpose of operating and managing bingo halls.

These two applications are dramatically different than the existing bingo uses in the City, which are typically conducted as an ancillary and occasional use and with little complaints from the community. For example, the Veterans of Foreign Wars operate bingo games which are limited to Tuesday nights at their Fulton Shipyard Road location beginning at 6:45 PM. The Antioch Senior Center has bingo games, which are operated by the Antioch Senior Citizen's Club and are conducted by volunteers on Monday and Thursday afternoons from 1:00 PM to 3:00 PM as a fundraiser. Staff's suggested moratorium is not focused at these long-standing, occasional and ancillary bingo games.

California Penal Code

The Antioch Municipal Code authorizes bingo games to be conducted within the City pursuant the California Penal Code Section 326.5 (Attachment "D"). However, the AMC does not provide any regulations beyond those stated in the State requirements (Attachment "E"). The City's Municipal Code also does not address Penal Code Section 326.3 (Remote Caller Bingo), which was added to State law in 2008. The City's bingo ordinance was adopted in 1980 and does not strictly comply with the provisions of the Penal Code as the ordinance only references Section 326.5 of the Penal Code and does not address remote caller bingo. Further, staff has concerns to the public health, safety, and welfare in regards to bingo games occurring without regulation or City oversight to verify the operation is compliant with the State Penal Code, which is discussed below.

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- 2) The receipts from the games may be used only for charitable purposes.

In addition to the two basic rules, there are other notable regulations and restrictions:

- It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game with the exception that security personnel employed by the organization conducting the bingo game may be paid from the revenues of the bingo games.
- Authorized organizations may only conduct games "on property owned or leased by" the organization, or on property "whose use is donated to the organization" and which property is used by the organization for office space or for the purposes for which the organization was organized.

- A bingo game “shall be operated and staffed only by members” of the non-profit, and those members may not “receive a profit, wage, or salary from any bingo game,” except that the non-profit may employ outside security personnel.
- No one other than the non-profit organization authorized to conduct the bingo games may “hold a financial interest in the conduct of a bingo game.”

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If a city or county wants to authorize remote caller bingo games in its jurisdiction, a valid ordinance would include the following requirements:

- The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veteran’s organizations).
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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.

ENVIRONMENTAL

The moratorium is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

DISCUSSION

The City's current rules and regulations pertaining to bingo halls and/or bingo operations are in need of an update and modernization in order to comply with State law. Given that the City has not amended its bingo ordinance since 1980 (nearly 35 years) and the fact that the City has received two applications for new bingo hall operations using new technologies and proposing continued daily uses, the City has established a need to study the impacts of new bingo halls and/or bingo operations as well as the expansion of existing bingo halls and/or bingo operations.

The establishment and/or proliferation of bingo halls and/or bingo operations in the City may have negative public health, safety, and welfare impacts. Bingo halls and/or operations are within a similar vein as internet access businesses and online gaming as it is a form of gambling and are considered illegal lotteries unless conducted in strict conformance with the detailed requirements in the California Penal Code; therefore requiring local jurisdictional control.

In the recent past, the City has had to address criminal activities with other gambling uses such as internet access businesses and card rooms; therefore staff feels that the City should be proactive with these potential issues that may occur at bingo halls and/or bingo operations, particularly given the limited resources of the Police Department. The Police Department recommends adopting the moratorium to allow time to better study the uses and consider appropriate regulations, as opposed to waiting for problems to occur that will tax an already under-staffed Police Department.

Further, other cities such as Pleasant Hill, Concord, and Fairfield, have had incidents involving prostitution, loan-sharking, assaults, theft, and drug dealing, particularly at facilities that appear only to exist for the purpose of running bingo games. A copy of a memo prepared by the Pleasant Hill Police Department is attached (Attachment "F"). Given the criminal activity associated with other gambling uses within the City of Antioch and the issues experienced by other communities, the Police Department is concerned with the public safety, health, and welfare by having an increased demand in services on an already thinly stretched department.

As proposed, the interim urgency ordinance would establish a temporary moratorium on the granting of new permits, licenses, or any other entitlements pertaining to bingo halls and/or operations as well as the expansion of existing bingo halls and/or bingo operations, allowing the City time to study the potential effects of new laws or regulations governing bingo halls and/or bingo operations. Staff is not recommending that the current, occasional bingo games that have been run traditionally on a limited and ancillary basis be closed, but just that they not expand during this moratorium period.

Staff anticipates, but is not limited to, studying the following during the moratorium:

- Determining whether new bingo halls and/or bingo operations (traditional and remote caller) should be permitted anywhere in the City, and if they are allowed, which zoning districts would be appropriate.
- Determining whether bingo halls and/or bingo operations should be conditionally permitted uses, zoning administrator permitted uses, or permitted uses.
- Deciding whether bingo halls and/or bingo operations should be located a minimum distance from other bingo halls and/or bingo operations or other sensitive uses.
- Parking and security requirements for bingo halls and/or bingo operations.
- Determining the costs of the annual licensing fee and potentially any other costs the City may incur pertaining to law enforcement and public safety that are directly related to bingo halls and/or bingo operations.
- Determining whether, in addition to land use regulations, a police licensing process should be established similar to card rooms and computer gaming businesses, which is an approach that other cities have taken.

Urgency Findings

The City presently has two requests received, and anticipates additional requests, for the establishment and operation of bingo halls and/or bingo operations within the City. However, the provisions in the Municipal Code that regulates bingo halls and/or bingo operations in the City are inadequate and need review, study, and revision. The provisions fail to take into consideration the impacts related to the location and manner of the operation of bingo halls and/or bingo operations, 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 City's historic criminal activities and land use impacts associated with gambling at internet access businesses and card rooms, and other jurisdictions having land use and/or criminal activity associated with bingo halls and/or bingo operations, the City has concerns with a potential increase in calls for police services and increased criminal activities such as theft, assault, prostitution, loan sharking, and drug dealing. Further study is required to address these potential issues and to create rules and regulations that are fitting for the needs of the City of Antioch to minimize impacts to the public health, safety, and welfare.

Operation of additional bingo halls and/or bingo operations will increase these negative impacts while the use is being studied. Due to the threat posed to the public health, safety, and welfare the City requires additional time to prepare, evaluate, and adopt reasonable regulations regarding the operation of bingo halls and/or bingo operations.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance. The organizations that are involved with bingo halls and/or bingo operations are non-profits therefore are exempt from the business license tax. There will be staff time expended to draft a regular ordinance and to prepare a zoning amendment, if appropriate.

OPTIONS

1. If the Council chooses not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional bingo halls and/or bingo operations could open with the approval of a use permit in any zoning district without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations or police regulatory requirements.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof
- B. Proposed Bingo Hall Application at 2317 Buchanan Road
- C. Proposed Bingo Hall Application at 201 East Eighteenth Street
- D. Antioch Municipal Code Section 5-15.01
- E. California State Penal Code Section 326.3 – 326.5
- F. Memo of the Pleasant Hill Police Department dated October 3, 2012 regarding issues with Bingo Halls
- G. Newspaper Article on Internet Access Businesses and Gambling

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 NEW BINGO HALLS OR OPERATIONS, OR THE EXPANSION OF CURRENT BINGO OPERATIONS, WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 5, CHAPTER 15 AND 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 may 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 bingo halls and/or bingo operations within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation, and establishment of bingo halls and/or bingo operations 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 bingo halls and/or bingo operations, 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. The City of Antioch is aware that other cities, including Pleasant Hill, Concord and Fairfield, have experienced land use impacts and/or criminal activity associated with bingo halls and/or bingo operations, including incidents involving assaults, theft, prostitution, loan-sharking and drug dealing. These impacts are set forth in more detail in the staff report and attachments provided to the City Council at the July 22, 2014 meeting (<http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>). These impacts have particularly occurred at facilities that appear only to exist for the purpose of running continual bingo games, as distinguished from occasional bingo games operated as an ancillary or occasional use at an established non-profit location.

D. The City is not aware of any currently operating bingo halls in Antioch at facilities that exist only for the purpose of running continual bingo games, as distinguished

from occasional bingo games currently operating as an ancillary use at a few established non-profit locations in the City. The City Council of the City of Antioch is concerned with the potential increased calls for police services, increasing reports of assaults, theft, loan sharking behavior, prostitution and drug dealing and related detrimental neighborhood effects associated with bingo halls and/or expanded bingo operations, particularly at facilities that appear only to exist for the purpose of running continual bingo games. The potential for increased calls for police service is of particular concern given the current staffing of the Antioch Police Department and challenges in responding to existing criminal activity in the community. (see Police Department presentations at the City Council meetings on July 22, 2014 and April 22, 2014 at <http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>)

E. Under California Constitution and Penal Code, bingo games are illegal lotteries unless conducted in strict conformance with the detailed requirements in the Penal Code. In addition, there would be further State requirements if a city is going to allow remote caller bingo.

F. While the City's Municipal Code does nominally address bingo operations in the City, that section of the Code has not been revised or updated in nearly 35 years, despite revisions to the State Penal Code regarding bingo games during this period.

G. During the past several years, the City has faced similar land use impacts and criminal activity at computer gaming and internet access businesses, leading the City to adopt a moratorium and eventually regular ordinances to address those issues (see the attached and incorporated staff reports, resolutions and ordinances at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/022812/022812.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/012213/012213.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>). In addition, the City has also been required to address issues regarding card rooms and illegal activity occurring at those establishments (see the attached and incorporated staff report, resolution and newspaper article regarding Kelly's Card Room in Antioch at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>; http://www.justice.gov/usao/can/news/2014/2014_04_25_keslinke.charged.press.html). These computer gaming and internet access businesses, card rooms and continual or expanded bingo operations all raise some similar issues regarding gambling and the criminal and secondary land use impacts of gambling.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional bingo halls and/or bingo operations 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 bingo halls and/or bingo operations. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement and operation of bingo halls and/or bingo operations 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 bingo halls and/or bingo operations 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 bingo halls and/or bingo operations.

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. Imposition of Temporary Moratorium.

A. In accordance with the authority granted the City under Government Code section 65858, and pursuant to the findings stated herein, the City Council hereby (1) finds that there exists a current and immediate threat to the public health, safety, and welfare requiring this change in the City's permitting provisions for bingo halls and/or bingo operations, (2) further finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, and (3) hereby declares and imposes a temporary moratorium for the immediate preservation of the public health, safety and welfare as set forth below.

B. The City orders as follows: For a period of forty-five (45) days from and after the date of adoption of this Ordinance, no permits (including use permits, conditional use permits, special or temporary permits) or other applicable use entitlement (including variances, building permits, certificates of occupancy or business licenses) may be issued for the establishment or operation of a new bingo halls and/or bingo operations within the City, except as otherwise provided for herein. In addition, no existing bingo halls and/or bingo operations may be relocated or expanded, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

C. The moratorium set forth above shall not apply to the renewal of any existing business license for bingo halls and/or bingo operations or existing bingo halls and/or bingo

operations permit issued under Title 5, Chapter 15 of the Antioch Municipal Code provided the renewal seeks to maintain the business in the existing location with no expansion in use or facilities, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

SECTION 4. CEQA. This ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

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 22nd day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

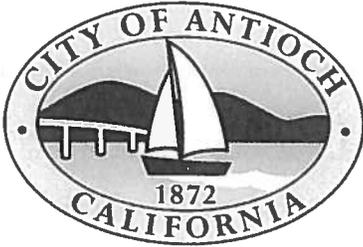
ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

ATTACHMENT "B"



DEVELOPMENT APPLICATION

Community Development Department

P.O. Box 5007

Third & "H" Streets

Antioch, CA 94531-5007

Phone: (925) 779-7035 Fax: (925) 779-7034

SITE LOCATION: 2317 Buchanan Rd #A Antioch CA 9453

ASSESORS PARCEL NO. (S): 076492022 TOTAL ACREAGE: .5301

BRIEF DESCRIPTION OF REQUEST: 23,089 SF

Non-Profit Bldg

PROPERTY OWNER OF RECORD

Name: Lawrence Leong
Company Name: Excel Financial Management
Address: 25222 Cypress Av
Hayward CA 94544
Telephone No. 510-582-7700
Fax No. 510-786-2605
Email: excel.financial.mgmt@gmail.com
Signature: [Signature]

APPLICANT

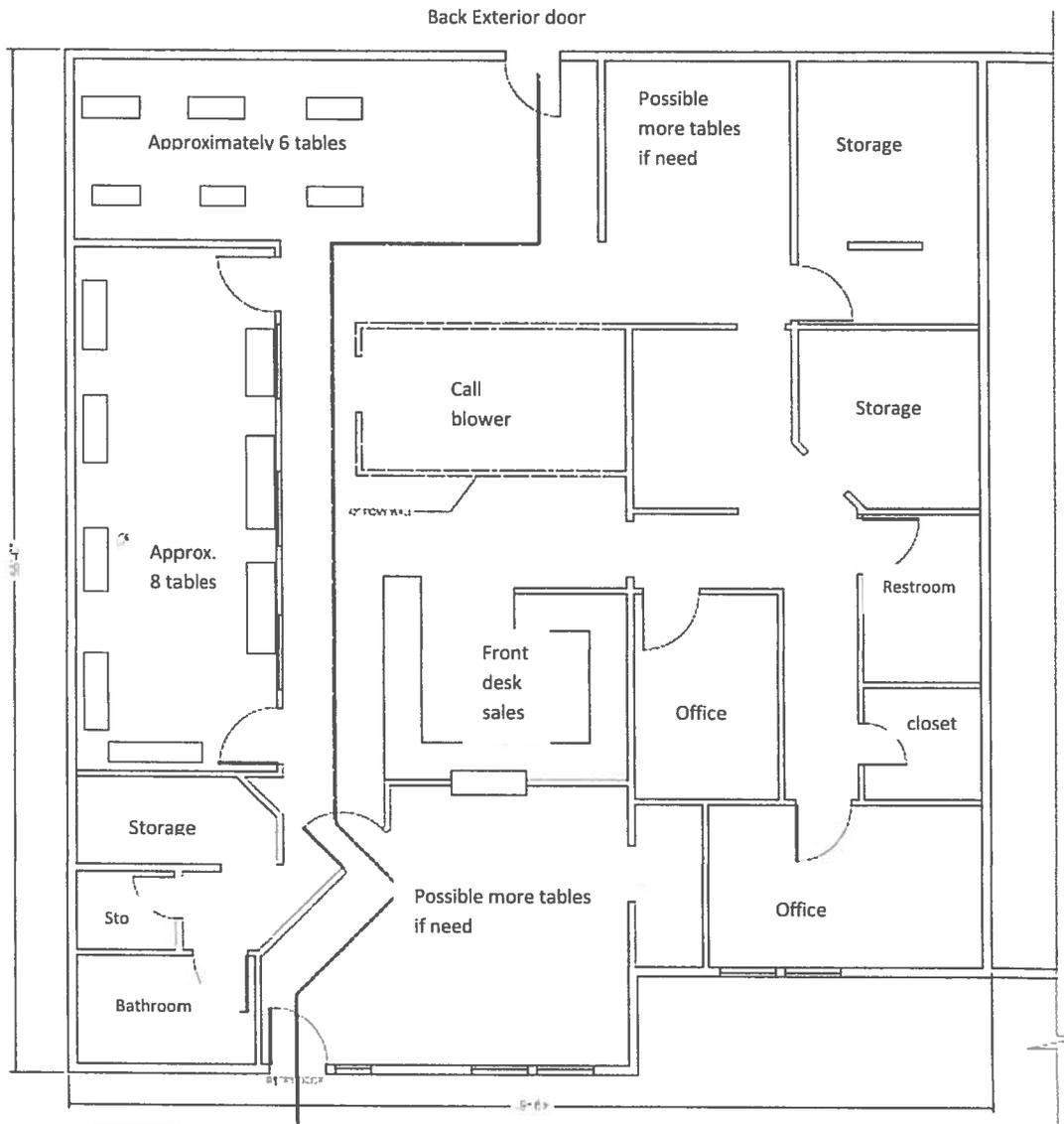
Name: TRICIA SIMMONS
Company Name: Patriotic Heart
Address: 300 Carlsbad Village Dr
#154 Suite 108A
Carlsbad CA 92008
Telephone No. 760-730-3734
Cell. 925-209-8332
Fax No. [Blank]
Email: hirepatriotsup@gmail.com
Signature: [Signature]

