



Council Chambers
200 H Street
Antioch, CA 94509

Closed Session - 6:30 P.M.
Special/Adjourned Regular Meeting - 7:00 P.M.

ANNOTATED AGENDA

for

DECEMBER 16, 2014

Antioch City Council Special/Adjourned Regular Meeting

Wade Harper, Mayor
Lori Ogorchock, Mayor Pro Tem
Mary Helen Rocha, Council Member
Tony Tiscareno, Council Member
Monica E. Wilson, Council Member

Arne Simonsen, City Clerk
Donna Conley, City Treasurer

Steven Duran, City Manager
Lynn Tracy Nerland, City Attorney

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Notice of Availability of Reports

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

Notice of Opportunity to Address Council

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

6:30 P.M. ROLL CALL – CLOSED SESSION – for Council Members – *All Present*

PUBLIC COMMENTS for Closed Session – *None*

CLOSED SESSION:

- 1) CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Session with the City's Labor Negotiators is authorized by California Government Code section 54957.6; City designated representatives: Michelle Fitzer, Denise Haskett and Glenn Berkheimer; Employee organizations: Operating Engineers Local Union No. 3 (OE3) and Public Employees Union Local 1

No action taken

7:09 P.M. ROLL CALL – SPECIAL MEETING – for Council Members – *All Present*

PLEDGE OF ALLEGIANCE

URGENCY ITEM – REGULAR AGENDA ITEM '14': The City Attorney reported that staff recommends that an urgency item be added to the Regular Agenda to hire a retired annuitant because there is only one position in Antioch that handles payroll; the current Payroll Specialist is retiring as of December 30, 2014 the replacement Payroll Specialist resigned on December 15, 2014 after the agenda for the December 16, 2014 was posted; and the City needs to immediately engage someone with knowledge of the City's payroll system to ensure that City employees are paid appropriately and on time and before the next scheduled City Council meeting on January 13, 2015. By unanimous vote, the Council added the Urgency Item to the Regular Agenda as Item 14.

Approved, 5/0

1. PROCLAMATION

- Mike's Auto Body

Recommended Action: Motion to approve the proclamation

Approved, 5/0

STAFF REPORT

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS (Deadline date to apply: 01/16/15)

- PLANNING COMMISSION
- CONTRA COSTA TRANSIT AUTHORITY-CITIZEN ADVISORY COMMITTEE

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

CITY COUNCIL COMMITTEE REPORTS

MAYOR’S COMMENTS

2. CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 25, 2014 AND DECEMBER 9, 2014
Approved the 11/25/14 Minutes and continued the 12/09/14 Minutes, 5/0
Recommended Action: Motion to approve the minutes for November 25, 2014 and continue the minutes for December 9, 2014

MINUTES

B. APPROVAL OF COUNCIL WARRANTS
Recommended Action: Motion to approve the warrants

Approved, 5/0
STAFF REPORT

C. REJECTION OF CLAIM
1. Agustin R. Colchado 14/15-2202 (property damage)
Recommended Action: Motion to reject the listed claim

Rejected, 5/0
STAFF REPORT

D. RESOLUTION APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT AND DEFERRED IMPROVEMENT AGREEMENT WITH BUCHANAN CROSSINGS, LLC, AND AUTHORIZING THE CITY MANAGER TO EXECUTE RELATED DOCUMENTS GENERALLY IN THE FORM ATTACHED AND AS ACCEPTABLE TO THE CITY MANAGER AND CITY ATTORNEY; AND VACATING A SURPLUS SLOPE AND DRAINAGE EASEMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY ADDITIONAL DOCUMENTS THAT MAY BE NECESSARY TO VACATE THE EASEMENT AND QUITCLAIM ANY INTEREST TO THE UNDERLYING FEE OWNER (BUCHANAN CROSSINGS, LLC) FOR THE BUCHANAN CROSSINGS SHOPPING CENTER (PW 357-302-08)
Reso No. 2014/98 adopted, 5/0
Recommended Action: Motion to adopt the resolution approving a Subdivision Improvement Agreement and Deferred Improvement Agreement with Buchanan Crossings, LLC, and authorizing the City Manager to execute related documents generally in the form attached and as acceptable to the City Manager and City Attorney; and vacating a surplus Slope and Drainage Easement and authorizing the City Manager to execute any additional documents that may be necessary to vacate the easement and quitclaim any Interest to the underlying fee owner (Buchanan Crossings, LLC) for the Buchanan Crossings Shopping Center located at 3100 Buchanan Road (PW 357-302-08)

STAFF REPORT

CONSENT CALENDAR – Continued

- E. RESOLUTION OF LOCAL SUPPORT AND AUTHORIZING THE FILING OF A GRANT APPLICATION TO MTC REQUESTING AN ALLOCATION OF THE TRANSPORTATION DEVELOPMENT ACT (TDA) ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDS FOR NEW CURB RAMPS AT VARIOUS LOCATIONS (PW 409-4)

Reso No. 2014/99 adopted, 5/0

Recommended Action: Motion to adopt the Resolution of Local Support and authorize the filing of a grant application to MTC requesting an allocation of the Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle project funds in the amount of \$90,000 for new curb ramps along: 1) Blue Rock Drive from Lone Tree Way to Deer Valley Road, 2) West Tregallas Road from Lone Tree Way to "G" Street, and 3) "A" Street from Beede Way to Wilbur Avenue

STAFF REPORT

- F. RESOLUTION TO SUMMARILY VACATE AN EASEMENT RESERVED WITH THE ABANDONMENT OF OLD LONE TREE WAY AND AUTHORIZE THE CITY MANAGER TO EXECUTE ANY ADDITIONAL DOCUMENTS TO VACATE ANY INTEREST TO BLUEROCK PARTNERS II, LLC AND AUTHORIZE THE CITY MANAGER TO ACCEPT AN EASEMENT FOR RELOCATED AND EXISTING RAW WATER MAIN (PW 357-301-09)

**Reso No. 2014/100 adopted AND
Reso No. 2014/101 adopted, 5/0**

Recommended Action: Motion to adopt the resolution to summarily vacate an easement reserved with the abandonment of Old Lone Tree Way and accept an easement for the existing and relocated raw water main

STAFF REPORT

COUNCIL REGULAR AGENDA

- 14. **URGENCY ITEM:** PAYROLL SPECIALIST POSITION

Reso No. 2014/102 adopted, 5/0

Recommendation: Motion to adopt the resolution to hire Ms. Cline as a retired annuitant for up to a maximum of 960 hours in the fiscal year starting January 2, 2015 and ending on June 30, 2015 without meeting the 180-day waiting period required of CalPERS annuitants pursuant to State law due to Ms. Cline's unique skills as the only Payroll Specialist in the City of Antioch and the sudden resignation of her replacement and the critical need to fill this position due to the legal mandate to pay City employees in an accurate and timely manner as well as to process W-2 forms, deferred compensation forms, and other payroll forms that need to be processed in January each year.

STAFF REPORT

- 3. REVIEW, DISCUSS, SELECT AND PRIORITIZE POTENTIAL DEVELOPMENT PROJECTS FOR THE FINAL PHASE OF PREWETT COMMUNITY PARK; DIRECT STAFF TO INITIATE THE DESIGN PROCESS.

Direction given to staff on priorities

Recommended Action: Motion to review, discuss, select and prioritize the potential development projects for the final phase of Prewett Community Park and direct staff to initiate the design process

STAFF REPORT

STAFF REPORT

COUNCIL REGULAR AGENDA – Continued

4. ECONOMIC DEVELOPMENT COMMISSION APPOINTMENTS FOR TWO PARTIAL-TERM VACANCIES BOTH EXPIRING JUNE 2017

STAFF REPORT

***Appointed Loretta Sweatt and
Appointed Ken Turnage
with both terms expiring June 2017,
5/0***

Recommended Action: Motion to receive and file the applications, and the Mayor nominate and Council appoint two members to the Economic Development Commission

5. PLANNING COMMISSION APPOINTMENT FOR ONE PARTIAL-TERM VACANCY EXPIRING OCTOBER 2017

STAFF REPORT

***Appointed Janet Zacharatos
Term expiring October 2017,
5/0***

Recommended Action: Motion to receive and file the applications, and the Mayor nominate and Council appoint one member to the Planning Commission

6. PROPERTY ASSESSED CLEAN ENERGY PROGRAM (PACE)

STAFF REPORT

***Reso No. 2014/103 adopted,
Reso No. 2014/104 adopted,
Reso No. 2014/105 adopted, AND
Reso No. 2014/106 adopted,
5/0***

Recommended Action: Motion to adopt Resolutions allowing participation for properties with within the city's jurisdiction in property assessed clean energy (PACE) financing for property improvements including renewable energy sources, energy and water efficiency improvements and electric vehicle charging infrastructure and approving an amendment to a certain joint powers agreement related thereto

7. RESOLUTION APPROVING THREE (3) CODE ENFORCEMENT OFFICER POSITIONS IN THE FY 2014/15 BUDGET AND AUTHORIZING THE APPROPRIATE BUDGET ADJUSTMENT

Reso No. 2014/107 adopted, 5/0

Recommended Action: Motion to adopt the resolution

STAFF REPORT

9:22 P.M. ADJOURNED TO BREAK

9:31 P.M. ROLL CALL for Council Members – All Present

COUNCIL REGULAR AGENDA – Continued

8. SEWER LATERAL INSPECTION AND REPLACEMENT PROGRAM

STAFF REPORT

Action: In accordance with the Settlement Agreement with Northern California River Watch, a private sewer lateral inspection and replacement program is presented which requires the following actions:

Tabled, 3/2-T, R

1. Motion to read the Ordinance by title only; and
2. Motion to introduce an Ordinance adding Sections 6-4.301 to 6-4.310 to the Antioch Municipal Code regarding a Sewer Lateral Inspection and Replacement program, which includes a requirement that all sewer laterals have proper cleanouts and that sewer laterals be inspected, cleaned and replaced if necessary when there have been two or more sewer overflows in the same private sewer lateral within two years and prior to the following events, unless the sewer lateral was installed within the past 10 years or inspected within the past 20 years and not found defective:
 - a) The sale or transfer of property,
 - b) The issuance of a building permit for a significant remodel, or
 - c) A more intensive use.