ANY OTHER PERSON THAT YOU WOULD LIKE THE CITY OF ANTIOCH TO NOTIFY OF THE PUBLIC HEARING

Name: TRICIA SIMMONS
Company Name: Patriotic Heart
Address: 2470 Vallecito Ct
Antioch CA 94531
Telephone No. 925-209-8332
Fax No. [Blank]
Email: hirepatriotsup@gmail.com

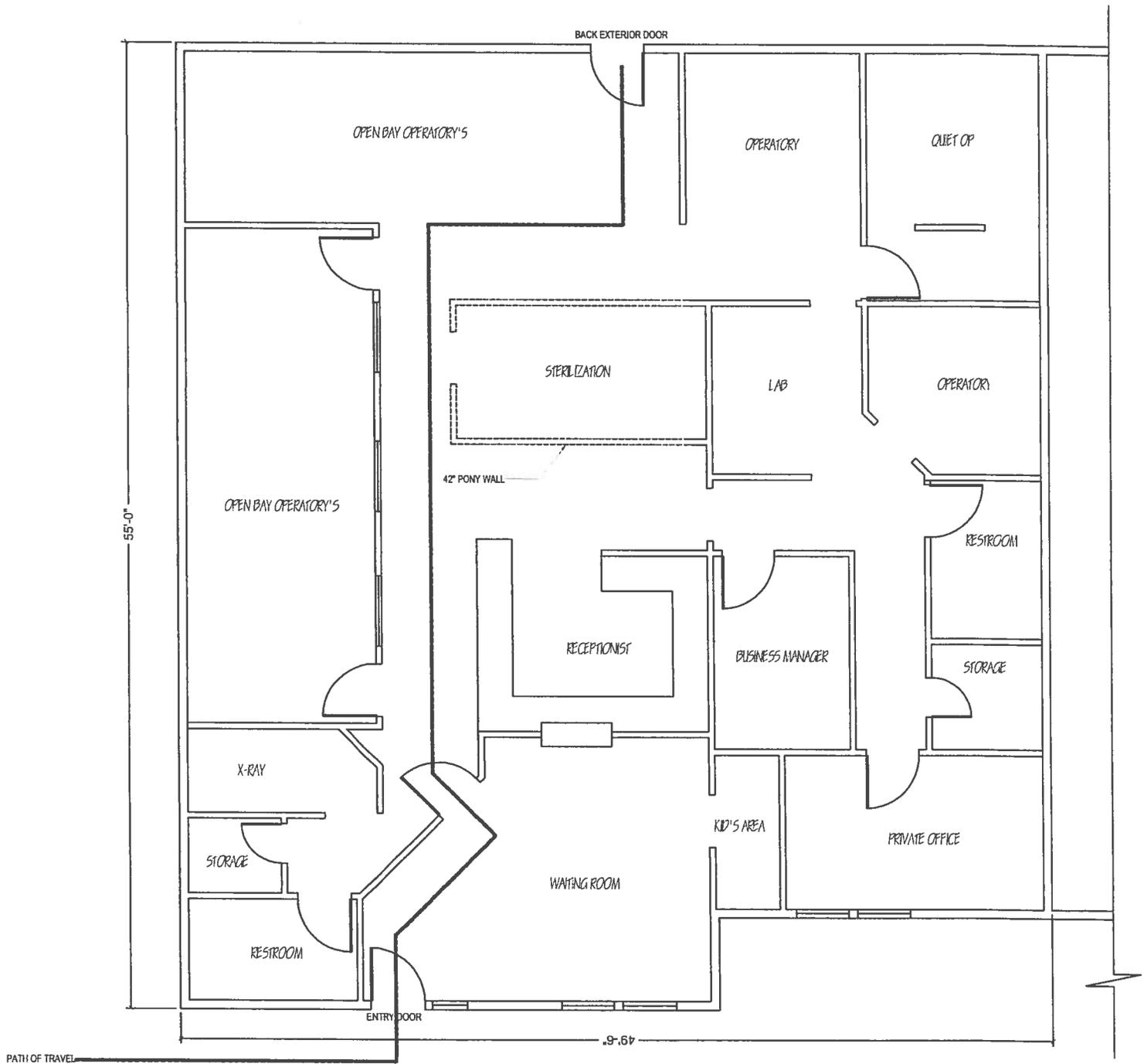
AGENT/DESIGNER

Name: None
Company Name: [Blank]
Address: [Blank]
Telephone No. [Blank]
Fax No. [Blank]
Email: [Blank]

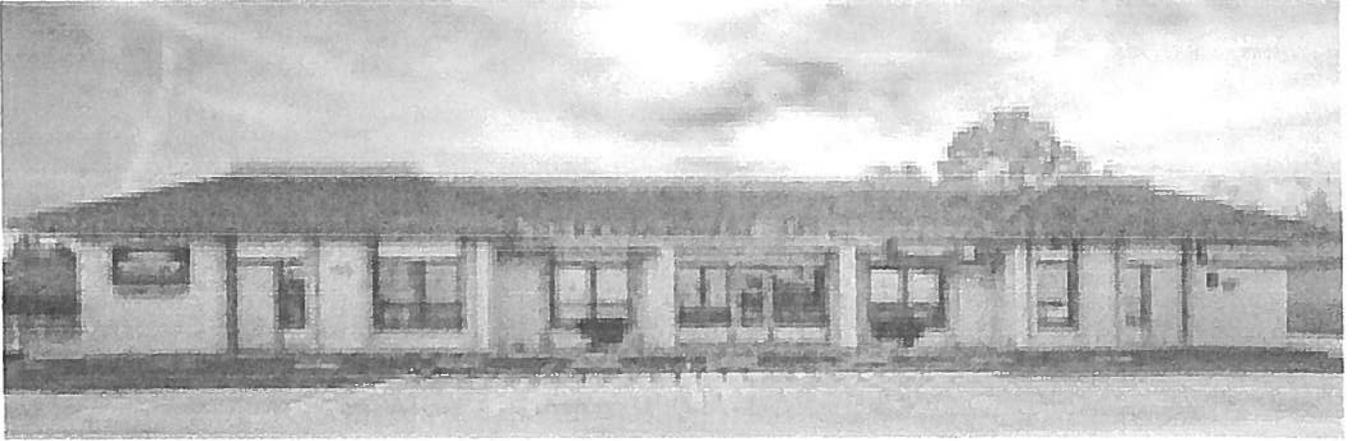


Path of Travel

2317 BUCHANAN ROAD SUITE A



2317 BUCHANAN ROAD SUITE A







Patriotic Heart is a Non-Profit organization that was started in 2007. The Patriot Heart Non-Profit organization would love the opportunity to open a Bingo Hall at, 2317 Buchanan Rd Suit #1 in Antioch Ca 94509. We have followed and reviewed all state regulations to operate a NPO Bingo Hall in the state of California. We do many fundraisers each year and would like to add this to our fundraising portfolio. If allowed to open, we would like to host Bingo games from noon to midnight 7 days a week. Our goal is to have other NPO open a few days/nights a week (they would be responsible to get their own bingo permit from the city) I have had informal talks with a couple local NPO that seem very interested. In the state of California we are aware no one under the age of 18 is allowed in a Bingo Hall, and we will never allow anyone under age or without an ID to be in the building for any reason. There will never be more than seventy people in the building at any given time. The building department has looked at the square footage of the building and said that it would be easily cleared for a maximum of seventy people. There are over ninety immediate parking spaces in front of the building, and another ninety spaces around the area. As a Non-Profit Bingo Hall there is only allowed to be one bingo Director employed, and one Security Guard, to protect the hall and walk people to their cars during open hours. However, we are always looking for new volunteers to help with any fundraiser and would love to get the community involved. We look forward to getting the public and local businesses involved in the Hire Patriots Program.

I have also attached the state of California npo bingo rules that we intend to follow strictly

Past and current fundraising

As a NPO that has been active for coming up on 8 years we have done countless number of fundraising I will only name a few if you would like more please don't hesitate to ask or visit our web site at www.hirepatriots.com

Donation

Sponsorship

Grants

Advertisement on web site

73% of all top selling book sales "An American Crisis"

Job fairs

Interviews

TV appearances

Local and national

Public/privet appearances

Veterans "Green Project"

Media Package

PATRIOTIC HEARTS' PROGRAMS FOR US VETERANS

- Patriotic Hearts' mission is to provide essential services and assistance to US veterans and their families, and to educate the US citizenry about their valiant sacrifices and value to our nation. Patriotic Hearts is a tax-exempt 501(c) 3 non-profit (EIN 20-8599179) that is supported largely by charitable contributions. It is in "good standing" with the IRS.
- We began as a response to a Marine who returned from Iraq to discover his wife and two small children living without utilities, due to his wife being laid off while he was deployed. He knocked on our founders' door and asked: "Sir, Ma'am, I need to earn some money right away to get the electric and gas turned on in my home for my family. Do you have any work that I can do for you right now around your home or yard?"
- The first program of Patriotic Hearts was a site called HireMarines.com. That became HirePatriots.com. Our first job board was a One Day job board that residents in San Diego used to hire local Marines, Corpsmen and sailors. It was a sensation and received several prestigious awards for the benefit it brought to US veterans, as well as to San Diego's communities and economy. Since, we have expanded this program across America, and we will continue to do so with your participation.
- Our U.S. military, particularly the lower and mid-range enlisted and their families, often endure extreme financial stress, coupled with multiple, lengthy deployments and the rigors of military life. And our transitioning veterans often take years before catching up with their civilian peers and securing sustainable employment. This lengthy financial stress takes its toll. Too often it means that a veteran also loses his family as a part of his or her sacrifice to our country.

In response to this burgeoning crisis, Patriotic Hearts has developed several free programs. -- In recognition of our vital programs President Bush presented us with his "Congressional Medal of Merit." And President Obama awarded us the "Presidents Volunteer Service Medal."

- **Programs Provided by Patriotic Hearts:**
- HirePatriots.com Job Board
- Transitional Preparedness Program
- Military Job Fairs
- Vet-Entrepreneur Mentoring
- Military Marriage Enrichment Retreats
- Financial Wellness Training
- Green Program (Carbon Credits and Recycling)
- Career & Personal counselling & Mentoring
- Sales Training & Placement
- Welcome Home Parties
- Community Service Chapters

- School Kids Program
- Educational Endeavours
- Public Speaking & Media Interviews for US veterans
- **HirePatriots.com:** This is our most popular program. It creates daily and vocational opportunities for U.S. military: Active duty, Reserves, Guard, veterans and their spouses. This is a free job board for residents and businesses to hire their local military, veterans and their spouses. We currently have HirePatriots websites in multiple areas of the U.S. This popular program is quickly spreading into every state with the collaboration of veteran owned and patriotic businesses, passionate volunteers, and schools. -- The goal of the HirePatriots program is to establish HirePatriots job boards in all 50 states, near every active US military base and throughout every region. This will enable us to assist hundreds of thousands of U.S. Military: Active duty, Reserves, Guard, veterans and their spouses every year.
- One Day Jobs: HirePatriots is an entirely unique and free national outreach. It provides a One Day job board for our U.S. military, veterans and their spouses. These are jobs posted primarily by patriotic U.S. residents who want a nearby G.I. or veteran to come to their home and help them with chores.

These One Day jobs fill a critical need for transitioning troops and veterans. With 900,000 unemployed U.S. veterans, as of this writing, HirePatriots' One Day jobs give patriotic U.S. residents an opportunity to pitch in and temporarily employ them until they can find full time employment.

But these One Day jobs do far than help our dear veterans financially. These jobs allow them to keep their heads held high. And it keeps their focus where it should be: protecting you and me. But they also help stimulate local economies. And it is a great assistance to senior citizens on limited incomes. Plus, it creates a wonderful bond with citizens and veterans. Here are a few of the thousands of comments from those who post jobs and find jobs on HirePatriots.com:
<http://www.hirepatriots.com/news-and-blogs/entry/what-people-say-about-hirepatriots-job-program>

Careers Job Board: HirePatriots encourages companies to post their jobs on HirePatriots.com. Companies benefit from our niche market. They comment on how they receive far more responses to their jobs from HirePatriots than giants like Monster.com. We use all of our resources to help you fill your positions with qualified personnel. Our job board is connected to Facebook, Twitter and LinkedIn. And we create a permanent blog post of your company too. HirePatriots ranks in the top 1% of all U.S. websites and continues to receive constant media attention. The ultimate goal for HirePatriots is to succeed in helping every U.S. veteran to secure sustainable, full-time employment.

- **Transitional Training:** HirePatriots offers online and on-site training seminars for transitioning military personnel and US veterans. This unique and comprehensive program was developed by a veteran with decades of HR experience. This program was created by Captain Cesar Nader (USMC). Here is a sample video: <http://www.youtube.com/watch?v=FPvpwL6rIYQ>

- **Job Fairs:** HirePatriots has hosted many job fairs for the U.S. military and veterans. HirePatriots has a stellar reputation with businesses across America and the world. And of course, we are highly regarded by the U.S. military.
- **Warriors to the Workforce** is comprehensive hiring events that combines pre-interview training and resume writing for veterans. And they also hold events and seminars for the attending employers to help them better appreciate the value of military training and veteran experience. – Lt. General Donald Jones (Army Ret.) and Crystal Dyer (Army Ret.) are the directors of this program. These job fairs are held across the breadth of our nation.
- **Veteran Entrepreneur Mentoring:** HirePatriots vigorously seeks to support veterans who have chosen to start their own businesses. We believe that this is crucial to the rebuilding of the American economy and to employing more of our transitioned U.S. military. HirePatriots has created a valuable training and support program for U.S Veteran entrepreneurs. We use the combined business acumen of our multiple HirePatriots' business leaders to provide step-by-step hands on business development training.
- **Military Marriage Enrichment Retreats:** Our military's emotional and psychological health, as well as their professionalism is largely dependent upon the health of their relationships with their immediate family members. The divorce rate has risen as high as 90% on bases with frequent combat deployments. Military wives call it "The Plague."
- Patriotic Hearts hosts military marriage enrichment retreats to strengthen military and veterans' marriages. The theme of our retreats is "Love and Respect." They last from Friday night until Sunday afternoon. We continue to follow each couple closely after the retreats. And we have had wonderful success in keeping marriages and families united. These are all-expenses paid retreats.
- **Financial Wellness:** Patriotic Hearts provides training on how to manage personal and family income, through seminars, retreats and online. This is a unique and comprehensive 5 point Financial Wellness series of workshop courses that has been specifically designed for veterans, active duty, and military families. It is a customized, financial wellness curriculum that focuses on helping our heroes and their families understand their particular spending personalities. Then we teach the essentials of money management. And we also explain the necessity for multiple streams of income and investment strategies.
- **Career & Personal Counselling:** Many qualified volunteers offer to give professional counselling to US veterans' career search. And marriage counsellors, PTSD experts and licensed psychologists also donate their time and services.

Sales Training & Placement: For US veterans and their spouses who need immediate employment beyond our One Day jobs, we offer professional sales training. HirePatriots has created sales opportunities for these veterans. And we have contracted with companies seeking US veterans' help with marketing their products and services too.

- **Welcome Home Parties:** Patriotic Hearts hosts all-day picnics for recently returned combat battalions. These include barbeques, games, rides, contest, popular personalities and live music for the entire military family. Volunteers from the local community volunteer to serve at these events and they are a wonderful celebration of our warriors and their families.

- **Community Service Chapters:** The goal of HirePatriots is to create a Nationwide One Day Jobs Safety Net for U.S. veterans and their spouses. To accomplish this goal, we are creating HirePatriots chapters across America. These chapters have their own local, customized HirePatriots website on which they control the content. We seek leaders in these areas to create and manage a volunteer force of veteran supporters. Their mission is simple: Inform the local business and residents about their HirePatriots.com site and job board and get jobs posted for local veterans. Then inform their local veterans and spouses. They also host fundraisers and seek sponsors to provide Patriotic Hearts programs in their areas.

School Kids Program: A wonderful result of our increasing popularity has been that public schools are adopting Patriotic Hearts and HirePatriots as a community service project. These schools receive their own HirePatriots.com website, and the students fill it with their patriotic efforts, essays, videos and pictures. We are also writing a curriculum and a book to promote this program and make it a perpetual part of our American fabric.

Educational Endeavours: In the last 50 years the American population has gone from 90% of American males being US military veterans to less than 1% of our current generation. And further reductions in our nation's Armed Forces are being planned. There now exists a tremendous vacuum of understanding and appreciation for the important role veterans and their families play in keeping America a safe haven for democracy and freedom. In response, Patriotic Hearts trains patriotic citizens to speak and seeks out opportunities on TV, radio, in the press, and at community events, associations, clubs and schools for them to teach about US veterans' sacrifices and critical role in preserving our way of life.

- **In Development:**
- Road Trip for Veterans: HirePatriots is also seeking funds to purchase an RV and to fund a trip to every state in order to get the HirePatriots Job program started for US veterans everywhere. -- This is an opportunity for company sponsorship.
- Wireless for Heroes: Helping Our Heroes One Cell Phone at a Time

ATTACHMENT "C"



DEVELOPMENT APPLICATION

Community Development Department
P.O. Box 5007
Third & "H" Streets
Antioch, CA 94531-5007
Phone: (925) 779-7035 Fax: (925) 779-7034

SITE LOCATION: 201 E. 18th STREET

ASSESORS PARCEL NO. (S): 065-164-023 TOTAL ACREAGE:

BRIEF DESCRIPTION OF REQUEST: USE BUILDING FOR DUNGO HALL OPERATION

RECEIVED

MAY 28 2014

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

PROPERTY OWNER OF RECORD
Name: JONAS D & MARIA MTRÉ
Company Name: 15th ST. PARTNERSHIP
Address: 4356 REDCLOUD CT
RANCOZ, CA 94518-1913
Telephone No. 925-372-6100, 6812
Fax No. 372-4715
Email:
Signature: Egon Mtré
15th St - G. 18th St Partners

APPLICANT
Name: AL DAVIS
Company Name: IT TAKES A VILLAGE
Address: 4720 FOOTHILL BLVD
OAKLAND, CA 94601
Telephone No. 510-467-7A94
Fax No.
Email: DAVIS BARBARA 4720 @
Signature: Barbara A. Davis

ANY OTHER PERSON THAT YOU WOULD LIKE THE
CITY OF ANTIOCH TO NOTIFY OF THE PUBLIC
HEARING
Name: AL DAVIS
Company Name:
Address: 5233 FLEMING AVE.
OAKLAND, CA 94619
Telephone No. 510-706-4562
Fax No. (510) 261-4612
Email: DAVIS 52 @ COMCAST.NET

AGENT/DESIGNER
Name: AL DAVIS
Company Name: APC LIMITED, L
Address: 5233 FLEMING AVE
OAKLAND, CA 94619
Telephone No. 510-706-4562
Fax No. 510-261-4612
Email: DAVIS 52 @ COMCAST.NET

11



May 26, 2014

RECEIVED

MAY 28 2014

Executive Summary

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

"It Takes a Village Development Center (ITAV)", is a Non-profit organization formed for the express purpose of operating and managing bingo halls in the San Francisco Bay Area Under the rulings of California Attorney General Guideline (Daniel E. Lungren and Deputy Attorney Clayton P. Roche, December 1998 and subsequently reviewed and reaffirmed by California Governor Edmund G. Brown, Jr. in 2007). Their ruling is that electronic hand devices are legal in California. (See Appendix A)

Thus, It Takes a Village Development Center is formally submitting an application to operate and manage a Bingo Hall in an existing facility located at 201 E. 18th Street, Antioch, California. The attached building and layout drawings provided would meet the guidelines for the planned operation of the facility, for the purpose of offering charity bingo programs to the community of Antioch. It is proposed to operate four days a week Wednesday through Saturday, 4:30 PM until approximately 10:00 PM.

To assist ITAV, they have employed the services of a consultant firm, skilled in project development, implementation and on-going monitoring of both the financial and physical strength of the Non-Profit organization's day to day operations. The consultant firm's resumes are attached for reference.

The City was selected by ITAV's Executive staff and Board of Directors, after a lengthy study of the city of Antioch's demographics, which points to a combined influx of new residents from other communities seeking affordable housing costs; and the previous severe cut backs by City, State and Federal governments' funding sources. The community of Antioch is in need of alternative solutions to some of its economic challenges. There already exists some form of bingo and card room facility in the surrounding communities of Pittsburg, Brentwood, Oakley, Bethel Island, and similar locations. However, neither offers the depth of service, and commitment to adequately tap the hidden resources for community support, as those proposed by ITAV.

Market Area:

The demographics of the city of Antioch as of 2010 have a population of 102,372. The ethnic make-up is:

White	38.6%
Hispanic	31.5%
Afro American	15.1%
Asian	7.2%
Two or More	6.1%
Other Race	0.07%
Native American	0.06%
Hawaiian & Pacific Islander	0.1%

High Schools

Public	8
Private	3

Elementary Schools

Public	10
Private	5

Proposed Infusion of Capital:

ITAV is proposing to invest upward of \$3,010,888.80 in year one, to acquire and start operate of the Bingo Hall.

It is projected, that this amount should generate conservatively, \$10,044,000.00 annually. Of this amount, \$572,214.00 in donations can go directly to Schools, Youth and Senior programs.

Additionally, 18 new full and part time jobs can be created for the communities of Antioch, Oakley, Brentwood, Pittsburg, and Bethel Island. At least 5 secondary economic spend offs will be needed to support the Bingo Hall Management and Operation.

Security:

Of major concern will be the security deployed to deter or minimize the opportunity for robbery and theft in an establishment that will be dealing with significant sums of cash on a daily basis. Therefore, attention has been given to how best to warrant against such occurrences. This issue is being addressed as the “first line of defense” and is reflected in the budget (See Pro forma sheets). Thus, the following is planned:

- Hire certified armed security guards, with number determined by capacity of facility.
- Install surveillance cameras at strategic locations throughout the facility, both inside and outside, particularly where cash transactions are taking place.
- Contract with a money transportation company such as Loomis, to pick up and deliver money to and from a FDIC institution on a daily basis.
- Install change counting machine and a “Bill” counting machine that is capable of detecting counterfeit bills immediately.
- Ongoing training and monitoring for staff and volunteers selling special game cards and pull tabs.

Medical Considerations:

Due to the fact that a larger number of Bingo Players appear to be senior citizens, the Managers are also installing at least one **defibrillator**, provided for Medical EMTs, or at a minimum, have a certified CPR person during all Bingo sessions.

Planned Donation Opportunities from Bingo Operation:

The largest benefit of being allowed to operate a Bingo Hall lies in the ability of the Non-profit organization to provide a mechanism to morally, legally and ethically distribute funds to a large number of other non-profit organizations, who may not have the capability to financially sustain themselves. Some of these non-profits are, Diverse ethnic groups, Public Schools, Boys and Girls Clubs, Senior Centers, Foundations, Arts and Repertory Groups, Scouting programs, Church food programs, Battered Women and Children Shelters, and Youth sports programs are but a few of the programs that are being reduced or eliminated due to Federal and State Government cut backs. Such cutbacks negatively impact our communities and provide fewer, if any alternatives for relief.

Our strategy is to use profits from operation of the Bingo Halls to make up the shortfall in our communities.

Exit Strategy:

At the end of the life of the Non-Profit, a decision will be made to liquidate commercial properties through distribution of assets to a non-profit organization and/or “shareholders” or exercise option to renew the Non-profit under new management. This is a “Buy Out” opportunity for new investor(s).

Management Team:

CEO and Fund Manager, Funding Wealth Capital, LLC

AL DAVIS

After serving 10 years in the United States Air Force, Mr. Davis started a new career in the Construction Industry. This was the result of not being able to find suitable employment to support his newly acquired family after his military career. Reflecting upon two of his earlier childhood experiences, the first seeing his step-father building their first house from adobe, straw and railroad ties at the age of five or six; and second, having learned Architectural drafting in High School. These influences set in motion, perhaps unconsciously, a career in Designer and Developer. Mr. Davis' first venture was his participation in the development of a Modular Home Manufacturing Company in Benicia, California in 1963. At the time housing was on the up rise and new and innovative experimental methods of construction were being developed in the housing construction industry. During the two years of operation of DGH Industries, the company manufactured dozens of houses in the plant that was ultimately shipped to building sites. Each 1,100 to 1,500 square foot house was erected on site, finished and ready for occupancy in less than 45 working days. Unions were not ready for this in those days.

After closing of the plant in Benicia, Mr. Davis moved to Richmond California, where he operated a freelance Housing Design service. This ultimately led to acquiring a General Contractor's License for commercial and residential properties. These two combined careers resulted in acquiring an in-depth knowledge of the various aspects associated with the building industry which included planning, designing, construction cost estimating, building permit processing, building, inspection procedures and "Turn Key" operations.

From 1964 through 1979, Mr. Davis worked for four U.S. Presidential Administrations (Presidents Johnson, Nixon, Ford and Carter) in Contract Evaluation Analyst for the Department of Labor, Department of Commerce and Department Education's Office of Child Development, Head Start and Supplemental Training. During this period of time, Mr. Davis also provided free consultant services to building contractors and homeowners involved in remodeling and construction projects in various communities in the United States.

Between 1972 and 1984, Mr. Davis was engaged in the development of the Bay Area Purchasing Council, where he served two terms as President of the Purchasing Council. The Council's objective during that time period was to provide contracting opportunities to Black and Hispanic contractors, Engineers, Architects, Certified Public Accountants, and support services to Private Industry, State and Federal Governments The high point in this endeavor was in May 1976, generating over \$5,000,000 in contracts being awarded to black and Hispanic contractors by private, State and Federal contracting agencies, in a span of three days.

Mr. Davis returned to the building industry in 1986, by remodeling and adding onto his own home in Oakland, California. He was also an Executive Director of a federally funded non-profit organization.

Mr. Davis retired from active participation in the construction industry in 1999.

His prior experiences lead to the development authoring and publishing of four significant books associated with the building industry. These publications were: "The Source Exchange Guide" Published by Source Publications, Inc. 1973 to 1984; and "Owner-Builders Work Book for Remodeling House Moving" editions, 1989, 2000 and 2005. In addition, Mr. Davis has authored two non-construction related publications.

Mr. Davis is currently the Chief Operating Officer of ADC Limited, LLC, which is a management training and technical assistant firm, engaged in improving communications between home owners and general contractors during construction engagements. This company was born out of the desire to minimize the conflict that occurs between homeowners and general contractors. Most conflicts result in three issues:

- 1) Homeowners losing money, or property loss resulting from litigation;
- 2) General contractors losing licenses resulting from faulty work, lack of work and in some cases, no work at all; and
- 3) Lending institutions, insurance and bonding companies losing money, resulting from the former two issues; leading to the development of a Real Estate Investment Company.

Mr. Davis also operates several other internet marketing companies, including: www.adcbuilderseminar.com; and www.fundingwealthcapital.com. Mr. Davis has two children, eight grandchildren, and two great grandchildren, all living in California. His hobbies include flying, fishing, coaching and sports.

President and Fund Manager

LEONA GREENLOW-TURNER

Mrs. Greenlow-Turner is a Bay Area Realtor, specializing in the listing and sale of distressed properties. She works with several prominent lending institutions (Chase, Indy Mac, Bank of America, and Wells Fargo) in the evaluation of their residential and commercial real estate assets.

The beginning of her career included telecommunications, banking and financial planning industries. Every career opportunity has led her to teaching those around her vital technical skills necessary for their careers. Her area of expertise is coaching new entrepreneurs in starting and maintaining new business ventures.

With this training background, she began creating custom training materials and classes. She has taught and created technical courses over the past 20 years. She brings real estate insight to Funding Wealth Capital, LLC with her extensive training and real estate expertise. Additionally, she provides sound financial guidelines regarding profit, losses, income and expenditures for Funding Wealth Capital, LLC and other companies hired by FWC, LLC in a consultant capacity.

She has created three feature courses for Funding Wealth Capital, LLC:

1. Tax Deed and Tax Lien Investing (the course includes training and one-on-one coaching.)
2. Investing in California Short Sales
3. Bingo Hall Operations

Mrs. Greenlow-Turner is the mother of four and grandmother of four. Her hobbies include reading and studying the Bible, writing, blogging, knitting and sewing. She currently serves as Parent Teacher Association (PTA) President at a prominent Oakland Elementary school.

The following additional resumes are available to Subscriber upon request:

- Real Estate Attorney
- Certified Public Accountant
- Mortgage Broker
- Administrator and Business Development Consultant

For more detailed information, or to request a full disclosure of the Private Placement Memorandum (PPM) from www.FundingWealthCapital.com, please email your request to: info@FundingWealthCapital.com or call (510)706-4562



Date: May 26, 2014

**Barbara Davis, Executive Director
"It Takes a Village Development Center"**



Date: 5/26/14

**Al Davis, Project Consultant (Not Related to Exc. Dir.)
CEO: Funding Wealth Capital, LLC**

Appendix A

Electronic Handheld Devices

Traditional bingo is a game of chance where players pay a bingo hall an entrance fee for game cards to play several bingo games. Players can play multiple cards at the same time to increase their chance at winning games. Bingo cards consist of 24 random numbers and a free space in the center. During the game a caller calls random numbers from a bingo blower. The caller calls each number as it comes up until a player announces "bingo". Once the winning combination is established as a winning bingo, the winner is paid.

Section 326.5 specifies precisely what the game of bingo is that is permitted under these conditions. Subdivision (o) of California Penal Code section 326.5 provides: (o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo includes cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person.

Currently, bingo halls are using a combination of paper cards and electronic handheld devices to play bingo. Electronic handheld devices are used as an aid to notify the player of a winning card. The serial numbers of each bingo card are programmed into the handheld device. These devices do not require any additional financial investment from the players. Electronic handheld devices and paper games are the same game and are played simultaneously.

In 1991, State Attorney General, Dan Lungren said, "Lungren's directive--sent Tuesday to the state's district attorneys, city attorneys, sheriffs and chiefs of police--noted that the only gambling machines legal in California are "actual facsimiles of the game of bingo," such as terminals that enable players to keep track of 250 bingo cards at once. "All other machines are illegal," Lungren said."

"During the 20-year period which has followed the Attorney General's (Lungren) opinion quoted above, the Legislature has amended Penal Code section 326.5 twice, but it has not amended the section to authorize electronic bingo. It has, however, amended subdivision (o), containing the definition of bingo, but notably, it has made no change to the elements of the definition itself. Accordingly, subdivision (o) of section 326.5, as quoted above, continues to prescribe the elements of the game that is permissible as bingo, conducted by organizations authorized by section 326.5, subdivision (a)."

"The Attorney General (Edmund G. Brown, Jr., 2007), however, has subsequently concluded that in games in which players purchase and receive traditional bingo cards, the use of an

electronic aid to notify the player of a winning card is **not prohibited**. The Attorney General concluded that under these circumstances, "the combined use of the electronic aid and traditional cards will allow each player to meet the requirements of subdivision (o), since the 'designated numbers or symbols' are 'on a card' as well as being programmed into the electronic aid." (81 Ops.Cal.Atty.Gen 415, at p. 417 (1998).)"