The Ordinance also amends section 5-1.314 of the Antioch Municipal Code to make minor corrections and provide that the City Manager may designate someone to make a determination regarding the use of summary abatement of a public nuisance.

9. APPROVE AMENDMENT TO FY 14/15 CAPITAL IMPROVEMENT BUDGET FOR THE PAVEMENT PREVENTATIVE MAINTENANCE PROGRAM (P.W. 328-8)

Approved, 5/0

Recommended Action: Motion to authorize the Director of Finance to amend the 2014-2015 Capital Improvement Budget to increase Gas Tax funding to the Pavement Preventative Maintenance Program to \$3,840,000

STAFF REPORT

10. FIRST AMENDMENT TO THE CONSULTANT SERVICE AGREEMENT WITH RMC WATER AND ENVIRONMENT FOR ENGINEERING DESIGN, ENVIRONMENTAL PERMITTING AND CONSTRUCTION SUPPORT SERVICES FOR THE WEST ANTIOCH CREEK CHANNEL IMPROVEMENTS PROJECT (P.W. 201-6)

Approved, 5/0

Recommended Action: Motion to approve the First Amendment to the Consultant Service Agreement with RMC Water and Environment for engineering design, permitting and construction support services for the West Antioch Creek Channel Improvement Project

STAFF REPORT

COUNCIL REGULAR AGENDA – Continued

11. APPROVAL OF PROPOSAL AND AUTHORIZATION FOR THE CITY MANAGER TO SIGN AN AGREEMENT WITH ECONOMIC AND PLANNING SYSTEMS, INC. (EPS) TO CONDUCT A TRANSPORTATION IMPACT FEE STUDY (P.W. 644-A)

Approved, 5/0

Recommended Action: Motion to approve the proposal and authorize the City Manager to sign an agreement with Economic and Planning Systems, Inc. (EPS) to conduct a Transportation Impact Fee Study in the amount of \$129,500

STAFF REPORT

12. AMENDMENTS TO THE MASSAGE REGULATIONS TO COMPLY WITH NEW ASSEMBLY BILL 1147

Recommended Action: It is recommended that the City Council:

1. Approve by motion the reading of the ordinance by title only; and
To 01/13/14 for adoption, 5/0
2. Introduce the Ordinance amending Sections 5-19.01, 5-19.04, 5-19.22 and 5-19.23 of the Antioch Municipal Code to address new State Laws regarding Massage Establishments and Massage Therapists

STAFF REPORT

13. CITY COUNCIL APPOINTMENTS TO COUNCIL COMMITTEES AND OTHER ENTITIES

["Exhibit 1" Rosters]

Action: Mayor Harper will be making new appointments for City Council approval by majority vote to be acted on as follows:

1. Motion to approve all appointments for Mayor Harper
Approved, 4/0
2. Motion to approve all appointments for Mayor Pro Tem Ogorchock
Approved, 4/0
3. Motion to approve all appointments for Council Member Rocha
Approved, 4/0
4. Motion to approve all appointments for Council Member Tiscareno
Approved, 4/0
5. Motion to approve all appointments for Council Member Wilson
Approved, 4/0

STAFF REPORT

PUBLIC COMMENT

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS

ADJOURNMENT – 10:32 p.m.

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

**Regular Meeting
7:00 P.M.**

**November 25, 2014
Council Chambers**

6:30 P.M. - CLOSED SESSION

- 1. CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Session with the City’s Labor Negotiators is authorized by California Government Code section 54957.6; City designated representatives: Michelle Fitzer, Denise Haskett and Glenn Berkheimer; Employee organizations: Operating Engineers Local Union No. 3 (OE3), Treatment Plant Employees’ Association (TPEA) and Public Employees Union Local

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH LABOR NEGOTIATORS**, Direction was given to the Labor Negotiators.

Mayor Harper called the meeting to order at 7:04 P.M., and City Clerk Simonsen called the roll.

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Kathryn Wade, Antioch resident, discussed an altercation between her son and the Antioch Police Department. She stated she had contacted Mayor Harper and Antioch Police Internal Affairs Division regarding this incident and they had not responded.

Velma Wilson, representing the Celebrate Antioch Foundation, announced the Holiday De Lites parade would begin at 4:00 P.M. on Dec. 6, 2014 and parade applications were available online at celebrateantioch.org. She noted tree lighting at City Hall and lighted boat show would take place following the parade.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Simonsen reported there were no current openings for Boards or Commissions.

PUBLIC COMMENTS

Janet Barbee, Antioch resident, stated her son was the victim of a homicide and she expressed concern the Antioch Police Department had not been forthcoming with information regarding the incident.

Mayor Harper stated he would provide contact information for both speakers to Chief Cantando.

Cochise Potts and LaDonna Hardman, owners of Nuce Nuce Deli, stated the City had advised that they would close the business for barbequing outdoors. He stated they were willing to obtain a permit if necessary and requested City staff inform them of regulations regarding barbequing at their business.

City Manager Duran provided Mr. Potts with his contact information.

COUNCIL SUBCOMMITTEE REPORTS - None

MAYOR'S COMMENTS

Mayor Harper reported on his attendance at the following meetings and events: Parks and Recreation and Economic Development Commission interviews, meeting with a delegation from Jiaying, China, Delta Six, Chamber of Commerce Mixer, meeting with various developers and community members, Pizza with the Police, and a joint meeting of the Economic Development and Planning Commissions.

PRESENTATION

Teri Lynn Shaw, Center for Human Development, gave a presentation of the Mobilization for Youth Alcohol Prevention program.

Councilmember Rocha spoke in support of Antioch adopting a social host ordinance.

The Council thanked Ms. Shaw for the presentation.

- 1. COUNCIL CONSENT CALENDAR for City /City as Successor Agency/Housing Successor to the Antioch Development Agency**
- A. APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 13, 2014**
- B. APPROVAL OF COUNCIL WARRANTS**
- C. APPROVAL OF TREASURER'S REPORT FOR OCTOBER 2014**

- D. APPROVAL OF EXTENSION OF CONTRACT FOR PROFESSIONAL AUDITING SERVICES FOR FISCAL YEAR ENDING JUNE 30, 2015
- E. RESOLUTION NO. 2014/93 APPROVAL OF AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE DEPARTMENT OF WATER RESOURCES FOR THE WEST ANTIOCH CREEK CHANNEL IMPROVEMENTS PROJECT (P.W. 201-6)
- F. APPROVE FUNDING OF ONE BUSINESS LICENSE REPRESENTATIVE POSITION SUBJECT TO CERTIFICATION OF NOVEMBER 4, 2014 ELECTION RESULTS
- G. SETTLEMENT AGREEMENT WITH AMERICAN TOWER, L.P. REGARDING TELECOMMUNICATION FACILITY LEASES

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

- H. APPROVAL OF SUCCESSOR AGENCY WARRANTS
- I. APPROVAL OF HOUSING SUCCESSOR WARRANTS

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

Item E – In response to Councilmember Tiscareno, Director of Public Works/City Engineer Bernal explained their expectation was that time spent pursuing the grant and administration of the program would qualify as a financial match from the City. He added that if additional monies were needed, funding options would come back to Council for approval.

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha, the Council unanimously approved Item E.

Item F – Mark Jordan, Antioch resident, spoke in support of hiring a qualified outside firm to administer the business license tax and suggested the City provide an open enrollment period. Additionally, he requested the City reestablish the rental inspection program.

Nancy Fernandez, Antioch resident, presented a letter previously sent to the City Council from David J. Larsen dated December 19, 2013 recommending Council direct City staff to hire a qualified firm to collect past fees and develop a business license holder data base. She recommended the City Council postpone the vote and hold discussions with Jeff Lowenstein representing American Housing Services, regarding how they could facilitate this process.

City Manager Duran explained the Business License Representative position was essential and not mutually exclusive to an RFQ/RFP process for hiring a firm to facilitate the City. He reported

he had met with Finance Director Merchant and Theresa Carr representing the California Apartment Association regarding how to proceed with administering the business license program and reestablishing the rental inspection program.

On motion by Councilmember Rocha, seconded by Councilmember Wilson, the Council unanimously approved Item F.