With the handheld electronic bingo device players can play as many bingo cards as they can afford since monitoring each bingo card is no longer a problem. All it takes for a bingo player to do is to key in the numbers being drawn into the portable handheld electronic device and the computer will automatically search for these numbers from the bingo card of the players then daub it in their behalf.

This type of electronic bingo device has a tracking system that automatically monitors the bingo cards of the player making it plausible for its players to play multiple bingo cards simultaneously. The best thing about electronic bingo device is the opportunity it gives to bingo players with physical disabilities to play bingo with less efforts and added convenience.

References:

Subdivision (o) of section 326.5 defines "bingo" as follows:

"As used in this section 'bingo' means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo includes cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, 'for sale or use only in a bingo game authorized under California law and pursuant to local ordinance.' It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law."

"We believe that when bingo players purchase and receive traditional bingo cards, the use of electronic aids in conjunction therewith to ascertain when a game has been won does not remove the game from the scope of section 326.5. The courts have ruled similarly in somewhat analogous situations. (See *Lubavitch Congregation v. City of Long Beach* (1990) 217 Cal.App.3d 1388; *People v. 8,000 Punchboard Card Devices* (1983) 142 Cal.App.3d 618.) We conclude that the requirements of section 326.5, subdivision (o), are satisfied when bingo players use, in conjunction with traditional bingo cards, electronic aids to notify them when a game has been won."

Proposed Bingo Hall 201 E 18th Street Antioch, CA 94509

"Scope of Work"

Change of Occupancy;

Remodel structure to meet to compliance to meet Fire Code and ADA requirement to use as Bingo Hall; remove non bearing wall on south side of building; relocate and modify electrical; install new framing of non bearing walls per plans.

Legend

- Page 1 Cover sheet
- Page 2 Planning (Existing)
- Page 3 Setting Layout
- Page 4 New Electrical Plan
- Page 5 Interiors
- Page 6 Fire Escape Plan
- Page 7 ADA Requirements
- Page 8 Security/Surveillance cameras



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MAY 28 2014

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

APN: 065-164-023

201 E 18th Street

Commercial Property

5/27/2014

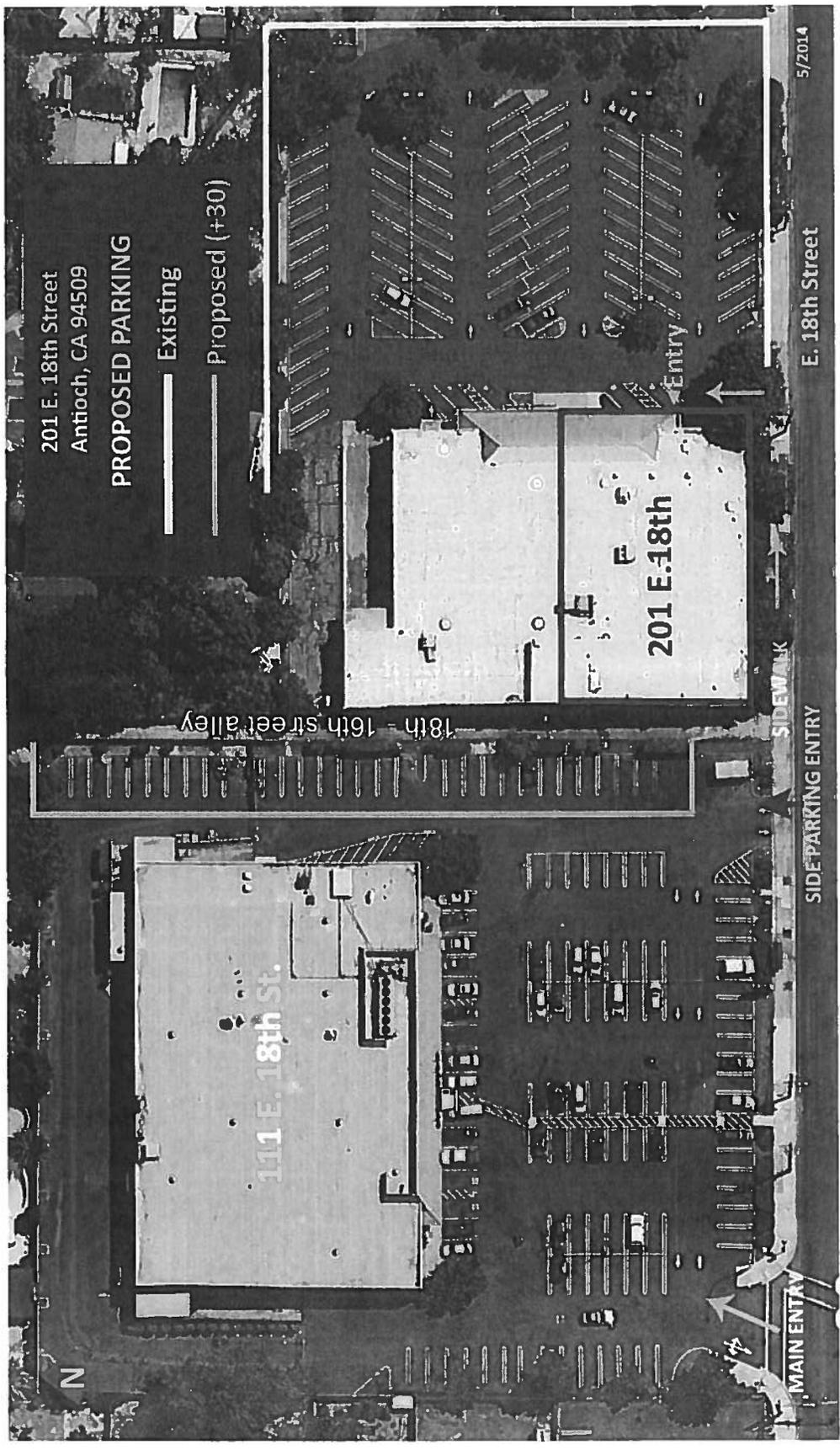
DESIGN BY:

Proposed Parking

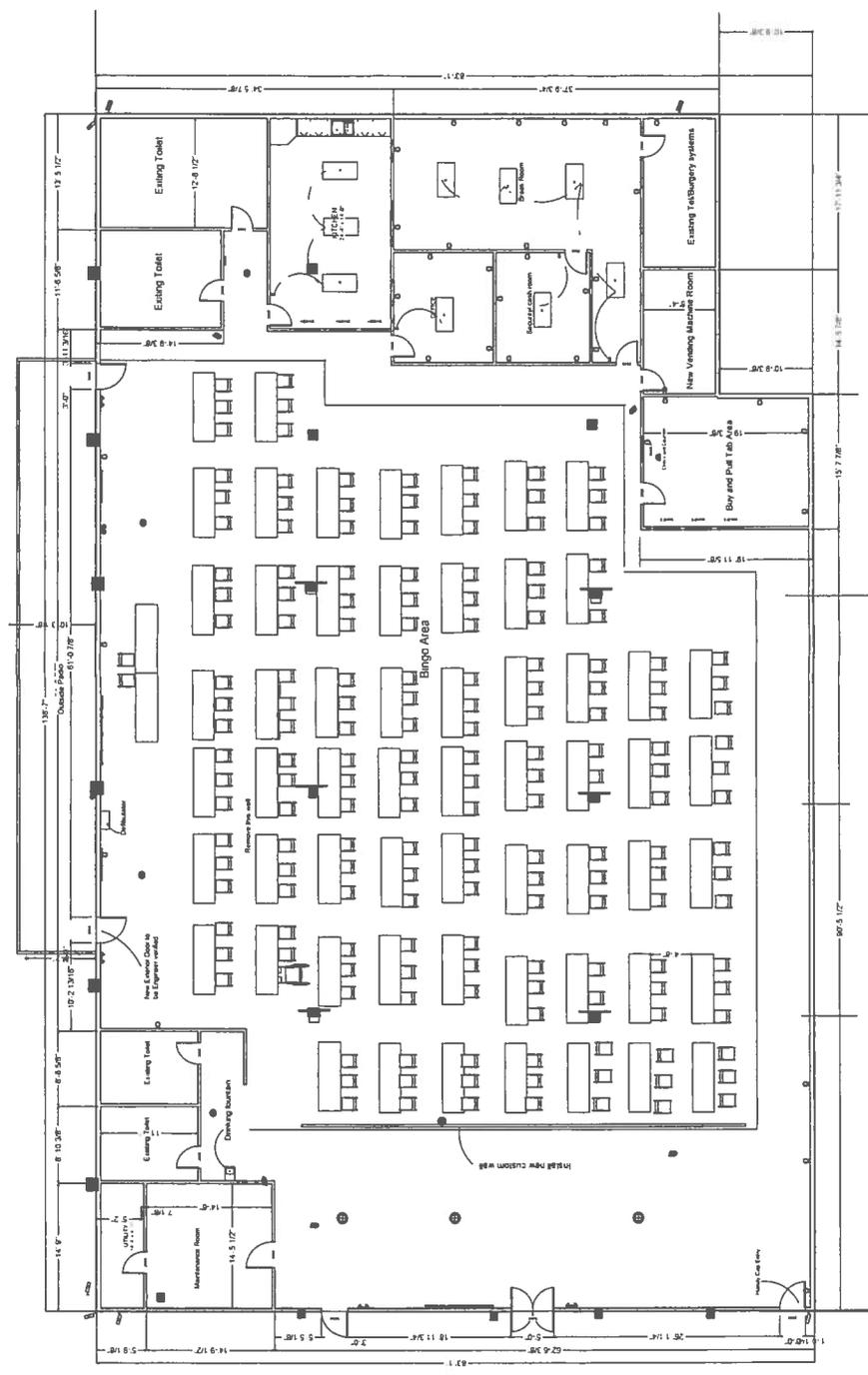
201 E 18th Street Antioch_auto_save_bak

ADC Limited
3542 Fruitvale Avenue#306
Oakland, CA 94602
510-706-4562

2



111



- Equip with WI F1 and 3 modums equally spaced.
 - Emergency Phone 911
 - Install Cabinet for Defulator on wall behind Caller's Table.
 - one EMT or CPR Tech per each Session.
- Bingo Electronic
 - Hand Held Devices
- Material and Labor
 - Estimates
 - Archit
 - Permits/ Fees
 - 972 Square yards of Carpet
 - Electrical
 - Plumbing
 - Mechanical
 - Finishing
- Security protection
 - 5 Armed Guards
 - Money Transporters
 - 11 Security Cameras
 - 4 Exterior Security Cameras
 - 6 security Monitors
- Capacity: 54 tables with 3 persons per one side of table for a total low of 162 participants to a maximum of both side of table for max 324 individuals .

5/27/2014

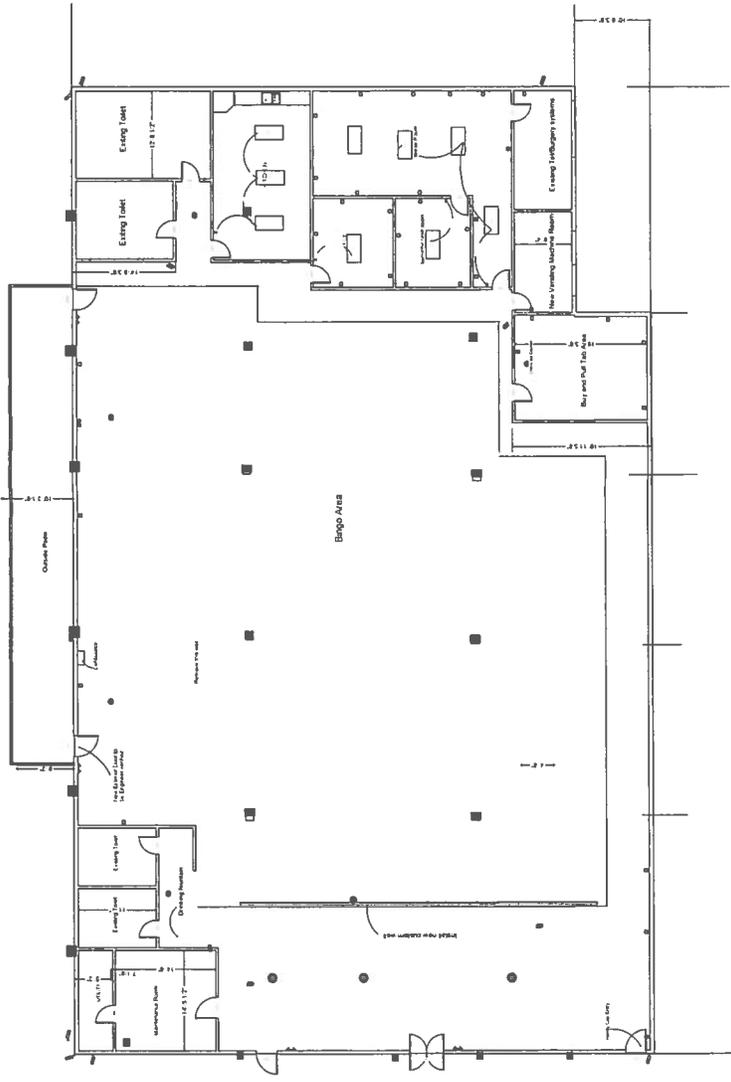
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New Electrical

201 E 18th Street Antioch_auto_save_bak

ADC Limited
3542 Fruitvale Avenue#306
Oakland, CA 94602
510-706-4562

4



New Electrical Plan
Scale: 1/8" = 1'-0"

C13

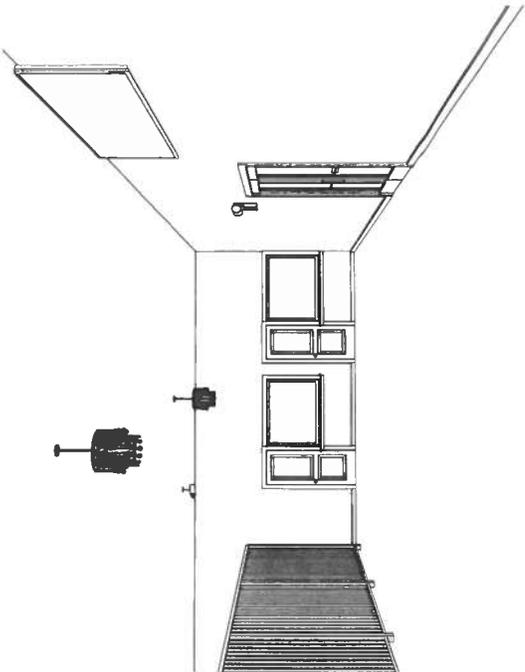
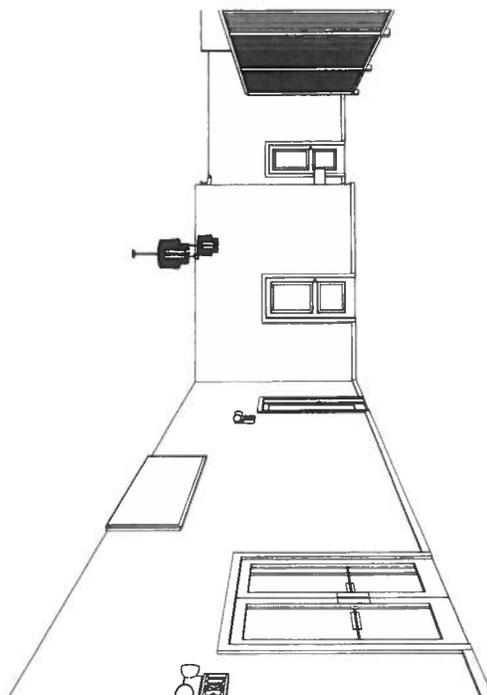
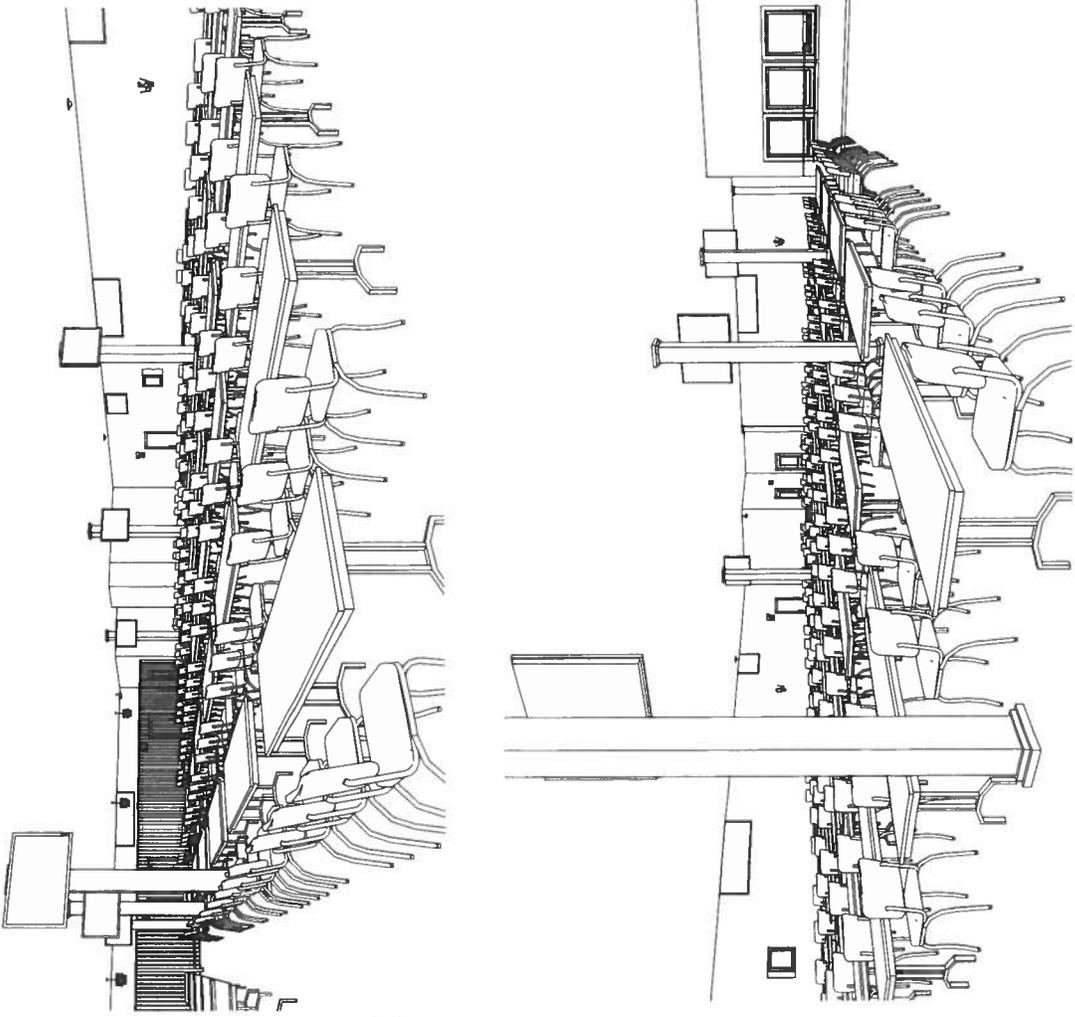
5/27/2014

DESIGN BY:

201 E 18th Street Antioch_auto_save_bak

ADC Limited
3542 Fruitvale Avenue#306
Oakland, CA 94602
510-706-4562

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Print

ATTACHMENT "D"

Antioch, CA Code of Ordinances

CHAPTER 15: BINGO GAMES

Section

5-15.01 Bingo games authorized

§ 5-15.01 BINGO GAMES AUTHORIZED.

Any bingo game played pursuant to Cal. Penal Code § 326.5, or successor legislation, is hereby authorized to be conducted within the city.

('66 Code, § 5-15.01) (Ord. 451-C-S, passed 5-22-80)

ATTACHMENT "E"

326.3. (a) The Legislature finds and declares all of the following:

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the state.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens' organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (1) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) (1) A city, county, or city and county may adopt an ordinance in substantially the following form to authorize remote caller bingo in accordance with the requirements of subdivision (b):

Sec. __.01. Legislative Authorization.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

Sec. __.02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the [City, County,

or City and County] pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

Sec. __.03. Qualified Applicants: Applicants for Licensure.

(a) The following organizations are qualified to apply to the License Official for a license to operate a bingo game if the receipts of those games are used only for charitable purposes:

(1) An organization exempt from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(2) A mobilehome park association of a mobilehome park that is situated in the [City, County, or City and County].

(3) Senior citizen organizations.

(4) Charitable organizations affiliated with a school district.

(b) The application shall be in a form prescribed by the License Official and shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the [Governing Body of the City, County, or City and County] from time to time. The following documentation shall be attached to the application, as applicable:

(1) A certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law pursuant to Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code. In lieu of a certificate issued by the Franchise Tax Board, the License Official may refer to the Franchise Tax Board's Internet Web site to verify that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law.

(2) Other evidence as the License Official determines is necessary to verify that the applicant is a duly organized mobilehome park association of a mobilehome park situated in the [City, County, or City and County].

Sec. __.04. License Application: Verification.

The license shall not be issued until the License Official has verified the facts stated in the application and determined that the applicant is qualified.

Sec. __.05. Annual Licenses.

A license issued pursuant to this chapter shall be valid until the end of the calendar year, at which time the license shall expire. A new license shall only be obtained upon filing a new application and payment of the license fee. The fact that a license has been issued to an applicant creates no vested right on the part of the licensee to continue to offer bingo for play. The [Governing Body of the City, County, or City and County] expressly reserves the right to amend or repeal this chapter at any time by resolution. If this chapter is repealed, all licenses issued pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing resolution.

Sec. __.06. Conditions of Licensure.

(a) Any license issued pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements of those provisions.

(b) Each license issued pursuant to this chapter shall be subject to the following additional conditions:

(1) Bingo games shall not be conducted by any licensee on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter.

(2) The licensed organization is responsible for ensuring that the conditions of this chapter and Sections 326.3 and 326.4 of the Penal Code are complied with by the organization and its officers and members. A violation of any one or more of those conditions or provisions shall constitute cause for the revocation of the organization's license. At the request of the organization, the [Governing Body of the City, County, or City and County] shall hold a public hearing before revoking any license issued pursuant to this chapter.

(3) This section shall not require a city, county, or city and county to use this model ordinance in order to authorize remote caller bingo.

(d) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (1), except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game. A violation of any provision of this section, other than subdivision (d), is a misdemeanor.

(f) The city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game, or the Attorney General, may bring an action to enjoin a violation of this section.

(g) No minors shall be allowed to participate in any remote caller bingo game.

(h) A remote caller bingo game shall include only sites that are located within this state.

(i) An organization authorized to conduct a remote caller bingo game pursuant to subdivision (b) shall conduct the game only on property that is owned or leased by the organization, or the use of which is donated to the organization. This subdivision shall not be construed to require that the property that is owned or leased by, or the use of which is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(j) (1) All remote caller bingo games shall be open to the public, and shall not be limited to the members of the authorized organization.

(2) No more than 750 players may participate in a remote caller bingo game in a single location.

(3) If the Governor or the President declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct a remote caller bingo game pursuant to this section with more than 750 participants in a single venue if the net proceeds of the game, after deduction of prizes and overhead expenses, are donated to or expended exclusively for the relief of the victims of the disaster or catastrophe, and the organization gives, for each participating remote caller bingo site, the department and local law enforcement at least 10 days' written notice of the intent to conduct that game.

(4) For each participating remote caller bingo site, an organization authorized by the commission to conduct remote caller bingo games shall provide the department and local law enforcement with at least 30 days' advance written notice of its intent to conduct a remote caller bingo game. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (k).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for any city, county, or city and county in which the game will be played. The department shall post the ordinance on its Internet Web site.

(I) A copy of the license issued to the organization by the governing body of the city, county, or city and county pursuant to subdivision (b).

(k) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, if those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under those agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(1) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable

financial interest in the conduct of that game.

(m) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, "overhead costs" includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (d). For the purpose of keeping its overhead costs below 20 percent of gross sales, an authorized organization may elect to deduct all or a portion of the fees paid to financial institutions for the use and processing of credit card sales from the amount of gross revenues awarded for prizes. In that case, the redirected fees for the use and processing of credit card sales shall not be included in "overhead costs" as defined in the California Remote Caller Bingo Act. Additionally, fees paid to financial institutions for the use and processing of credit card sales shall not be deducted from the proceeds retained by the charitable organization.

(n) A person shall not be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this section.

(o) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

(A) All of the cosponsors are affiliated under the master charter or articles and bylaws of a single organization.

(B) All of the cosponsors are affiliated through an organization described in paragraph (1) of subdivision (b), and have the same Internal Revenue Service activity code.

(2) Notwithstanding paragraph (1), a maximum of 10 unaffiliated organizations described in paragraph (1) of subdivision (b) may enter into an agreement to cosponsor a remote caller game, but that game shall have no more than 10 locations.

(3) An organization shall not conduct remote caller bingo more than two days per week.

(4) Before sponsoring or operating any game authorized under paragraph (1) or (2), each of the cosponsoring organizations shall have entered into a written agreement, a copy of which shall be provided to the department, setting forth how the expenses and proceeds of the game are to be allocated among the participating organizations, the bank accounts into which all receipts are to be deposited and from which all prizes are to be paid, and how game records are to be maintained and subjected to annual audit.

(p) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. When an authorized organization elects to deduct fees paid for the use and processing of credit card sales from the amount of gross revenues for that game awarded for prizes, the maximum amount of gross revenues that may be awarded for prizes shall not exceed 37 percent of the gross receipts for that game, less the amount of redirected fees paid for the use and processing of credit

card sales. Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a remote caller bingo game shall provide his or her identifying information and a mailing address to the onsite manager of the remote caller bingo game. Prizes shall be paid only by check; no cash prizes shall be paid. The organization conducting the remote caller bingo game may issue a check to the winner at the time of the game, or may send a check to the declared winner by United States Postal Service certified mail, return receipt requested. All prize money exceeding state and federal exemption limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

(q) (1) The commission shall require the licensure of the following:

(A) Any person who contracts to conduct remotecaller bingo on behalf of an organization described in subdivision (b) or who is identified as having fiduciary responsibility for the game pursuant to subdivision (k).

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any organization described in subdivision (b).

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) Background investigations related to remote caller bingo conducted by the department shall be in accordance with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission or the department.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval by a person described in subparagraph (A) of paragraph (1) shall be submitted to the department and accompanied by a nonrefundable fee.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties

and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars (\$500,000) to fund operating, personnel, and other startup costs incurred by the commission and department relating to this section. Funds from the California Bingo Fund shall be available to the commission and department upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than July 1, 2019.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission and department may assess and collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(D) Notwithstanding any other law, the loan authorized by Provision 1 of Item 0855-001-0567 of the Budget Act of 2009, in the amount of four hundred fifty-seven thousand dollars (\$457,000), shall be repaid no later than July 1, 2019.

(E) The licensing fee for any person or entity that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization shall be in an amount determined by the department, not to exceed the reasonable regulatory costs to the department and in accordance with regulations adopted pursuant to this chapter. Prior to the adoption of the regulations, the nonrefundable license fee shall be the amount of the reasonable regulatory costs to the department, not to exceed three thousand dollars (\$3,000) per year.

(r) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(s) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(t) (1) All equipment used for remote caller bingo shall be certified as compliant with regulations adopted by the department by a manufacturing expert recognized by the department. Certifications shall be submitted to the department prior to the use of any equipment subject to this subdivision.

(2) The department may monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(u) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state

facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of this section. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

(4) Prior to conducting a remote caller bingo game, the organization that conducts remote caller bingo shall submit to the department the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the department, provided that the controls shall be deemed approved by the department after 90 days from the date of submission unless disapproved.

(v) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the commission pursuant to Section 19841 of the Business and Professions Code, including, but not limited to, a location at which unlawful electronic devices are used.

(w) (1) The vendor of the equipment used in a remote caller bingo game shall have its books and records audited at least annually by an independent California certified public accountant and shall submit the results of that audit to the department within 120 days after the close of the vendor's fiscal year. In addition, the department may audit the books and records of the vendor at any time.

(2) An authorized organization that conducts remote caller bingo games shall be audited by an independent California certified public accountant at least annually and copies of the audit reports shall be provided to the department within 60 days of completion of the audit report. A city, county, or city and county shall be provided a full copy of the audit or an audit report upon request. The audit report shall account for the annual amount of fees paid to financial institutions for the use and processing of credit card sales by the authorized organization and the amount of fees for the use and processing of credit card sales redirected from "overhead costs" and deducted from the amount of gross revenues awarded for prizes.

(3) The costs of the licensing and audits required by this section

shall be borne by the person or entity required to be licensed or audited. The audit shall enumerate the receipts for remote caller bingo, the prizes disbursed, the overhead costs, and the amount retained by the nonprofit organization. The department may audit the books and records of an organization that conducts remote caller bingo games at any time.

(4) If the department identifies practices in violation of this section, the license for the audited entity may be suspended pending review and hearing before the commission for a final determination.

(x) (1) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(2) Notwithstanding paragraph (1), if paragraph (1) or (3) of subdivision (u), or the application of either of those provisions, is held invalid, this entire section shall be invalid.

(y) The department shall submit a report to the Legislature, on or before January 1, 2016, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(z) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "Department" means the Department of Justice.

(3) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

(aa) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

326.4. (a) Consistent with the Legislature's finding that card-minding devices, as described in subdivision (p) of Section 326.5, are the only permissible electronic devices to be used by charity bingo players, and in an effort to ease the transition to remote caller bingo on the part of those nonprofit organizations that, as of July 1, 2008, used electronic devices other than card-minding devices to conduct games in reliance on an ordinance of a city, county, or city and county that, as of July 1, 2008, expressly recognized the operation of electronic devices other than card-minding devices by organizations purportedly authorized to conduct bingo in the city, county, or city and county, there is hereby created the Charity Bingo Mitigation Fund.

(b) The Charity Bingo Mitigation Fund shall be administered by the Department of Justice.

(c) Mitigation payments to be made by the Charity Bingo Mitigation Fund shall not exceed five million dollars (\$5,000,000) in the aggregate.

(d) (1) To allow the Charity Bingo Mitigation Fund to become immediately operable, five million dollars (\$5,000,000) shall be loaned from the accrued interest in the Indian Gaming Special Distribution Fund to the Charity Bingo Mitigation Fund on or after January 1, 2009, to make mitigation payments to eligible nonprofit organizations. Five million dollars (\$5,000,000) of this loan amount is hereby appropriated to the California Gambling Control Commission

for the purposes of providing mitigation payments to certain charitable organizations, as described in subdivision (e). Pursuant to Section 16304 of the Government Code, after three years the unexpended balance shall revert back to the Charity Bingo Mitigation Fund.

(2) To reimburse the Special Distribution Fund, those nonprofit organizations that conduct a remote caller bingo game pursuant to Section 326.3 shall pay to the Department of Justice an amount equal to 5 percent of the gross revenues of each remote caller bingo game played until that time as the full advanced amount plus interest on the loan at the rate accruing to moneys in the Pooled Money Investment Account is reimbursed.

(e) (1) An organization meeting the requirements in subdivision (a) shall be eligible to receive mitigation payments from the Charity Bingo Mitigation Fund only if the city, county, or city and county in which the organization is located maintained official records of the net revenues generated for the fiscal year ending June 30, 2008, by the organization from the use of electronic devices or the organization maintained audited financial records for the fiscal year ending June 30, 2008, which show the net revenues generated from the use of electronic devices.