COUNCIL REGULAR/ CITY OF ANTIOCH COUNCIL MEMBERS ACTING AS SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY AGENDA

2. PARKS AND RECREATION COMMISSION APPOINTMENTS

Mayor Harper recommended the City Council appoint Lori Cook and Beverly Knight to the Parks and Recreation Commission.

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson, the Council unanimously appointed Lori Cook and Beverly Knight to the Parks and Recreation Commission.

3. REFINANCING OF 2002 SERIES A&B LEASE REVENUE BONDS ISSUED BY THE ANTIOCH PUBLIC FINANCE AUTHORITY AND 2001 ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) LEASE REVENUE BONDS

Finance Director Merchant presented the staff report dated November 25, 2014 recommending the City Council adopt the Resolution of the City Council of the City of Antioch Authorizing the Form of and Directing the Execution and Delivery of a Reimbursement Agreement between the City and the Successor Agency to the Antioch Development Agency of the City of Antioch and Authorizing Related Actions in Connection with that transaction.

Mayor Harper acknowledged the Finance Director Merchant's efforts to save the City money.

RESOLUTION NO. 2014/94

On motion by Councilmember Wilson, seconded by Councilmember Rocha, the Council unanimously adopted the resolution.

4. RESOLUTION OF THE SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY OF THE CITY OF ANTIOCH AUTHORIZING THE EXECUTION AND DELIVERY OF A REIMBURSEMENT AGREEMENT AND AUTHORIZING RELATED ACTIONS

Finance Director Merchant presented the staff report dated November 25, 2014 recommending the City Council adopt the Resolution of the Successor Agency to the Antioch Development Agency of the City of Antioch Authorizing the Execution and Delivery of a Reimbursement

Agreement between the City and the Successor Agency to the Antioch Development Agency of the City of Antioch and Authorizing Related Actions.

SA RESOLUTION NO. 2014/15

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council unanimously adopted the resolution.

5. RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF ANTIOCH AND THE TREATMENT PLANT EMPLOYEES' ASSOCIATION (TPEA)

Administrative Services Director Fitzer and Finance Director Merchant presented the staff report dated November 17, 2014 recommending the City Council adopt the resolution.

City Manager Duran explained approving the Memorandum of Understanding (MOU) would bring the Treatment Plant Employees' Association in line with other employee units that were contractually obligated to eliminate furloughs based on "trigger" language contained within the agreement.

RESOLUTION NO. 2014/95

On motion by Councilmember Rocha, seconded by Councilmember Wilson, the Council unanimously approved the resolution.

6. RESOLUTION APPROVING A SIDE LETTER TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ANTIOCH AND OPERATING ENGINEERS LOCAL 3 (OE3) ELIMINATING FURLOUGHS

Administrative Services Director Fitzer presented the staff report dated November 17, 2014 recommending the City Council adopt the resolution.

The Council agreed residents deserved a full-service City and recognized staff for being instrumental in saving the City from bankruptcy during the financial crisis.

RESOLUTION NO. 2014/96

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

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Duran reported on his attendance at a meeting with a delegation from Jiaxing, China and a joint meeting of the Economic Development and Planning Commissions. He noted he had also toured the Renaissance Center in San Rafael which had expressed interested in Antioch.

COUNCIL COMMUNICATIONS

Councilmember Rocha announced Mike's Auto Body would be donating five (5) vehicles to families in need at 1:00 P.M. on December 17, 2014. She suggested the City recognize the business with a proclamation and announced the deadline for next year's applications was October 2015.

Councilmember Wilson stated she was pleased the Renaissance Center had expressed interest in Antioch. She reported on her attendance at the reopening of Schooners Restaurant.

Councilmember Tiscareno stated he was on a family vacation and looked forward to getting back to work.

Mayor Harper wished everyone a Happy Thanksgiving.

ADJOURNMENT

With no further business, Mayor Harper adjourned the meeting at 8:15 P.M. to the next regular Council meeting on December 9, 2014.

Respectfully submitted:

Kitty Eiden

KITTY EIDEN, Minutes Clerk

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 NOVEMBER 14-20, 2014
 FUND/CHECK#

100 General Fund

Non Departmental

353877 CIRCLEPOINT	CONSULTING SERVICES	11,456.27
923181 ZUMWALT ENGINEERING GROUP INC	PROFESSIONAL SERVICES	81.50

City Council

353942 SIMONSEN, ARNE	EXPENSE REIMBURSEMENT	55.73
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City Manager

353869 BANK OF AMERICA	MEETING EXPENSE	157.35
353909 INFOSEND INC	PRINTING SERVICE	1,758.00
353927 OFFICE MAX INC	OFFICE SUPPLIES	95.19
923176 KARSTE CONSULTING INC	CONSULTING SERVICES	900.00

Human Resources

353927 OFFICE MAX INC	OFFICE SUPPLIES	16.35
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Finance Administration

353927 OFFICE MAX INC	OFFICE SUPPLIES	239.19
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Finance Accounting

353927 OFFICE MAX INC	OFFICE SUPPLIES	39.30
353949 SUNGARD PUBLIC SECTOR GROUP	MEMBER DUES	195.00

Finance Operations

353927 OFFICE MAX INC	OFFICE SUPPLIES	186.57
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Non Departmental

353889 DELTA DIABLO	GOLF COURSE WATER	2,214.00
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Public Works Street Maintenance

353859 ALTA FENCE	FENCE REPAIR	681.00
353864 ANTIOCH BUILDING MATERIALS	ASPHALT	7,351.11
353907 HUNT AND SONS INC	FUEL	254.18
353920 LOWES COMPANIES INC	SUPPLIES	5.89

Public Works-Signal/Street Lights

923174 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,576.06
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Public Works-Striping/Signing

353907 HUNT AND SONS INC	FUEL	49.06
353921 MANERI SIGN COMPANY	SIGNS	4,743.62

Public Works-Facilities Maintenance

353854 ACE HARDWARE, ANTIOCH	SUPPLIES	22.55
353865 ANTIOCH GLASS	GLASS REPLACEMENT	347.15
353906 HOME DEPOT, THE	SUPPLIES	17.41
353920 LOWES COMPANIES INC	SUPPLIES	465.07
923177 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	1,766.00

Public Works-Parks Maint

353872 BELUS CONSTRUCTION	DOOR REPLACEMENT	750.00
353926 ODYSSEY LANDSCAPE CO INC	LANDSCAPE SERVICES	2,200.00
923175 JOHN DEERE LANDSCAPES PACHECO	EQUIPMENT INSTALLATION	666.80

Public Works-Median/General Land

353854 ACE HARDWARE, ANTIOCH	SUPPLIES	20.37
353907 HUNT AND SONS INC	FUEL	57.28
353930 PACIFIC COAST LANDSCAPE MGMT	LANDSCAPE SERVICES	3,831.60

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
 FOR THE PERIOD OF
 NOVEMBER 14-20, 2014
 FUND/CHECK#

Police Administration

353855	ALAMEDA COUNTY SHERIFFS OFFICE	TUITION-MALSOM	50.00
353856	ALAMEDA COUNTY SHERIFFS OFFICE	TUITION-GACKOWSKI	50.00
353857	ALAMEDA COUNTY SHERIFFS OFFICE	TUITION-FORTNER	308.00
353866	ASR - BRICKER MINCOLA	UNIFORMS	1,045.75
353868	BANK OF AMERICA	TRAINING-KOCH	2,512.83
353871	BEHAVIOR ANALYSIS TRAINING	TUITION-ROSE	481.00
353876	CANTANDO, ALLAN J	TRAINING PER DIEM	280.00
353882	CONTRA COSTA COUNTY	PROGRAM SHARED COST	9,018.00
353884	COPWARE INC	LICENSE FEES	1,025.00
353898	FLAMINGO CONFERENCE RESORT	LODGING-ROSE	513.00
353899	FORTNER, JOHN C	MEAL ALLOWANCE	37.50
353902	GALLS INC	UNIFORM BELT	95.92
353913	JACKSON LEWIS LLP	PROFESSIONAL SERVICES	295.00
353927	OFFICE MAX INC	OFFICE SUPPLIES	11.22
353936	REACH PROJECT INC	PROGRAM SERVICES	17,083.00
353937	RESIDENCE INN SAN JOSE SOUTH	LODGING-CANTANDO	1,082.30
353939	ROSE, BRIAN C	TRAINING PER DIEM	305.00
353940	ROSE, BRIAN C	MILEAGE REIMBURSEMENT	79.52
353954	VERIZON WIRELESS	AIR CARD	76.02
923173	HUNTINGTON COURT REPORTERS INC	TRANSCRIPTION SERVICES	483.94

Police Community Policing

353886	EMPLOYEE	PENSION PAYMENT	4,624.96
353907	HUNT AND SONS INC	FUEL	7,452.91
353914	EMPLOYEE	PENSION PAYMENT	4,159.00
353935	RAY ALLEN MANUFACTURING LLC	CANINE EQUIPMENT	79.98

Police Investigations

353901	FUHRMANN, THOMAS J	EXPENSE REIMBURSEMENT	65.00
353907	HUNT AND SONS INC	FUEL	311.81

Police Communications

353880	CONTRA COSTA COUNTY	TELECOMMUNICATIONS SERVICES	480.00
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Office Of Emergency Management

353907	HUNT AND SONS INC	FUEL	85.74
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Police Community Volunteers

353895	EIDEN, KITTY J	MINUTES CLERK	126.00
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Police Facilities Maintenance

353875	CAMALI CORP	MAINTENANCE SERVICE	363.00
353920	LOWES COMPANIES INC	SUPPLIES	42.36
923177	LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	3,426.00

CD Code Enforcement

353858	ALLIED WASTE SERVICES	GARBAGE ABATEMENT	1,780.02
353867	BANK OF AMERICA	CONFERENCE-GRAHAM	349.00
353911	INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	13,697.50
353925	MUNN, LAWRENCE E	SAFETY SHOES REIMBURSEMENT	146.46

PW Engineer Land Development

353873	BEN FRANKLIN PLUMBING	INSPECTION FEE REFUND	150.00
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Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
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353907 HUNT AND SONS INC	FUEL	165.43
353950 TJKM TRANSPORTATION CONSULTANTS	CONSULTING SERVICES	1,585.00
Community Development Building Inspection		
353885 CREATIVE SUPPORTS INC	COMPUTER EQUIPMENT	563.91
353907 HUNT AND SONS INC	FUEL	116.18
Community Development Engineering Services		
353945 STATE OF CALIFORNIA	LICENSE RENEWAL	115.00
212 CDBG Fund		
CDBG		
353890 DELTA FENCE CO	FENCE RENTAL	507.78
353911 INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	15,327.50
213 Gas Tax Fund		
Streets		
353922 METROPOLITAN TRANS COMMISSION	SUBSCRIPTION RENEWAL	1,250.00
214 Animal Control Fund		
Animal Control		
353907 HUNT AND SONS INC	FUEL	154.18
923177 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	436.00
219 Recreation Fund		
Senior Programs		
353920 LOWES COMPANIES INC	SUPPLIES	25.79
923177 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	336.00
Recreation Classes/Prog		
353900 FRESHI FILMS LLC	AFTER SCHOOL PROGRAMS	580.50
Recreation Sports Programs		
353920 LOWES COMPANIES INC	SUPPLIES	596.35
Recreation-New Comm Cntr		
353863 ANTIOCH AUTO PARTS	SUPPLIES	420.02
353867 BANK OF AMERICA	SUPPLIES	82.75
353878 CITY MECHANICAL INC	REPAIR SERVICE	910.00
353879 COMMERCIAL APPLIANCE SERVICE INC	APPLIANCE REPAIR	965.69
353903 GARDA CL WEST INC	ARMORED CAR PICK UP	52.47
353907 HUNT AND SONS INC	FUEL	50.19
353920 LOWES COMPANIES INC	SUPPLIES	138.02
353952 TYLER SHAW DOORS	DOOR REPAIR	227.50
226 Solid Waste Reduction Fund		
Solid Waste		
353911 INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	6,072.50
228 Abandoned Vehicles Fund		
Abandoned Vehicles		
353907 HUNT AND SONS INC	FUEL	186.02
353911 INTERWEST CONSULTING GROUP INC	CONSULTING SERVICES	1,762.50
229 Pollution Elimination Fund		
Channel Maintenance Operation		
353859 ALTA FENCE	FENCE REPAIR	2,780.00
353862 ANKA BEHAVIORAL HEALTH INC	LANDSCAPE MAINTENANCE	16,376.00

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353893 DEPT OF FISH AND GAME	ANNUAL PROJECT FEES	982.00
254 Hillcrest SLLMD Fund		
Hillcrest Maintenance Zone 2		
353930 PACIFIC COAST LANDSCAPE MGMT INC	LANDSCAPE SERVICES	2,035.50
256 Citywide 2A Maintenance District Fund		
Citywide 2A Maintenance Zone 8		
353930 PACIFIC COAST LANDSCAPE MGMT	LANDSCAPE SERVICES	2,995.00
257 SLLMD Administration Fund		
SLLMD Administration		
353907 HUNT AND SONS INC	FUEL	82.32
311 Capital Improvement Fund		
Streets		
353861 ANCHOR CONCRETE CONSTRUCTION	SIDEWALK REPAIR PROJECT	46,992.46
570 Equipment Maintenance Fund		
Non Departmental		
353907 HUNT AND SONS INC	FUEL	4.00
Equipment Maintenance		
353863 ANTIOCH AUTO PARTS	BRAKE PARTS	1,378.73
353874 BILL BRANDT FORD	FUEL PUMP & SEAL	343.59
353912 IRONMAN PARTS AND SERVICES	EMISSIONS TESTING	1,843.20
353915 KEN KELLER SALES	REPAIR PARTS	198.54
353920 LOWES COMPANIES INC	SUPPLIES	18.17
353924 MUNICIPAL POOLING AUTHORITY	INSURANCE PREMIUM	215.18
923171 BIG SKY ENTERPRISES INC	TIRE DISPOSAL	179.60
573 Information Services Fund		
Office Equipment Replacement		
353860 AMS DOT NET INC	INTERNET SERVICE UPGRADE	7,414.79
611 Water Fund		
Non Departmental		
353920 LOWES COMPANIES INC	SUPPLIES	367.46
353927 OFFICE MAX INC	OFFICE SUPPLIES	3,365.06
Water Supervision		
353907 HUNT AND SONS INC	FUEL	102.04
Water Production		
353863 ANTIOCH AUTO PARTS	WIPER BLADES	30.53
353883 CONTRA COSTA WATER DISTRICT	RAW WATER	1,016,236.29
353896 FASTENAL CO	SUPPLIES	42.01
353905 HACH CO	LAB SUPPLIES	788.95
353907 HUNT AND SONS INC	FUEL	369.84
353920 LOWES COMPANIES INC	SUPPLIES	221.81
353933 POLYDYNE INC	CENTRIFUGE POLYMER	5,060.00
353941 SHAPE INCORPORATED	SUMP PUMP	14,061.00
353953 USA BLUE BOOK	TRANSFER PUMP	946.61
353955 WALTER BISHOP CONSULTING	CONSULTING SERVICES	550.00
923172 GRAINGER INC	SUPPLIES	328.52
923174 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	2,199.42

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923177 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	292.00
923179 OLIN CHLOR ALKALI PRODUCTS	CAUSTIC	5,895.92
Water Distribution		
353854 ACE HARDWARE, ANTIOCH	SUPPLIES	11.36
353888 DELTA DIABLO	RECYCLED WATER	7,710.41
353907 HUNT AND SONS INC	FUEL	1,789.27
353920 LOWES COMPANIES INC	SMALL TOOLS	596.56
353927 OFFICE MAX INC	OFFICE SUPPLIES	8.19
353938 ROBERTS AND BRUNE CO	PIPE & FITTINGS	1,823.87
Public Buildings & Facilities		
353916 KIMLEY HORN AND ASSOCIATES INC	CONSULTING SERVICES	3,711.92
Warehouse & Central Stores		
353927 OFFICE MAX INC	OFFICE SUPPLIES	34.04
621 Sewer Fund		
Sewer-Wastewater Collection		
353859 ALTA FENCE	FENCE REPAIR	1,168.00
353887 DEJANVIER, KURT JOESPH	CERTIFICATION REIMBURSEMENT	140.00
353897 FERNANDEZ LOPEZ, KIM ANGEL	CERTIFICATION REIMBURSEMENT	165.00
353904 GENERAL PLUMBING SUPPLY CO	PLUMBING SERVICES	618.14
353907 HUNT AND SONS INC	FUEL	2,032.83
353920 LOWES COMPANIES INC	SUPPLIES	173.02
631 Marina Fund		
Marina Maintenance		
353920 LOWES COMPANIES INC	SUPPLIES	27.83
923177 LEES BUILDING MAINTENANCE	JANITORIAL SERVICES	1,200.00
641 Prewett Water Park Fund		
Recreation Aquatics		
353867 BANK OF AMERICA	TRAINING	237.00
Recreation Water Park		
353867 BANK OF AMERICA	TRAINING	58.00
353903 GARDA CL WEST INC	ARMORED CAR PICK UP	52.47
353917 KNORR SYSTEMS INC	SUPPLIES	88.37
353920 LOWES COMPANIES INC	SUPPLIES	672.52
721 Employee Benefits Fund		
Non Departmental		
353853 24 HOUR FITNESS SPORT	PAYROLL DEDUCTIONS	29.99
353881 CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	400.00
353891 DELTA PARK ATHLETIC CLUB	PAYROLL DEDUCTIONS	37.00
353892 DELTA VALLEY ATHLETIC CLUB	PAYROLL DEDUCTIONS	54.00
353894 DIAMOND HILLS SPORT CLUB	PAYROLL DEDUCTIONS	59.00
353908 IN SHAPE HEALTH CLUBS	PAYROLL DEDUCTIONS	875.00
353910 INTERNAL REVENUE SERVICE	PAYROLL DEDUCTIONS	60.00
353918 LINA	PAYROLL DEDUCTIONS	5,170.28
353923 MUNICIPAL POOLING AUTHORITY	PAYROLL DEDUCTIONS	2,762.54
353928 OPERATING ENGINEERS LOCAL NO 3	PAYROLL DEDUCTIONS	2,600.00
353929 OPERATING ENGINEERS TRUST FUND	PAYROLL DEDUCTIONS	7,265.89