(2) In addition, an organization applying for mitigation payments shall provide proof that its board of directors has adopted a resolution and its chief executive officer has signed a statement executed under penalty of perjury stating that, as of January 1, 2009, the organization has ceased using electronic devices other than card-minding devices, as described in subdivision (p) of Section 326.5, as a fundraising tool.

(3) Each eligible organization may apply to the California Gambling Control Commission no later than January 31, 2009, for the mitigation payments in the amount equal to net revenues from the fiscal year ending June 30, 2008, by filing an application, including therewith documents and other proof of eligibility, including any and all financial records documenting the organization's net revenues for the fiscal year ending June 30, 2008, as the California Gambling Control Commission may require. The California Gambling Control Commission is authorized to access and examine the financial records of charities requesting funding in order to confirm the legitimacy of the request for funding. In the event that the total of those requests exceeds five million dollars (\$5,000,000), payments to all eligible applicants shall be reduced in proportion to each requesting organization's reported or audited net revenues from the operation of electronic devices.

326.45. Up to five hundred thousand dollars (\$500,000), as determined by order of the Director of Finance, is hereby appropriated from the California Bingo Fund to the California Gambling Control Commission for use in the 2008-09 fiscal year for the purposes described in subparagraph (C) of paragraph (3) of subdivision (q) of Section 326.3.

326.5. (a) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any bingo game

that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, if the ordinance allows games to be conducted only in accordance with this section and only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and Taxation Code and by mobilehome park associations, senior citizens organizations, and charitable organizations affiliated with a school district; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) Minors shall not be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) Any individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall not hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not

be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three thousand dollars (\$3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds that is additional to that permitted under subparagraph (A), up to one thousand dollars (\$1,000), shall be used for the purpose of financing the rebuilding of the facility and the replacement of equipment that was destroyed by fire in 2007. The exception to subparagraph (A) that is provided by this subparagraph shall remain in effect only until the cost of rebuilding the facility is repaid, or January 1, 2019, whichever occurs first.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(1) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) A person shall not be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes available to be awarded during the conduct of any bingo games shall not exceed five hundred dollars

(\$500) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. Notwithstanding Section 330c, as used in this section, the game of bingo includes tangible cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. Electronics or video displays shall not be used in connection with the game of bingo, except in connection with the caller's drawing of numbers or symbols and the public display of that drawing, and except as provided in subdivision (p). The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(p) (1) Players who are physically present at a bingo game may use hand-held, portable card-minding devices, as described in this subdivision, to assist in monitoring the numbers or symbols announced by a live caller as those numbers or symbols are called in a live game. Card-minding devices may not be used in connection with any game where a bingo card may be sold or distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

(A) Be capable of storing in the memory of the device bingo faces of tangible cards purchased by a player.

(B) Provide a means for bingo players to input manually each individual number or symbol announced by a live caller.

(C) Compare the numbers or symbols entered by the player to the bingo faces previously stored in the memory of the device.

(D) Identify winning bingo patterns that exist on the stored bingo faces.

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1). Card-minding devices shall not do any of the following:

(A) Be capable of accepting or dispensing any coins, currency, or other representative of value or on which value has been encoded.

(B) Be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

(C) Display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes, other than highlighting the winning numbers or symbols marked or covered on the tangible bingo cards or giving an audio alert that the player's card has a prize-winning pattern.

(D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding

device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

(3) (A) A card-minding device shall be approved in advance by the department as meeting the requirements of this section and any additional requirements stated in regulations adopted by the department. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the department and approved by the department prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure of, any person that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides card-minding devices or other supplies, equipment, or services related to card-minding devices designed for use in the playing of bingo games by any nonprofit organization.

(C) A person or entity that supplies or services any card-minding device shall meet all licensing requirements established by the commission in regulations.

(4) The costs of any testing, certification, license, or determination required by this subdivision shall be borne by the person or entity seeking it.

(5) On and after January 1, 2010, the Department of Justice may inspect all card-minding devices at any time without notice, and may immediately prohibit the use of any device that does not comply with the requirements established by the department in regulations. The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the commission.

(6) The Department of Justice shall issue regulations to implement the requirements of this subdivision, and the California Gambling Control Commission may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player to participate in a bingo game, provided that the means of providing that assistance shall not be through any electronic, electromechanical, or other device or equipment that accepts the insertion of any coin, currency, token, credit card, or other means of transmitting value, and does not constitute or is not a part of a system that constitutes a video lottery terminal, slot machine, or device prohibited by Chapter 10 (commencing with Section 330).

(7) The following definitions apply for purposes of this subdivision:

(A) "Commission" means the California Gambling Control Commission.

(B) "Department" means the Department of Justice.

(C) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

ATTACHMENT "F"



CITY OF PLEASANT HILL POLICE DEPARTMENT



MEMORANDUM

Date: October 3, 2012
To: Troy Fujimoto, Senior Planner
From: Lieutenant Dan Connelly
Subject: **Blue Devils Bingo**

Bingo Parlors operated outside of religious organizations and senior citizen groups have historically caused issues for the police department by attracting some people who have engaged in criminal activity. The proposed Blue Devils Bingo Arcade would merely replace the two previous bingo parlors that were in place at the same address for many years, the Bingo Arcade and the I-Zone. The I-Zone operated with a slightly different bingo model but it was essentially the same concept. Both businesses utilize bingo machines or on-line bingo to operate. There has been controversy over the way these games have been played and their legality has been questioned. The law recently changed and now requires a "tangible card" and that the only electronic device that may be used is a "card minding device".

From January 1, 2005, to June 14, 2012, the Bingo Arcade and the I-Zone had a total of 306 events reported at the address. The majority were related to disturbances, narcotic violations, suspicious persons, and warrant arrests.

The Blue Devils Bingo (BDB) has operated in Concord for many years, dating back to the 1990's. Concord PD has experienced similar issues with patrons of the BDB, drunks, assaults, thefts, etc., but not to the extent that PHPD has with the Bingo Arcade and the Izone. One possible explanation is that the BDB in Concord is located in an industrial park in the far north end of Concord and away from the downtown businesses and shops. Since April 15, 2012 the Concord PD generated 11 events at the BDB; one petty theft, a misdemeanor assault, a felony assault, a hit and run collision, and five officer-initiated contacts resulting in two arrests.

The BDB also supports the Concord High School band, the Contra Costa Food Bank, and the Walnut Creek Aquanauts. Each charity is allotted one or two sessions per week for charity bingo. Each Charity is provided with \$500 for the session and all the tips from winning patrons. Officer Biama spoke with the Contra Costa Food Bank and confirmed that they receive a guaranteed \$500.00 per week from the BDB. In the last few months they have received over \$2000 each month from BDB.

Despite the charitable benefits for community organizations derived from BDB operations, police staff does not favor granting a use permit to the BDB for a bingo arcade. This position is based upon the history of problematic bingo parlors at that same location, albeit with different operators than the BDB.

If the use permit is granted, police staff recommends the following conditions be implemented:

- A video surveillance system, including the interior of the premise, with retention of stored images for a minimum of 30 days.
- On site security officer (s). Note: If this condition is implemented it could be written into the terms that this requirement is subject to review after a specified period of time, e.g., 90 days.

ATTACHMENT "G"

NEWS - FEATURE

February 02, 2011

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A New Place to Gamble?

Some so-called "Internet cafes" allow you play computer games of chance and win cash. Are they legal?

By Anna McCarthy

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Strip away the packaging of your average slot machine — the flashy lights, the alluring ring-a-ding-dinging— and you've basically got a computer game that spits out money when you win. In the Bay Area, a few enterprising entrepreneurs, including reputed bingo mogul **Robert "Bob" Casteel**, have figured out a way to exploit the similarities between computers and slots by capitalizing on a gray area in California law. They've opened "Internet cafes" that offer slot-like games on computers that pay out cash.

Sound sketchy? The City of Oakland thought so, too. Two of these local ventures, one operated by Casteel at **Foothill Square** and another at **Durant Square**, recently fell under serious scrutiny by city officials. They sent a cease and desist letter last fall to Casteel and Durant Square operator, Ray Abels, stating that the storefronts were operating Internet bingo, which is not allowed in the City of Oakland. The **Oakland City Attorney's Office** then threatened to shut down the businesses.

Although both Casteel and Abels insisted on the legality of their ventures, they voluntarily closed their cafes in mid-October while the city figured out whether the businesses were legit or just a cover for illegal gambling.

During their closure, I visited another one of these Internet cafes — the **I-Zone** — in a strip mall next to a few restaurants near **Diablo Valley College** in Pleasant Hill. The windows of the I-Zone were shaded. About fifteen patrons were inside, sitting among rows of roughly thirty computer screens. I saw one person using the Internet to browse Facebook. The rest were playing flashy, colorful games, some of which made hushed chiming sounds as they played.

I paid the woman at the front desk \$5 for about twenty minutes of "Internet time." She also said I would get "100 chances" to win at a computer sweepstakes game. She said I had the option of sitting at an "Internet exclusive" computer, but I told her I wanted to play the games. Then she sat me at a computer screen and explained that the Internet time would not run while I was playing my chances.

A colorful stack of balls bounced across the screen, and I clicked the "Play" button with my mouse until I had increased my original \$5 investment to \$7.40. A cautious gambler, I decided to quit while I was ahead. There was a button on the corner of the screen that took me back to a Google search prompt when I was ready to use my Internet time. However, the computer I was on didn't really seem set up for Internet use. The keyboard didn't work. So I collected my winnings, and went on my way.

The manager of the I-Zone refused to divulge any names associated with the business or owner, and said that the owner would not comment on the controversy surrounding the sweepstakes cafes in Oakland or the legality of the operations at the I-Zone.

But **James Mecham**, a consultant who works for SweepsCoach, a company that helps people all over the country open "sweepstakes gaming cafes," insists that if the owners are running a tight ship, the ventures could very well be legal. A sweepstakes game, Mecham explained, is lawful where slots aren't

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because, technically speaking, the game is designed to encourage people to buy a product, and not directly buy "chances" like in other forms of gambling. For instance, burger lovers at McDonald's are automatically entered in their "Monopoly" game for the chance to win a bunch of money every time they purchase a burger. Sweepstakes cafes offer the same deal, Mecham argued. "It's kind of like the McDonald's Monopoly game on steroids," he said.

Still sound sketchy? Legally speaking, there are three elements of gambling: prizes, chance, and consideration. The first two are self-explanatory. The third means that the customer paid directly to enter the game. By charging customers for Internet time, or in some cases for long-distance phone time, instead of directly for entrance into a game, a sweepstakes cafe, Mecham argued, removes the third element of gambling — consideration. "Simply put, the sweepstakes machines are our Monopoly game and the Internet or phone time is our cheeseburger," reads the SweepsCoach web site.

Of course, few people buy 1,000 burgers at McDonald's then throw out the burgers to up their chances at winning the Monopoly game. In order for the sweepstakes cafes to remain legal, selling the featured product — Internet time — has to remain the central purpose of the business. **Patricia Simmons**, who owns **T's**, an Internet cafe in Antioch, said in a phone interview that the games are merely a promotional tool for her Internet business. "Everyone is up in arms about something they don't understand," she said.

Mecham, who is based in Sacramento, said that his SweepsCoach business is booming all over the country — except in California. That's because gambling laws here tend to be more rigid than elsewhere, he said. But that doesn't mean they're airtight.

Depending on how far California sweepstakes cafe operators are willing to go and how much money the vendors providing the games are willing to spend, an operator that chooses to fight the legal battle could very well win, Mecham said. And a higher court decision in favor of the cafes would set a precedent for the whole state. It hasn't been done yet in California because no one has wanted to take such a potentially pricey risk, Mecham said. "They don't want to be the pioneer in charge, taking the arrows," he said.

But local critics contend that Casteel and Abels, the Oakland Internet cafe operators, were using the money they made from computer sweepstakes games to supplement their bingo halls. The two are also the bingo permit holders at Foothill and Durant squares charitable bingo halls, according to Oakland Assistant City Administrator **Arturo Sanchez**. In both cases, the cafes were located adjacent to the respective bingo halls.

Casteel also appears to own an Internet café in Vallejo around the corner from his bingo hall in that city, 777 **Bingo**. According to a Vallejo city official, the business license for the Vallejo Internet cafe, **Lucky Business Services**, is listed under the name **Surety Administrative Service**. And the phone number given for that business belongs to Casteel.

Critics claim that the Internet cafes also give bingo operators like Casteel a competitive advantage over local charities that are trying to raise funds through bingo games. They allege that Casteel can keep his bingo hall "buy-in" charges low because of the extra cash flowing from his nearby cafe. Neither Casteel nor Abels responded to calls for comment.

At an Oakland City Council meeting in October, **Richard Poe**, a Richmond bingo hall landlord who said he was leasing his space to charities at no cost, said that given the prices being offered by the two Oakland halls, there's no way they could be making a profit, let alone stay afloat. "We'd like to see these shut down," Poe said. "What we see going on really is not what they intended in 1976 for charitable bingo."

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Of course, in 1976, when state voters decided to legalize bingo for charitable fund-raising purposes, there was no such thing as electronic bingo. There was just the old paper game. Both Foothill and Durant bingo halls featured electronic bingo until January 2009, when a new California law banned the machines from all charitable bingo halls in the state. Oakland and other Bay Area municipalities adopted the new state rules into their bingo ordinances.

Nancy Marcus, an assistant to the Oakland city administrator, said the city told the two Internet cafe operators to shutter their doors and move out under direction of the California Attorney General's Office. If Casteel and Abels refused, then they might have faced state charges.

In June 2009, the attorney general's office announced it had shut down "illegal gaming operations" in Stockton and San Diego after raids of a number of "Internet cafes," operating video poker, keno, and slots. "The agents purchased a card that allowed them 'Internet time' on the cafe's computers. If they won, an on-site employee paid them in cash," read the press release.

As of January 23, a visit to the former Foothill Square Internet cafe revealed that Casteel had decided to heed the city's warning and move out. However, the Durant Square Internet cafe was still open, advertising itself as the "Bingo Zone." Marcus said she wasn't aware that the cafe was still open and games still were being offered.

Although it's unclear whether Abels, the Durant Internet cafe owner, will fight if the city cracks down again. If it does, he may have a legal case to stay open. Mecham argued that as long as sweepstakes cafe operators stick to a business plan that features the product instead of the gaming, an expert will find that "although it looks like a duck and quacks like a duck, it's not necessarily a duck."

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The Bingo Kingpin

When Berkeley concluded that its only major bingo hall was a scam, it apparently didn't realize who was pocketing the proceeds.

by Anna McCarthy

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE COUNCIL MEETING OF JULY 22, 2014

FROM: Lynn Tracy Nerland, City Attorney 
DATE: July 16, 2014
SUBJECT: Business License Ordinance Amendments

RECOMMENDATION:

Consistent with the City Council's direction at its June 24, 2014 meeting, it is recommended that the City Council approve a:

1. Motion to read the ordinance by title only; and
2. Motion to introduce an ordinance amending Sections 3-1.108 and 3-1.209; adding Sections 3-1.129, 3-1.130, 3-1.131 and 3-1.132; and renumbering Sections 3-1.231 and 3-1.232 to Chapter 1, "Business Licensing," of Title 3 of the Antioch Municipal Code to address apportionment and other administrative and enforcement provisions under the business license ordinance (Attachment A).

These proposed amendments to the business license ordinance further clarify the recent update to the ordinance regarding administration and enforcement and provide more details regarding the apportionment issue. None of these amendments raises taxes; each is a minor clarification or extension of existing City practices.

BACKGROUND INFORMATION

Update of Procedures for Business Licensing

The City's business license ordinance was first adopted in 1947 with subsequent revisions dating up to 1993. On March 25, 2014, the City Council approved an ordinance to streamline and update procedures with current practices regarding business licensing and to remove outdated language. This ordinance did not change the current tax structure for business licenses (i.e. the amount of the tax) as that would require a vote of Antioch residents. Over the past few months of implementation, it has become evident that a few additional clarifications to the administration and enforcement provisions of the updated business license ordinance would be helpful.