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CITY OF ANTIOCH
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353931 PARS	PAYROLL DEDUCTIONS	2,518.68
353932 PERS LONG TERM CARE	PAYROLL DEDUCTIONS	72.02
353934 PUBLIC EMPLOYEES UNION LOCAL 1	PAYROLL DEDUCTIONS	2,250.77
353943 SOLAR SWIM AND GYM	PAYROLL DEDUCTIONS	27.00
353944 STANDARD LIFE INSURANCE	PAYROLL DEDUCTIONS	952.60
353946 STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	484.37
353947 STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	97.82
353948 STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	200.00
353951 RECIPIENT	PAYROLL DEDUCTIONS	112.15
353956 XTREME FITNESS	PAYROLL DEDUCTIONS	104.00
923169 ANTIOCH PD SWORN MGMT ASSOC	PAYROLL DEDUCTIONS	625.50
923170 APOA	PAYROLL DEDUCTIONS	13,350.76
923178 NATIONWIDE RETIREMENT SOLUTIONS	PAYROLL DEDUCTIONS	49,239.77
923180 VANTAGEPOINT TRANSFER AGENTS	PAYROLL DEDUCTIONS	5,610.48

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE COUNCIL MEETING OF DECEMBER 16, 2014

FROM: Lynn Tracy Nerland, City Attorney



DATE: December 10, 2014

SUBJECT: Rejection of Claim

RECOMMENDATION:

Reject the listed claim:

1. Agustin R. Colchado 14/15-2202 (property damage)

LTN/spd

cc: Anthony Allenza
Christina Garcia, Deputy City Clerk

12/16/14

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

Prepared by: Ken Warren, Assistant Engineer *KW*
Reviewed by: Lynne Filson, Assistant City Engineer *LF*
Approved by: Ron Bernal, Director of Public Works/City Engineer *ROB*
Date: December 4, 2014
Subject: Resolution Approving a Subdivision Improvement Agreement and Deferred Improvement Agreement with Buchanan Crossings, LLC, and Authorizing the City Manager to Execute Related Documents Generally in the Form Attached and as Acceptable to the City Manager and City Attorney; and Vacating a Surplus Slope and Drainage Easement and Authorizing the City Manager to Execute any Additional Documents that may be Necessary to Vacate the Easement and Quitclaim any Interest to the Underlying Fee Owner (Buchanan Crossings, LLC) for the Buchanan Crossings Shopping Center (PW 357-302-08)

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution (Attachment "A") approving a Subdivision Improvement Agreement and Deferred Improvement Agreement with Buchanan Crossings, LLC, and authorizing the City Manager to execute related documents generally in the form attached and as acceptable to the City Manager and City Attorney; and vacating a surplus Slope and Drainage Easement and authorizing the City Manager to execute any additional documents that may be necessary to vacate the easement and quitclaim any Interest to the underlying fee owner (Buchanan Crossings, LLC) for the Buchanan Crossings Shopping Center located at 3100 Buchanan Road (PW 357-302-08).

BACKGROUND INFORMATION

On August 12, 2008, the City Council adopted Resolution No. 2008/80 and No. 2008/81 approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, a Final Development Plan, a Use Permit and a Vesting Tentative Map to construct the Buchanan Crossings Shopping Center project – a 103,139 square foot commercial center on 13.5 acres, located at the northeast corner of Buchanan Road and Somersville Road (APN 074-080-013). A Vicinity Map is included as Attachment "B".

Typically, a vesting tentative map expires two years from the date of approval unless a 1-year time extension is granted. In this case, the vesting tentative map has been automatically extended by State legislative action (Subdivision Map Act §66452.21-.23)

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12-16-14

and remains in full force and effect. A rough grading permit was issued to the project in 2009 and Final Development Plan and Use Permit entitlements remain in effect.

The applicant has submitted approved civil drawings for a phased development of the project. Project conditions of approval require the widening of Buchanan Road and certain improvements adjacent to the project frontage, including a signalized intersection, bus stop and shelter, and raised median landscaping. Additionally, the conditions of approval require the preparation of a comprehensive drainage analysis of storm drain facilities tributary to and downstream of the project to ensure that the discharge system will have adequate capacity for existing and project flows. The applicant has requested a phased construction plan to allow time to acquire an easement from the United States Bureau of Reclamation for the Buchanan Road widening and a wetlands delineation/wetlands permit from the United States Corps of Engineers for development of a portion of the onsite Phase 2 area.

Phase 1 construction will build the project from Somersville Road along Buchanan Road to approximately 200 feet west of the new signalized intersection at the proposed development entry/Chateau Mobile Home Park entry with temporary bus stop adjacent to the main entrance. The developer has submitted a drainage analysis showing that flows into and out of Phase 1 of the project will not be altered, based on a detention basin being installed with Phase 1 to handle storm water flows. The widening of Buchanan Road and the preparation of the comprehensive drainage analysis will be deferred until the development of Phase 2 of the project. Phase 2 will complete the construction of the project, including remaining raised median landscaping, bus stop and shelter, to the western city limit line at the Contra Costa Canal Bridge.

Buchanan Crossings, LLC has submitted a fully-executed Subdivision Improvement Agreement (Attachment "A", Exhibit 1) and Deferred Improvement Agreement (Attachment "A", Exhibit 2) with requisite Faithful Performance and Labor & Materials Bonds for \$1,313,883 and \$441,255, for Phase 1 and Phase 2 improvements, respectively.

An existing slope and drainage easement was deeded to the City when Buchanan Road was originally constructed. With development of the site, the easement is no longer needed and is surplus to the City's needs. No other public facilities are located within the easement area. A summary vacation and quitclaim of the easement is necessary for recordation of the parcel map for the project. At this time the City should vacate the surplus easement and authorize the City Manager to execute any additional documents that may be necessary to vacate the easement and quitclaim any interest to the underlying fee owner (Buchanan Crossings, LLC). A quitclaim deed with plat and legal description is included as Attachment "A", Exhibit 3.

FINANCIAL IMPACT

There is no financial impact to the City. All costs associated with the development and processing/recording the legal documents have been borne by the developer.

STRATEGIC PURPOSE

Consideration of this item is consistent with Strategic Plan Long Term Goal K; ensure well maintained public facilities and rights-of-way. This item also supports Strategy F-3 in the Strategic Plan by establishing a means to work with developers to create more homes, jobs, stores, services and necessary infrastructure.

OPTIONS

The City Council could decide not to adopt the attached resolution approving the agreements and quitclaim of the easement. Staff does not recommend this option. In accordance with State law and local ordinance, the City may properly vacate the easement.

ATTACHMENTS

A: Proposed Resolution with the following exhibits to the resolution:

- Exhibit 1: Subdivision Improvement Agreement
- Exhibit 2: Deferred Improvement Agreement
- Exhibit 3: Quitclaim Grant Deed, Plat & Legal Description

B: Vicinity Map

ATTACHMENT "A"

RESOLUTION NO. 2014/**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT AND DEFERRED IMPROVEMENT AGREEMENT WITH BUCHANAN CROSSINGS, LLC, AND AUTHORIZING THE CITY MANAGER TO EXECUTE RELATED DOCUMENTS, AND VACATING A SURPLUS SLOPE AND DRAINAGE EASEMENT, AND AUTHORIZING THE CITY MANAGER TO VACATE THE EASEMENT AND QUITCLAIM ANY INTEREST TO THE UNDERLYING FEE OWNER (BUCHANAN CROSSINGS, LLC) FOR THE BUCHANAN CROSSINGS SHOPPING CENTER (PW 357-302-08)

WHEREAS, on August 12, 2008 the City Council adopted Resolution No. 2008/80 and No. 2008/81 approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, a Final Development Plan, a Use Permit and a Vesting Tentative Map to construct the Buchanan Crossings Shopping Center project—a 103,139 square foot commercial center on 13.5 acres, located at the northeast corner of Buchanan Road and Somersville Road (APN 074-080-013); and

WHEREAS, project conditions of approval required the widening of Buchanan Road and certain improvements adjacent to the project frontage; and the preparation of a comprehensive drainage analysis of storm drain facilities tributary to and downstream of the project to ensure that the discharge system will have adequate capacity for existing and project flows; and

WHEREAS, Buchanan Crossings, LLC requested a phased construction plan to allow time to acquire an easement from the United States Bureau of Reclamation for the Buchanan Road widening and a wetlands delineation/wetlands permit from the United States Corps of Engineers for development of a portion of the Phase 2 area; and

WHEREAS, the widening of Buchanan Road and the preparation of the comprehensive drainage analysis will be deferred until the development of Phase 2 of the project; and

WHEREAS, Buchanan Crossings, LLC has submitted a fully-executed Subdivision Improvement Agreement (Exhibit 1) and Deferred Improvement Agreement (Exhibit 2) with requisite Faithful Performance and Labor & Materials Bonds for \$1,313,883 and \$441,255 for Phase 1 and Phase 2 improvements, respectively; and

WHEREAS, an existing slope and drainage easement was deeded to the City when Buchanan Road was originally constructed, is no longer needed with development of the site and is surplus to the City's needs, and a vacation and quitclaim of the easement (Exhibit 3) is necessary for recordation of the parcel map for the project;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Antioch does hereby approve a Subdivision Improvement Agreement (Exhibit 1) and Deferred Improvement Agreement (Exhibit 2) between the City of Antioch and Buchanan Crossings, LLC; and

RESOLUTION NO. 2014/**

December 16, 2014

Page 2

BE IT FURTHER RESOLVED by the City Council of the City of Antioch that the City Manager is hereby authorized and directed to execute the Subdivision Improvement Agreement and Deferred Improvement Agreement attached as Exhibit 1 and Exhibit 2 (incorporated herein by reference) with such revisions that may be acceptable to the City Manager and City; and

BE IT FURTHER RESOLVED pursuant to California Streets & Highways Code Section 8333, that the City desires to vacate the described slope and drainage easement as follows:

1. The area being vacated is depicted and described on Exhibit 3;
2. The City Council determines that the easement is surplus to the City's needs and there are no other public facilities located within the easement area; and
3. From and after the date that this resolution is recorded, the subject area will no longer constitute a public service easement.

BE IT FURTHER RESOLVED by the City Council of the City of Antioch that the City Manager is hereby authorized and directed to execute any additional documents necessary to vacate the easement and quitclaim any interest back to the underlying fee owner (Buchanan Crossings, LLC).

* * * * *

I HEREBY CERTIFY that the foregoing recommendation was passed and adopted by the City Council of the City of Antioch, at a regular meeting thereof, held on the 16th day of December 2014 by following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

AZ

Exhibit 1

RECORDING REQUESTED BY)
 AND WHEN RECORDED MAIL TO:)
)
 City of Antioch)
 City Hall)
 P.O. Box 5007)
 Antioch, CA 94531-5007)
 Attention: City Clerk)
)

(Space Above This Line for Recorder's Use Only)
 Exempt from recording fee per Gov. Code § 27383.

SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT (the "**Agreement**") is made and entered into on this 16th day of December, 2014 (the "**Effective Date**") by and between BUCHANAN CROSSINGS, LLC, a Delaware limited liability company ("**Developer**"), and the CITY OF ANTIOCH, a California municipal corporation ("**City**").

RECITALS

A. Developer is the owner of that certain real property located at 3100 Buchanan Road in the City of Antioch, Contra Costa County, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "**Property**"). Developer has submitted an application to the City for the development of a minor subdivision on the Property (the "**Project**").

B. On August 12, 2008 the City Council of the City of Antioch adopted Resolution No. 2008/81 approving the final development plan, use permit and vesting tentative map for Buchanan Crossings Subdivision (MS 357-302-08) prepared by Aliquot Associates, Inc. and dated March 20, 2008 subject to certain conditions of approval (the "**Conditions**").

C. The Conditions require either (1) that certain improvements be constructed prior to approval of the final map, or (2) that Developer enter into an agreement with the City providing for the future construction of such improvements. The Project will be developed in two (2) phases and certain subdivision improvements needed for Phase 2 shall be deferred pursuant to a Deferred Improvement Agreement (the "**DIA**") with the same effective date as this Subdivision Improvement Agreement.

D. Before Developer is allowed to develop Phase 2 of the Project, Developer shall comply with the conditions of approval requiring the widening of Buchanan Road and construction of certain other improvements adjacent to Phase 2. Also, the conditions require preparation of a comprehensive drainage analysis of storm drain facilities tributary to and downstream of the Project to ensure the discharge system will have adequate capacity for existing and Project flows. The Developer has submitted a drainage analysis showing that neither flows into nor out of Phase 1 of the Project will be altered since a detention basin is being

installed to handle storm water flows. Thus, the widening of Buchanan Road and the preparation of the comprehensive drainage analysis per Condition of Approval #81 (City Council Resolution No. 2008/81) will be deferred until the development of Phase 2 pursuant to a bonded, enforceable Deferred Improvement Agreement.

E. Developer has applied to City for final map approval without having completed the required improvements and therefore will enter into an agreement with the City providing for the future construction and installation of the improvements, as required by Government Code section 66462(a)(1), and City of Antioch Municipal Code, Title 9, Chapter 4, as may be amended from time to time.

F. Developer has submitted plans, specifications and drawings for the Phase 1 subdivision improvements (excluding the work subject to the Deferred Improvement Agreement) prepared by BKF Engineers and dated November 18, 2014 (the "**Improvement Plans**"), which Improvement Plans have been approved by the City Engineer.

G. City and Developer desire to enter an agreement providing for the construction and installation of the improvements in accordance with the **Improvement Plans**.

A G R E E M E N T

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth in this Agreement, the parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to guarantee completion of certain improvements in accordance with the Improvement Plans and ensure satisfactory performance by Developer of Developer's obligations to satisfy the Conditions.

2. Duty to Install Improvements. Developer will construct, install and complete, or cause to be constructed, installed and completed, at the Developer's sole cost and expense, all public improvements required by the Conditions (with the exception of the work subject to the Deferred Improvement Agreement) and/or described in the Improvement Plans (the "**Improvements**"), in accordance with such plans, all applicable federal, state and local laws and regulations, including without limitation State of California Division of Industrial Safety Construction Orders, and to the satisfaction of the City Engineer, in his or her reasonable discretion. Developer will also supply all labor and materials therefor, all in strict accordance with the terms and conditions of this Agreement. The construction, installation and completion of the Improvements and all labor and materials furnished in connection therewith are hereinafter referred to collectively as the "**Work**."

3. Duty to Maintain Improvements. City shall not be responsible or liable for the maintenance or care of the Improvements until City formally approves and accepts them in accordance with its policies and procedures. City shall exercise no control over the Improvements until approved and accepted. Any use by any person of the Improvements, or any portion thereof, shall be at the sole and exclusive risk of the Developer at all times prior to City's acceptance of the Improvements. Developer shall maintain all the Improvements in a state of good repair until they are completed by Developer and approved and accepted by City. Maintenance shall include, but shall not be limited to, repair of pavement, curbs, gutters,

sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to City; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by City. If Developer fails to properly prosecute its maintenance obligation under this Section 3, City may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. City shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Improvements or their condition prior to acceptance.

4. Commencement and Completion Date. Developer will notify City in writing at least 24 hours prior to the commencement of the Work. Developer will complete the Work within one (1) year of the Effective Date. All Work will be completed in a good and workmanlike manner in accordance with accepted design and construction practices. This completion date may be extended by the City Engineer in consultation with the City Attorney in its sole and absolute discretion at the request of Developer, which request shall be accompanied by a written assurance acceptable to the City Attorney that the securities required by Section 13 shall remain enforceable throughout the term of the extension.

5. Estimated Cost of Work. The estimated cost of the Work is One Million Three Hundred Thirteen Thousand Eight Hundred Eighty-three Dollars (\$1,313,883). Notwithstanding this estimate, Developer hereby acknowledges and agrees that (a) the actual costs to complete the Work may significantly exceed this estimate, (b) this estimate in no way limits Developer's financial obligation, and (c) that Developer is obligated to complete the Work at its own cost, expense, and liability.

6. Modifications to the Plans. Approval of this Agreement by City does not release Developer of its responsibility to correct mistakes, errors or omissions in the Improvement Plans. If, at any time, in the opinion of the City Engineer, in his or her reasonable discretion, the Improvement Plans are deemed inadequate in any respect Developer agrees to make such modifications, changes or revisions as necessary in order to complete the Work in a good and workmanlike manner in accordance with this Agreement.

7. Repairs. Developer agrees to repair or have repaired in a timely manner at its sole cost and expense all public roads, streets, or other public or private property damaged as a result of or incidental to the Work or in connection with the development of the Property or to pay to the property owner of any damaged road, street or property the full cost of such repair. In addition, Developer shall obtain the written acceptance of such repair or payment from any owner whose private property was repaired by Developer or to whom Developer has paid the full cost of such repair in accordance with this Section 7. City shall be under no obligation whatsoever to accept the Work completed under this Agreement until such time as all repairs have been completed or have been paid for and required written acceptances have been provided to the City Engineer.

8. Foreman or Superintendent. Developer shall give personal attention to the Work. A competent foreman or superintendent, satisfactory to the City Engineer, in his or her

reasonable discretion, with authority to act for and on behalf of Developer, shall be named in writing by Developer prior to commencement of the Work, shall be present on the Property during the performance of the Work and may not be changed without advance notification to and approval of the City Engineer.

9. Examination of Work. All of the Work shall be performed to the satisfaction of the City Engineer, in his or her reasonable discretion. The City and its authorized agents shall, at all times during the performance of the Work, have free access to the Work and shall be allowed to examine the Work and all materials used and to be used in the Work. No Work shall be performed without inspection by City. Any Work performed without inspection is subject to rejection by City. All Work shall be performed during the City's normal working hours and work days. If any Work is planned to be performed during non-working hours or work days, there must be a request made in writing to City at least 24 hours in advance. If an inspector is available, Developer shall pay the actual costs for overtime work as provided in Section 10 below. If an inspector is not available, no Work shall be performed.