Ballot Measure

Subsequently, on June 24, 2014, the City Council approved a resolution to present to the voters a ballot measure at the November 4, 2014 election to further

amend the existing business license ordinance to include a Residential Landlord Business License Tax and to confirm the existing business license tax, with an increase in the minimum tax. As this ordinance would increase the amount of the business license tax, it requires voter approval (majority vote).

Letter Received from the California Apartment Association

In the context of the ballot measure regarding the business license taxes, the City received the attached letter from Pahl & McCay, a law firm representing the California Apartment Association (Attachment B). In general, the letter raises questions about the proposed business license tax on residential landlords and federal and state interstate and inter-city commerce and equal protection concerns under the U.S. and California Constitutions. The letter first relies on federal cases applying federal arson and pornography laws to argue that the rental of residential units implicates the Commerce Clause in the U.S. Constitution, which gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

The letter then discusses federal cases regarding the “apportionment” of taxes among jurisdictions (e.g. can the State of Illinois tax a company doing business in multiple states on business activity in states other than Illinois). The letter’s citations to cases regarding “apportionment” appear to focus on apportionment among those taxing entities that impose taxes like federal, state and local governments.

It is accurate that taxes must be apportioned for businesses that do business both in and without the City of Antioch. The concept of apportionment in the federal Commerce Clause is generally to ensure that a tax be related to the presence and activities of the taxpayer within that jurisdiction and that the jurisdiction’s tax burden is not placed upon persons who do not benefit from services provided by that jurisdiction. Clearly property owners and residents in the City of Antioch benefit from services provided by the City of Antioch. A more detailed response to the letter sent on behalf of the California Apartment Association that was prepared by the City’s outside counsel is attached (Attachment C).

“Apportionment” and the Existing Business License Ordinance

The City’s existing business license ordinance addresses the concepts of exemptions for interstate commerce and the ability of the Tax Administrator (Finance Director) to adopt further regulations and guidelines. However, given the California Apartment Association’s failure to note this provision, it will be helpful to address the issue of apportionment in more detail as set forth in the proposed Ordinance.

As this issue of apportionment does not increase the tax amount, then it is allowable for the City Council to approve this amendment without voter approval, just as it approved an earlier update to the business license tax procedures.

FINANCIAL IMPACT

The proposed Ordinance further clarifies the recent update to the business licensing procedures and does not increase the amount of the business license tax.

OPTIONS

No other options are provided as the proposed ordinance is consistent with the City Council's direction at its last meeting.

ATTACHMENTS

- .A Proposed Ordinance
- B. Letter dated June 24, 2014 from law firm Pahl & McCay representing the California Apartment Association
- C. Letter dated July 14, 2014 from Colantuono, Highsmith & Whatley on behalf of the City responding to the letter from Pahl & McCay

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AMENDING SECTIONS 3-1.108 AND 3-1.209; ADDING SECTIONS 3-1.129, 3-1.130, 3-1.131,
3-1.132; AND RENUMBERING SECTIONS 3-1.231 AND 3-1.232 IN
CHAPTER 1, "BUSINESS LICENSING" OF TITLE 3 OF THE ANTIOCH MUNICIPAL CODE**

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

SECTION 1. Section 3-1.108 of Title 3 of the Antioch Municipal Code is amended in its entirety to read as follows:

§ 3-1.108 DUTIES OF TAX ADMINISTRATOR.

(A) The Tax Administrator or his/her designee shall keep, as required per the City's adopted record retention policy, all applications and related records for business licenses, renewals and revocations.

(B) The Tax Administrator or his/her designee shall collect and administer the business license tax.

(C) The Tax Administrator, in consultation with the City Attorney, and subject to the approval of the City Manager, may:

1. Make rules and regulations not inconsistent with this chapter as may be necessary or desirable to aid in its enforcement; and
2. Promulgate guidelines for the apportionment of the gross receipts of businesses which operate both inside and outside the city to assist taxpayers in calculating the portion of their activities subject to the tax imposed by this chapter.

The Tax Administrator shall give notice of rules and guidelines adopted pursuant to this section in the manner required by law for publication of ordinances of the City Council and such rules shall be effective upon such notice. No such rule, regulation or guideline may increase the tax due from any person under this chapter as "increase" is defined by Government Code section 53750, subd. (h).

SECTION 2. Section 3-1.231, "Books and Records" is renumbered to be Section 3-1.127 of Title 3 of the Antioch Municipal Code.

SECTION 3. Section 3-1.232, "Appeal" is renumbered to be Section 3-1.128 of Title 3 of the Antioch Municipal Code.

SECTION 4. Section 3-1.129, "Interpretation," of Title 3 of the Antioch Municipal Code is adopted to read as follows:

§ 3-1.129 INTERPRETATION.

(A) No Undue Burden. None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or to violate the equal protection and due process clauses of the Constitutions of the United States and the State of California.

(B) Exemptions as Matter of Law. Nothing in this chapter shall be construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California from the payment of such taxes as are prescribed in this chapter.

(C) Intent. This chapter is intended to impose a tax for revenue purposes on those engages in business activity in the City to the full extent of the City's authority to do so, but not to exceed the City's authority or to violate the rights of taxpayers under applicable law. This chapter shall be construed in light of this intent.

SECTION 5. Section 3-1.130, "Refunds," of Title 3 of the Antioch Municipal Code is adopted to read as follows:

§ 3-1.130 REFUNDS.

No tax shall be refunded unless it is determined by the Tax Administrator that a tax has been paid in error, computed incorrectly, overpaid, or collected illegally. No refund shall be made unless a request is received by the Tax Administrator within one year of the payment of the tax.

SECTION 6. Section 3-1.131, "Audits and Adjustments," of Title 3 of the Antioch Municipal Code is adopted to read as follows:

§ 3-1.131 AUDITS AND ADJUSTMENTS.

(A) Any person engaged in a business taxed under this chapter shall maintain and preserve, for a period of at least two years, suitable records as may be necessary to determine the amount of the tax due under this chapter and shall, upon request of the Tax

Administrator, provide the necessary records to substantiate the tax paid or due for such business. If upon audit of such records, the Tax Administrator determines the tax imposed by this chapter has not been paid in full, the Tax Administrator shall notify the taxpayer of the balance due, including any accrued penalties. Such amount shall be paid within 90 days after notice is issued by the Tax Administrator.

(B) If an audit reveals an overpayment, the Tax Administrator shall notify the taxpayer of the amount overpaid. Unless the taxpayer requests a refund of the overpayment within 30 days after notice is issued by the Tax Administrator, the overpayment shall be applied as a credit against the next tax due.

(C) If an audit reveals an underpayment of \$25 or less, the Tax Administrator shall take no action to collect the underpayment.

(D) Rather than request information and conduct an audit, the Tax Administrator may request an applicant to file a corrected application for tax certificate. If such an application is filed and the Tax Administrator is satisfied with its accuracy, the existence of any underpayment or overpayment under this section shall be determined with reference to that corrected application. If a taxpayer fails to file a corrected application or if the Tax Administrator is not satisfied with a corrected application, the Tax Administrator may conduct an audit under subsection (a) of this section.

SECTION 7. Section 3-1.132, "Notice," of Title 3 of the Antioch Municipal Code is adopted to read as follows:

§ 3-1.132 NOTICE.

Any notice to a taxpayer required under this chapter shall be sufficient if deposited with postage prepaid in the U.S. Mail and addressed to the address provided on the application unless a change of address notice has been received, in which case notice is sufficient if mailed to the most recent address of which the Tax Administrator has been informed.

SECTION 8. Section 3-1.209 of Title 3 of the Antioch Municipal Code is amended in its entirety to read as follows:

§ 3-1.209 LICENSE TAXES; EXEMPTIONS; INTERSTATE COMMERCE; APPORTIONMENT.

(A) Every person claiming to be entitled to exemption from payment of any license tax provided for in this chapter on the grounds that the imposition of such tax places an unlawful

burden upon his or her right to engage in commerce with foreign nations or among several states or conflicts with the regulation of interstate commerce by the United States shall file an affidavit with the Tax Administrator or his/her designee disclosing the interstate or other character of the business entitling such exemption and containing the following information:

- (1) The name and the location of the person for whom the orders are to be solicited or secured;
- (2) The name of the nearest local or state manager, if any, and his or her address;
- (3) The kind of goods, wares, merchandise, or services to be delivered or performed;
- (4) The place from which the goods, wares or merchandise are to be shipped or forwarded or the services performed;
- (5) The method of solicitation or taking orders;
- (6) The location of any warehouse, factory, or plant within the state;
- (7) The method of delivery;
- (8) The name and the location of the residence of the applicant; and
- (9) Any other facts necessary to establish such claim of exemption.

(B) A copy of the order blank, contract form, or other papers used by such person in taking orders shall be attached to the affidavit. If it appears that the applicant is entitled to such exemption, the Tax Administrator or City Manager, as the case may be, shall issue the permit and licenses required by this chapter upon demonstration the applicant is entitled to them, but shall not collect the taxes required by this chapter to the extent the applicant is exempted from them by law.

(C) Apportionment. When any person's activities occurring both within and without the City contribute to the conduct of business taxed under this chapter or a taxpayer otherwise asserts a right based in applicable law to apportion the tax due under this Chapter, the tax imposed on his or her activities shall be apportioned in a manner that is fairly calculated to determine the amount of gross receipts or the portion of a flat tax derived from or attributable to engaging in business in the City and fairly apportioned to his or her benefits from or burdens on the services of the City. The apportionment shall be made on the basis of payroll, value and situs of tangible property; total business expenses; or by reference to any of these or other factors; or by another method of apportionment that will fairly determine the amount of gross receipts derived from or attributable

to engaging in business in the City proposed by the taxpayer and approved by the Tax Administrator or, in the absence of a proposal by the taxpayer, as the Tax Administrator may reasonably determine.

SECTION 9. 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 15061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 10. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or its application to any person or circumstance 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 or its application to other persons and circumstances. 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 and, to that end, the provisions of this Ordinance are severable.

Further, it is not the intention of this Ordinance to increase the amount of tax on any business activity as "increase" is defined in Government Code section 53750(h) and it shall be construed in light of that intent. If, notwithstanding such construction, any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, determined to increase the amount of tax on any business activity, such provision shall be severed from this Ordinance.

SECTION 11. Effective Date.

This Ordinance shall be effective thirty (30) days from and after the date of its adoption.

SECTION 12. 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 do hereby certify that the foregoing ordinance was introduced by the City Council of the City of Antioch on _____ and passed and adopted by the City Council of the City of Antioch at a regular meeting held on the __ day of _____, 2014, by the foregoing vote:

AYES: COUNCIL MEMBERS

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch



Stephen D. Pahl
 Karen K. McCay
 Fenn C. Horton III
 Catherine S. Robertson
 Jeffrey M. Sulenski
 Servando R. Sandoval

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Reply to San Jose Office
 Sender's Direct Dial No. 408-918-2832
 Sender's E-mail: kmccay@pahl-mccay.com

June 24, 2014

Via: Electronic Mail Only

Honorable Wade Harper
 & Members of the City Council
 City of Antioch
 200 H Street
 Antioch, CA 94509

Re: Antioch's Proposed Business License Tax for Residential Landlords

Dear Mayor Harper and Members of the City Council:

On behalf of the California Apartment Association ("CAA"), this office urges you to vote no on the proposed resolution to present voters with a measure to impose a business license tax on residential landlords ("Tax"), which is set for vote this evening. As set forth below, some of which was addressed before the issuance of last Wednesday's Staff Report, the proposed Tax runs afoul of the United States Constitution and should fail before the Council. While we recognize that we have sixty days to bring a reverse validation action pursuant to California Code of Civil Procedure Section 863 if you decide to approve the resolution, we are hopeful that such legal action will not be necessary and you will vote no this evening.

On June 18, 2014, the City Manager and City Attorney of Antioch issued a Staff Report to the City Council for Consideration at the Council Meeting of June 24, 2014 ("Staff Report"). The subject of the Staff Report was the Business License Tax Ballot Measure, which would place a measure on the November 2014 Ballot that levies an annual business license tax on only residential landlords in the City of Antioch, levying \$250 per unit against residential rental property owners for single family home rentals and \$150 per unit for multifamily buildings. The Staff Report also attempts to justify the tax on this isolated segment of the rental industry within the "Proposed Resolution of the City Council of the City of Antioch Calling for and Noticing a Municipal Election on November 4, 2014 to Present Voters a Measure to Update the Existing Business License Tax Ordinance to Include a Residential Landlord Business License Tax and to Confirm the Existing Business License Tax, with an Increase in the Minimum Tax" ("Proposed Resolution").

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The Staff Report provides a summary of the Council's arguments for the "fairness" of the Tax. The Tax is argued to be fair on the grounds that "many landlords, especially landlords of single family dwellings, have not been paying any Business License Tax" and "the rental or leasing of residential real estate is a unique business; very different from retail or other commercial endeavors in terms of economic benefits to the property owner and to the City." The Staff Report then attempts to deflect the council from the unfairness of the Tax by stating that "residential landlords benefit financially from depreciation for tax purposes while they historically benefit from asset appreciation . . . which is not subject to the City's Business License Tax." The Staff Report then attempts to distinguish residential landlords from commercial landlords who are not subject to the proposed Tax by arguing that although there are similar benefits, commercial landlords "pay the business license tax based on gross receipts and their tenants pay various taxes to the City, including sales tax, business to business tax, and the existing Business License Tax."

The Proposed Resolution, based on the Staff Report, makes the following findings: (1) "some residential apartment landlords are assessed an annual business license tax based on their gross annual income and others were not assessed any;" (2) renting property is a business and those business owners "should pay a business license tax like other businesses . . . to fund municipal services to those businesses;" (3) "the majority of residential landlords do not pay a business license tax;" (4) residential landlords "benefit financially from tax advantages, including depreciation for tax purposes, while historically enjoying asset appreciation."

Even though the Staff Report and the Proposed Resolution claim the Tax is needed to be "fair," the arguments presented demonstrate the purpose is, and effect of the Tax will be, to unlawfully discriminate against interstate commerce in residential rental real estate. The Tax burdens residential landlords small and large, and affects the ability of developers to initiate new projects for the purpose of renting. The grounds for creating the separate structure are arbitrary and based on a false dichotomy between commercial and residential real estate markets. Further, the rates charged to residential landlords are not fairly apportioned because they are not based on actual use or are otherwise rationally related to the business occurring in the City. These deficiencies contravene the Commerce Clause of the U.S. Constitution and the Equal Protection Clauses of the Fourteenth Amendment to the U.S. Constitution and the California Constitution.

It is clear that the long-term effects of this tax are being ignored in order to obtain a short-term infusion into the City coffers, in violation of the constitutional rights of residential landlords. For the reasons set forth below, we urge you to vote no on the Proposed Resolution.

Arbitrary Basis

The differences between commercial and residential landlords cited in the Staff Report are illusory at best; merely red herrings in an effort to justify an unconstitutional ordinance. The

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Staff Report claims that the economic benefits of the residential landlord to the City are different than those of a commercial landlord. This is simply not the case.

The Staff Report attempts to justify the Tax by claiming that a residential landlord benefits financially from “depreciation for tax purposes” while further benefiting from “asset appreciation;” as opposed to commercial landlords, who or which not only pay the current business license tax based on gross receipts, but their tenants also pay various taxes to the City. This claim, in and of itself, contradicts the Staff Report because in these respects residential and commercial landlords are **identical**. Residential landlords, just like commercial landlords, have been paying the business license tax on the **gross receipts** of their business, which means that it is paid prior to receiving any deduction for depreciation and well before there is any benefit from asset appreciation. The appreciation of real estate figures largely into the business model of both the residential landlord and the commercial landlord, making the attempted differentiation of the two that much more attenuated. Moreover, commercial landlords and the businesses that may occupy their properties also receive tax benefits for depreciation of their assets. For example, a construction business that is headquartered in the City will pay the business license tax, but every piece of equipment owned by that company will also have the tax “benefit” of depreciation over time.