10. City's Inspection, Administration and Testing. Developer shall pay to City the actual cost for all plan checking, inspection, administration and testing services furnished by City in connection with this Agreement, including those performed by consultants under contract with the City (the "City Costs"). The Developer's subdivision inspection deposit and billing for hourly staff time is based upon the current City of Antioch Master Fee Schedule. As work progresses, an invoice for staff time and materials is delivered each month to the applicant for payment. When the project is completed and all bills have been paid, the Developer's subdivision inspection deposit is returned in full. Concurrently with the execution of this Agreement, Developer shall deposit an amount equal to the Subdivision Inspection Deposit with City as security for the payment of the City Costs. City may, at its discretion, deposit such funds in an interest-bearing account and retain any and all interest earned.

11. Compliance with Laws. Developer shall fully comply with all federal, state and local laws, ordinances and regulations in the performance of this Agreement. Developer shall, at its own cost and expense, obtain all necessary permits and licenses for the Work, give all necessary notices, pay all fees and taxes required by law and make any and all deposits legally required by those public utilities that will serve the development on the Property. Copies and/or proof of payment of said permits, licenses, notices, fee and tax payments and deposits shall be furnished to the City Engineer upon request.

12. Encroachment Permits. Developer shall obtain, at its sole cost and expense, any encroachment permits required by the City in order to perform the Work.

13. Performance, Labor and Materials and Warranty Security. In accordance with Title 9, Chapter 4, of the Antioch Municipal Code, as may be amended from time to time ("Subdivision Ordinance"), Developer will furnish and deliver to City, within the times set forth below, the following surety bonds, each of which must be issued by a surety company duly and regularly authorized to do general surety business in the State of California, or such other surety as may be acceptable to the City Attorney in accordance with the Subdivision Ordinance.

13.1 Performance Bond. Developer shall furnish and deliver a performance surety bond in the amount of One Million Three Hundred Thirteen Thousand Eight Hundred Eighty-three Dollars (\$1,313,883), concurrently with the execution of this Agreement, which bond must meet the requirements of the Subdivision Ordinance and Government Code Section 66499.1, as may be amended, and be acceptable to the City Attorney. The bond shall be conditioned upon the faithful performance of this Agreement with respect to the Work and shall be released by the City effective upon the date of recordation of the notice of acceptance of the Improvements and Developer's delivery of a Warranty Bond, as described below, or as otherwise allowed by Government Code Section 66499.7.

13.2 Labor and Materials Bond. Developer shall furnish and deliver a labor and materials surety bond in the amount of One Million Three Hundred Thirteen Thousand Eight Hundred Eighty-three Dollars (\$1,313,883) (the "Bond Amount"), concurrently with the execution of this Agreement, which bond must meet the requirements of the Subdivision Ordinance and Government Code Section 66499.2, as may be amended, and be acceptable to the City Attorney. The bond shall secure payment to the contractor(s) and subcontractor(s) performing the Work and to all persons furnishing labor, materials or equipment to them. The City shall retain each bond until both (a) the City accepts the Work, and (b) the statute of limitations to file an action under Civil Code section 3114 *et seq.* has expired. After said date, the bond may be reduced by the City Engineer to an amount not less than the total amount claimed by all claimants for whom claims of lien have been recorded and notice given in writing to the City Council. The balance of the bond shall be retained until the final settlement of all such claims and obligations. If no such claims have been recorded, the bond shall be released in full by the City Engineer.

14. Additional Security. If either upon execution of this Agreement or during the course of performance the City considers that it is necessary to have an updated engineer's estimate prepared, the City shall provide written notice to Developer. Developer shall provide such estimate within the timeframe set forth in the City's notice and shall make such modifications to the estimate as may be reasonably requested by City. Developer shall provide additional security as may be required by the updated engineer's estimate. If Developer is required to post additional security, the City may require either a cash deposit or a surety bond guaranteeing performance in a form and signed by sureties satisfactory to City. The condition of the security shall be that if Developer fails to perform its obligations under this Agreement, the City may, as applicable, use the proceeds or require the sureties to perform the obligations, of the Agreement.

15. No Waiver by City. Inspecting of the work and/or materials, or approval of work and/or materials, or a statement by an officer, agent or employee of the City indicating the work complies with this Agreement, or acceptance of all or any portion of the work and/or materials, or payments thereof, or any combination of all of these acts shall not relieve Developer or its obligation to fulfill this Agreement; nor is the City by these acts prohibited from bringing an action for damages arising from the failure to comply with this Agreement.

16. Completion of Work. After Developer (a) completes the Work in accordance with the Improvement Plans and the terms and conditions of this Agreement, and (b) repairs any road, street, or private or public property damaged as a result of the Work, or pays the full cost of

such repair to the owner whose property was damaged, and obtains the written acceptance of such repair or payment from any owner whose private property was repaired by Developer or to whom Developer paid the full cost of such repair in accordance with Section 7 above, Developer will provide City with a written notice of completion, together with copies of all written acceptances as described in Section 7. City, in its sole and absolute discretion, may accept the Work in phases and allow a partial of the bonds provided under Section 13 above.

17. Final Acceptance.

17.1 Notice of Completion. Within sixty (60) days of receipt of Developer's written notification pursuant to Section 16 above, City Engineer shall inspect the Work and repairs and review the written acceptances, if any, and send Developer a written notice stating whether the Work and repair are complete to the satisfaction of the City Engineer, in his reasonable discretion, and whether the written acceptances described in Section 7 have been provided. If the Work and repair are, in the opinion of the City Engineer, not complete, not satisfactory, and/or written acceptances have not been provided, the City Engineer will list the deficiencies that must be corrected to find the Work and repair complete and satisfactory. Upon satisfactory completion of the Work and repair and submittal of written acceptances, the City Engineer will send Developer a written notice of satisfactory completion. The requirement for written acceptances may be waived by the City Engineer, in his reasonable discretion, if Developer has made commercially reasonable efforts to obtain such acceptances. City Engineer's failure to respond to Developer's written notification within sixty (60) days will not be deemed a breach or default under this Agreement.

17.2 Acceptance of Improvements. After sending Developer a written notice of satisfactory completion pursuant to Section 17.1, the City Engineer will recommend acceptance of the Improvements to the City Council. The acceptance of the Improvements shall be by resolution. Upon adoption of such resolution, the City Engineer shall record a notice of acceptance, in a form to be approved by the City Attorney, in the Official Records of Contra Costa County. Title to, and ownership of, all Improvements constructed by Developer under this Agreement shall vest in City upon City's acceptance of such Improvements.

17.3 Acceptance of Dedications. In conjunction with the recommendation to accept the Improvements, the City Engineer will recommend the acceptance of any offers of dedication shown on the final map for, or separately recorded against, the Property ("**Dedicated Property**"). The Dedicated Property shall be conveyed free and clear of all liens, encumbrances, assessments and leases (recorded and unrecorded), except items approved by City in writing. City may require Developer to obtain and pay for title insurance in connection with any such approvals of title exceptions.

18. Reversion to Acreage. If Developer fails to perform its obligations under this Agreement, Developer consents to the reversion to acreage of Property pursuant to Government Code section 66499.16 at Developer's sole cost and expense.

19. Warranty Period.

19.1 Warranty; Repair and Reconstruction. Without limiting the foregoing, Developer expressly warrants and guarantees all Work and all materials used in the Work for a period of one year after the date of recordation of the notice of acceptance of the Improvements in accordance with Section 17. If, within this one-year period, any Improvement or part of any Improvement installed or constructed, or caused to be installed or constructed by Developer, or any of the Work, fails to fulfill any of the requirements of the Improvement Plans or this Agreement, Developer shall, without delay and without cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Work or Improvement to the satisfaction of the City Engineer. Should Developer fail to act promptly or in accordance with this requirement, or should the exigencies of the situation require repairs, replacements or reconstruction to be made before Developer can be notified, City may, at its option, make the necessary repairs, replacements or perform the necessary reconstruction and Developer shall pay to the City upon demand the actual cost of such repairs, replacements or reconstruction plus 25 percent.

19.2 Warranty Bond. Developer shall furnish and deliver a warranty bond in the amount of ten percent of the value of the Improvements upon acceptance of the Improvements and prior to release of the entirety of the Performance Bond. The bond shall be in a form acceptable to the City Attorney and shall guarantee and warranty the Work for a period of one year following the date of recordation of the notice of acceptance of the Improvements against any defective work or labor done, or defective materials furnished.

20. Developer Not Agent of City. Neither Developer nor Developer's contractors, subcontractors, agents, officers, or employees are agents, partners, joint venturers or employees of City and the Developer's relationship to the City, if any, arising herefrom is strictly that of an independent contractor. Developer's contractors and subcontractors are exclusively and solely under the control and dominion of Developer. Further, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

21. Indemnification. Developer agrees to indemnify, defend and hold the City, its elective and appointed boards, commissions, officers, agents, employees and consultants, harmless from and against any and all claims, liabilities, losses, damages, injuries, penalties, fines, judgments, awards, decrees, attorneys' fees and related costs or expenses of any kind or nature (collectively, "Claims") arising out of this Agreement, including without limitation Developer's, or Developer's contractors', subcontractors', agents' or employees', acts, omissions, or operations under this Agreement, and the performance of the Work, whether such acts, omissions, or operations are by Developer or any of Developer's contractors, subcontractors, agents or employees. The aforementioned indemnity shall apply regardless of whether or not City has prepared, supplied or approved plans and/or specifications for the Work or Improvements and regardless of whether any insurance required under this Agreement is applicable to any Claims. The City does not and shall not waive any of its rights under this indemnity provision because of its acceptance of the bonds or insurance required under the provisions of this Agreement. Developer's obligation to indemnify City shall survive the expiration or termination of this Agreement.