In addition, depreciation is not the windfall the Staff Report seems to imply for either a commercial or a residential landlord. The purpose of depreciation is to counter-balance the costs of maintaining the asset being depreciated. Both commercial and residential landlords are placing substantial amounts into the City’s economy by hiring local tradespeople to maintain their respective properties, a similar benefit to the City by both segments of the rental property industry.

Further, the “asset appreciation” noted by the Staff Report is not guaranteed, as evidenced by the most recent economic downturn. Even if there is an increase in asset appreciation; however, it will always result in a respective increase of property tax revenue to the City in the same manner as a commercial property.¹ The Staff Report claims that there is no landlord revenue lost when a property is transferred; however, this statement is rebuffed by Antioch Municipal Code Section 3-6.01, *et seq.* which provides for a Real Property Transfer Tax that is directly related to the value of the real property being transferred. Therefore, the City directly benefits from any asset appreciation that may occur upon transfer, making the claims that residential landlords are somehow not paying their fair share fall flat.

Finally, to make a claim that there is no economic value to the City based on the ownership and leasing of residential property is preposterous. The Staff Report states that commercial landlords provide “more support for City services than residential rental real estate.” This implies the City does not believe that its citizenry offers value. The City is ignoring the fact that without its citizens, many of whom occupy residential rental units, there would be no one to

¹ Both commercial and residential properties are covered by Proposition 13’s limitation on property tax increases.

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pay the sales taxes, to work at the businesses, or otherwise give the businesses any gross receipts in the first place. Surely the City Council does not intend to pass a resolution that so easily dismisses the contribution of the one-third of the City's population who live in rental housing.

The foregoing demonstrates the arbitrariness of the Proposed Resolution and Tax and the complete lack of a rational basis for taxing one segment of the rental property industry differently from the other. For these reasons, under the legal doctrines outlined below, the Tax violates both the U.S. and California Constitutions and should fail before Council this evening.

Commerce Clause

The Tax violates the Commerce Clause of the United States Constitution because it is based on false statements, is not related to the actual business of being a residential landlord and harms the interstate market for residential rental housing.

As stated in our letter dated June 18, 2014, the burdens placed on the residential rental market by the Tax run afoul of the Commerce Clause of the United States Constitution. The U.S. Supreme Court "makes clear that **renting and otherwise using housing for commercial purposes implicates the federal commerce power.**" Groome Resources Ltd., LLC v. Parish of Jefferson, 234 F.3d 192, 206 (5th Cir. 2000) (citing Jones v. U.S., 529 U.S. 848 (2000) and Russell v. U.S., 471 U.S. 858, 862 (1985)) (finding that a residential rental home is used in interstate or foreign commerce) (emphasis added); See also McLain v. Real Estate Bd. of New Orleans, Inc., 444 U.S. 232, 245 (1980).

A tax, license fee, or other regulation that impacts interstate commerce will not offend the Commerce Clause if it is "applied to an activity with a substantial nexus with the taxing State, is **fairly apportioned, does not discriminate against interstate commerce**, and is fairly related to services provided by the State." Commonwealth Edison Co. v. Montana, 453 U.S. 609, 617 (1981) (citing Complete Auto Transit, Inc. v. Brady, 430 U.S. 274, 279 (1977) (emphasis added)). "[W]hen the measure of a tax bears no relationship to the taxpayers' presence or activities in a [locality], a court may properly conclude . . . that the [locality] is imposing an undue burden on interstate commerce." Id. at 629. A tax is only proper when it relates the tax liability to the value of the activities within the locality. See id. "By itself, generation of revenue is not a local interest that can justify discrimination against interstate commerce." C & A Carbone, Inc. v. Town of Clarkstown, N.Y., 511 U.S. 383, 393 (1994). The types of tax apportionment approved by courts are generally a percentage of the value of the good or service used or sold within the State or locality. See e.g., Goldberg v. Sweet, 488 U.S. 252, 264 & n.14 (1989) (describing proper taxes).

As mentioned in our June 18, 2014, letter, which was sent just before the Staff Report was issued, since the United States Supreme Court has clearly stated that providing rental housing is participating in interstate commerce, the Tax must comply with the Commerce

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Clause. The contents of the Staff Report strengthen our arguments that the Proposed Resolution violates the U.S. Constitution.

In the Staff Report and its attachments, the City has provided multiple iterations of proposals for charging the Tax on a per-unit basis. Not one of these proposals is linked to the amount of income acquired by a residential landlord or by the apportioned cost of services used by residential properties. Unlike Commonwealth Edison, where a tax on coal mined in a state was proportionate to the value of that coal, the Tax being considered by the City is not rationally related to the value of services provided or to the amount of money earned by the property owner renting the residence. 453 U.S. at 629. A flat fee ignores the variances in the value provided by landlords. For example, under the current proposal a fourplex that contained four studio apartments would have the same tax burden as a property that contained four three-bedroom townhouses and a pool, even though the services that each would require are substantially different and the income received by the landlord for each is substantially different.

The current business tax valuation easily meets Constitutional requirements because of the clear relation between the services and the tax, but the City's Proposed Resolution does not. Unlike the claims in the Staff Report that the purpose is to fairly apportion the business license tax burden on residential landlords, the City has not shown that commercial property owners do not receive the same benefits of owning property as residential owners, nor has it shown that those benefits are outweighed by business license taxes charged to the tenants of these commercial properties. The only "evidence" provided in support of the argument that residential landlords do not provide economic benefit to the City is purely anecdotal and has the sole purpose of portraying residential landlords as avoiding their fair share of taxes even though they currently pay a percentage of the value of the services offered like every other business owner.

The Proposed Resolution attempts to paint the Tax as fixing an exemption for certain residential landlords, but the Tax instead discriminates against one type of interstate commerce, residential rentals. There is no express exemption in the City's Municipal Code for residential landlords, nor are there any findings that all commercial landlords pay the proper amount of business tax that would necessitate a tax specifically applied to residential landlords. All of the reasons provided in the Staff Report and its attachments and the reasons outlined in the Proposed Resolution are merely a smokescreen to cover the discriminatory purpose of the Tax. The City's failure to enforce its currently valid business license tax does not provide a basis for enacting a discriminatory ordinance.

The Tax is facially discriminatory against residential landlords, allowing for sales of residential and commercial property and rental of commercial properties to remain taxed at a rational rate based on actual value, but rental of residential property to be taxed on a per unit basis with no such corresponding burden on commercial property. As stated herein both above and below, there is no rational basis for the apportionment of the Tax which bears no relationship to the taxpayers' activities in the City. Further, the Tax has a discriminatory effect by placing an

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additional burden on developers who may desire to create further residential rental properties, which burden would not exist for those who may develop commercial properties or residential properties for sale. Developers may have more difficulty obtaining loans because of the Tax and will be discouraged from creating more housing in the City. In short, the Tax would have the effect of disturbing the market for residential rental properties in the City and the State of California.

Because the Tax is not fairly apportioned and discriminates against interstate commerce in the rental housing industry, it is invalid under the Commerce Clause of the U.S. Constitution and you must vote no on the Proposed Resolution.

Equal Protection

The Tax violates the Equal Protection clauses of the Fourteenth Amendment of the United States Constitution and the California Constitution because it treats two segments of the real estate rental industry as though they were in separate industries, even though they are not.

The Tax discriminates between two similarly situated classes on an arbitrary basis. It is a violation of the Fourteenth Amendment of the U.S. Constitution and Article 1, Section 7 of the California Constitution to treat differently those who are similarly situated with respect to the legitimate purpose of a law. City of Cleburne, Texas v. Cleburne Living Center, 473 U.S. 432, 439 (1985); College Area Renters & Landlord Assn. v. City of San Diego, 43 Cal. App. 4th 677, 686 (1996) (College Renters). A statute cannot discriminate against similarly situated persons unless it bears a rational relationship to a legitimate governmental purpose. College Renters, 43 Cal. App. 4th at 686. An ordinance “may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational.” Id.

The proposed ordinance implementing the Tax is similar to the one overturned in College Renters. In that case, the City of San Diego enacted an ordinance to control overcrowding of neighborhoods by regulating the number of occupants of rental housing, but not of owner-occupied housing. College Renters, 43 Cal. App. 4th at 681. San Diego’s basis for enacting the ordinance was a scientific survey of a random sample of residents who lived in residential neighborhoods. Id. The Court ultimately held that the ordinance violated equal protection precedent because within San Diego’s goal of controlling overpopulation, owners and renters (no matter the length of the renter’s tenancy) were similarly situated, even assuming the survey provided evidence that renters were the cause of a majority of overcrowding. Id. at 687. Here, the goal is to obtain income for the general fund through a business license tax. Unlike San Diego, the City does not even have a survey on which to base its claims that residential landlords are not paying their “fair share” of the business license tax. Further, the Court’s finding was that even if there was proof of a difference between owners and renters and their impact on overcrowding, that was not enough to support treating the similarly situated citizens differently. Such is also the case here. All landlords provide land and improvements for others to use with

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the understanding that those improvements and land will be maintained by the landlord. It does not matter whether the rented purpose is commercial or residential, as such you cannot treat the industry segments differently without violating the United States and California Constitutions.

The Proposed Resolution also parallels the situation presented by Elysium Institute, Inc. v. County of Los Angeles, 232 Cal. App. 3d 408, 429-30. In that case, a nudist colony sued the County of Los Angeles for refusing to issue a special use permit to continue operating the colony based on an ordinance that classified nudist camps to a different zoning classification than other recreational clubs. Id. at 421. The Court held that a nudist colony was a similar use of land to any other recreational club, campground, or monastery in terms of the number of people using the area, services required, overnight use, and parking concerns. Id. at 431. As such, the County's conduct was unconstitutional. Here, the City has a business license tax ordinance in place. The City claims that the business license tax does not assure that residential landlords pay it; however, this system seems to function without trouble to tax a variety of businesses that range from restaurants and retail to commercial, industrial, and residential landlords. Like the County in Elysium, the Staff Report attempts to create differences where none exist. The Staff Report concedes residential landlords have been paying the business license tax. It just claims that an undisclosed proportion of residential landlords, who most likely represent only a minority of residential units in the City, do not pay the current business license tax.² While we have not been retained to investigate the accuracy of the statement that landlords of single family dwellings have not been paying any business license tax, or whether or not they are required to pay such tax under the current business license ordinance, if there is an issue with non-compliance, the solution is not to enact an unconstitutional ordinance.

For the foregoing reasons, on behalf of the California Apartment Association, we urge you to seek other methods of raising funds for the municipality that are not arbitrary and discriminatory. If you would like to discuss the matter further, please feel free to contact the undersigned or Joshua Howard, CAA's Senior Vice President of Local Government Affairs.

Sincerely,

PAHL & McCAY
A Professional Corporation



Karen K. McCay

JAL:KKM:t
cc: CAA
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² The Staff Report states that "many," "some," and a "majority" of residential landlords are not properly paying the current business license tax, a contradiction that further proves there is no real basis for the claims made.

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July 14, 2014

VIA U.S. MAIL

Karen K. McCay, Esq.
Pahl & McCay
225 West Santa Clara St., Suite 1500
San Jose, CA 95113-1752

Re: Proposed Business License Tax for Residential Landlords

Dear Ms. McCay:

I reply to your June 24, 2014 letter to Mayor Harper and the members of the Antioch City Council, in which you assert the City's proposed business license tax on residential landlords violates the Commerce Clause of the United States Constitution and the Equal Protection clauses of the United States and California constitutions. As discussed below, we conclude these contentions are meritless.

COMMERCE CLAUSE

Courts will sustain a tax against a Commerce Clause challenge if it (1) is applied to an activity with a substantial nexus with the taxing jurisdiction, (2) is fairly apportioned, (3) does not discriminate against interstate commerce, and (4) is fairly related to the services provided by the jurisdiction. (*Complete Auto Transit v. Brady* (1977) 430 U.S. 274, 279.) As discussed below, your position that the proposed tax is unfairly apportioned and discriminatory does not withstand scrutiny.

A. Apportionment

Your conclusion that a tax imposed per unit in the City of Antioch is not fairly apportioned under second prong of the *Complete Auto Transit* test is erroneous, and the cases that you cite do not support that position. As noted by the Supreme Court of the United States:

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[W]e have ... declined to undertake the essentially legislative task of establishing a single constitutionally mandated method of taxation. Instead, we determine whether a tax is fairly apportioned by examining whether it is internally and externally consistent. (*Goldberg v. Sweet* (1989) 488 U.S. 252, 261 [internal quotations and citations omitted].)

To be internally consistent, a tax must be structured so that if every jurisdiction were to impose an identical tax, no multiple taxation would result. (*Goldberg v. Sweet, supra*, 488 U.S. at p. 261.) Here, the proposed tax applies only to residential properties in Antioch, and it is stating the obvious to observe that no multiple taxation could occur if this tax applied throughout the state or nation. The apportionment provisions of the ordinance and its provision requiring it to be applied and construed so as to make it constitutional will adequately address any peculiar case involving a unit which straddles the City boundary.

The external consistency test asks whether the jurisdiction has taxed only that portion of the revenues from the interstate activity that reasonably reflects the in-jurisdictional component of the activity taxed. (*Goldberg v. Sweet, supra*, 488 U.S. at p. 262.) Because the proposed tax does not apply to any rental activities that occur outside the City's boundaries, it also satisfies this test.

B. Discrimination

You also contend a per-unit tax discriminates against interstate commerce, but you cite no authority for this contention, which is unsurprising, given that the "discrimination" that you allege has to do with disparate treatment of commercial and residential landlords, rather than disparate treatment of local and non-local business activities. In fact, the only authority you cite that addresses the issue of discrimination involves the characteristics of those who occupy rental property, rather than discrimination against non-local business activities. (*Groome Resources v. Parish of Jefferson* (2000) 234 F.3d 192, 209 [economic effect of housing discrimination against the disabled is equivalent to the economic effect of racial discrimination in 1964].)

Accordingly, your Commerce Clause objections are unpersuasive.

Karen K. McCay, Esq.

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EQUAL PROTECTION

A tax withstands equal protection challenge if its classification is rationally related to achievement of a legitimate state purpose. As the Second Appellate District noted:

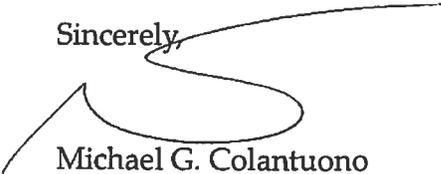
[A taxing agency] may make distinctions of degree having to do with rational basis, and when subjected to judicial scrutiny they must be presumed to rest on that basis if there is any conceivable state of facts which would support it The state has no obligation to produce evidence to sustain the rationality of a statutory classification, which may be based on rational speculation unsupported by evidence or empirical data. (*Jensen v. Franchise Tax Board* (2010) 178 Cal.App.4th 426, 436 [internal citations and quotations omitted].)

Here, this standard is satisfied by findings that a majority of residential landlords fail to pay the business license tax based on gross income, and that the tenants of commercial landlords pay various taxes to the City.

Finally, *College Area Renters v. City of San Diego* (1996) 43 Cal.App.4th 677 is inapposite, because it involves irrational distinctions between renters and landowners, rather than a distinction based on categories of economic activity. As noted by that court, "In general, zoning ordinances are much less suspect when they focus on the use than when they command inquiry into who are the users." (*Id.* at p. 688 [internal quotations and citations omitted; emphasis in original].)

We are therefore confident that the proposed business license tax would withstand an equal protection challenge.

Sincerely,



Michael G. Colantuono

MGC:acs

c: Lynn Tracy Nerland, Antioch City Attorney