22. Insurance. During the term of this Agreement, Developer shall maintain at its cost and expense the following insurance coverage against Claims, including Claims for injuries

to persons or damages to property that may arise from or in connection with the performance of the Work and the results of that Work by the Developer, its contractors, agents, representatives, employees or subcontractors, with insurers with an A.M. Best's rating of no less than A:VII unless otherwise accepted by the City in writing:

22.1 Commercial General Liability (CGL). Developer shall provide or cause to be provided Insurance Services Office Form CG 00 01 covering CGL 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** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the Project and Property or the general aggregate limit shall be twice the required occurrence limit.

22.2 Railroad Protective Liability. If Developer's services include work within 50 feet of a railroad right of way, Developer shall have removed any exclusion on its liability policy limiting coverage for work near a railroad, or shall provide a Railroad Protective Liability policy in favor of the City. Limits for such coverage shall be no less than \$5,000,000.

22.3 Automobile Liability Insurance. Developer shall provide or cause to be provided ISO Form Number CA 00 01 covering any auto (Code 1), or if Developer has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

22.4 Workers' Compensation Insurance. Developer shall provide, or cause to be provided, Workers' Compensation insurance as required by law, and shall cause its contractors and their subcontractors, agents and representatives to maintain Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. For services deemed public works, by signing this agreement, Developer is certifying, pursuant to Section 1861 of the California Labor Code, that: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract."

22.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

22.5.1 Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Developer 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 Developer's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

22.5.2 Primary Coverage. For any Claims related to this Agreement, the Developer's insurance coverage shall be primary insurance as respects the City, its officers,

officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Developer's insurance and shall not contribute with it.

22.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

22.5.4 Waiver of Subrogation. Developer hereby grants to City a waiver of any right to subrogation which any insurer of said Developer may acquire against the City by virtue of the payment of any loss under such insurance. Developer 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.

22.5.5 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Developer to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

22.6 Certificate of Insurance and Endorsements. Developer shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Section. All certificates and endorsements are to be received and approved by the City before the Work commences. However, failure to obtain the required documents prior to the commencement of the Work shall not waive the Developer's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

22.7 Subcontractors. Developer shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.

22.8 Higher Limits. If the Developer maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Developer. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

23. Payments. Developer agrees that it will pay, when due, all those furnishing labor or materials in connection with the Work. Developer further agrees that pursuant to Government Code section 66499.7, the Labor and Materials Bond provided by Developer in accordance with Section 13.2 of this Agreement shall not be released if any mechanics liens or stop notices are outstanding, unless said liens are released by bond in compliance with Civil Code section 3143.

24. Notice of Breach and Default. The occurrence of any of the following constitutes a breach and default of this Agreement:

- (1) Developer refuses or fails to complete the Work within the time set forth herein or abandons the Work;
- (2) Developer assigns the Agreement without the prior written consent of City;
- (3) Developer is adjudged bankrupt or makes a general assignment for the benefit of creditors, or a receiver is appointed in the event of Developer's insolvency;
- (4) Developer or Developer's contractors, subcontractors, agents or employees, fail to comply with any terms or conditions of this Agreement or
- (5) There is any delay in the construction of any portion of the Work or repairs, which in the reasonable opinion of the City Engineer, endangers public or private property.

The City may serve written notice of breach and default upon Developer and the financial institution holding the bonds.

25. Breach of Agreement; Performance by City; Remedies. If the City gives Developer notice, under Section 24, of breach and default of this Agreement, the City may pursue any and all remedies available, including but not limited to, bringing legal action to compel performance of the Work, holding the financial institutions that issued the bonds liable to complete the Work and/or for the cost of the Work and/or proceeding to complete the Work by contract or other method the City considers advisable, at the sole expense of Developer. If City completes the Work, Developer, immediately upon demand, shall pay the costs and charges related to the Work and any subsequent repairs. City, without liability for doing so, may take possession of and utilize in completing the Work and repairs, if any, such materials and other property belonging to Developer as may be on or about the Property and necessary for completion of the work. In the event of default, the financial institution holding the bonds shall be liable to City to pay the face amount of the bonds, as specified in this Agreement. As noted above, City may bring legal action to compel performance of this Agreement and recover the costs of completing the Work and/or repairs, if any, including City's administrative and legal costs. Developer agrees that if legal action is brought by City under this Section of the Agreement, Developer shall pay all of the costs of suit, reasonable attorney fees, arbitration costs and such other costs as may be determined by the court or arbitrator. No failure on the part of City to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that City may have hereunder.

26. Final Drawings. Upon completion of the Work and prior to final acceptance, Developer shall deliver to City a set of "as-built" drawings. These drawings shall be in a form acceptable to the City Engineer, shall be certified as being "as-built" and shall reflect the Work as actually constructed, with any and all changes incorporated therein. The drawings shall be signed and sealed as accurate by the engineer of record.

27. Attorneys' Fees. Should any legal action or arbitration be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the prevailing party shall be entitled to all costs of suit, reasonable attorneys' fees, arbitration costs and such other costs as may be determined by the court or arbitrator.

28. Notices. Formal written notices, demands, correspondence and communications between City and Developer shall be sufficiently given if: (a) personally delivered; (b) dispatched by next day delivery by a reputable carrier such as Federal Express to the offices of City and Developer indicated below, provided that a receipt for delivery is provided; or (c) if dispatched by first class mail, postage prepaid, to the offices of City and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as either party may from time-to-time designate by next day delivery or by mail as provided in this Section.

City: City of Antioch
City Hall
P.O. Box 5007
Antioch, CA 94531-5007
Attention: City Manager

with a copy to: City of Antioch
City Hall
P.O. Box 5007
Antioch, CA 94531-5007
Attention: City Attorney

Developer: Buchanan Crossings, LLC
c/o The Orosco Group
10 Harris Court
Monterey, CA 93940
Attn: Patrick Orosco

with a copy to: Miller Starr Regalia
P.O. Box 8177
Walnut Creek, CA 94596
Attention: Chad Gallagher

Notices delivered by deposit in the United States mail as provided above shall be deemed to have been served two (2) business days after the date of deposit if addressed to an address within the State of California, and three (3) business days if addressed to an address within the United States but outside the State of California.

29. Transfers; Assignments. Developer may assign its obligations under this Agreement to successor owner(s) of the Property with the prior written consent of the City. In connection with any such assignment, Developer and its assignee shall execute and deliver to City a written assignment and assumption agreement in a form acceptable to the City Attorney.

30. Binding Upon Heirs, Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding upon all heirs, successors and assigns of the parties hereto; provided, however, that this Agreement shall not be binding upon a purchaser or transferee of any portion of the Property unless this Agreement has been assigned pursuant to Section 29. If this Agreement has not assigned or if the assignment has been consented to by City, it shall remain binding on Developer.

31. Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions contained in this Agreement.

32. Severability. If any provision of this Agreement is held, to any extent, invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provision, and shall remain in full force and effect.

33. Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement between City and Developer with respect to the matters addressed in this Agreement. This Agreement may not be altered, amended or modified without the written consent of both parties with the exception of the Conditions and the Deferred Improvement Agreement referenced in the recitals.

34. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement shall be brought only in the Superior Court of the County of Contra Costa, State of California.

35. Authority. Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

36. Time is of the Essence. Time is of the essence of this Agreement and of each and every term and condition hereof.

37. Runs with the Land; Recordation. This Agreement pertains to and shall run with the Property. Upon execution, this Agreement shall be recorded in the Official Records of Contra Costa County.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the Effective Date.

CITY

CITY OF ANTIOCH, a California municipal corporation

By: _____
Steven Duran, City Manager

ATTEST:

Arne Simonsen, City Clerk

APPROVED AS TO FORM:

Lynn Tracy Nerland, City Attorney

DEVELOPER

BUCHANAN CROSSINGS, LLC, a Delaware limited liability company

By: COASTAL REALTY INVESTORS
NO. 2, LLC, a California limited liability company, Managing Member

By: 

Name: Patrick W. Orocco
Its: Member

By: 

Name: Christopher R. Orocco
Its: Member

Exhibit A

Legal Description of the Property

The lands situated in the City of Antioch, County of Contra Costa, State of California, described in the Grant Deed from Hydrox Properties I, LLC, a California limited liability company, to Buchanan Crossings, LLC, a Delaware limited liability company, recorded April 5, 2013, in series 2013-0085910-00, Contra Costa County Records.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

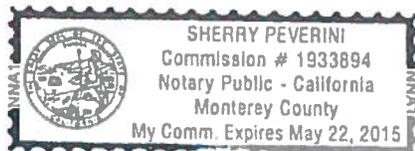
On November 25, 2014, before me, Sherry Peverini, a Notary Public, personally appeared PATRICK W. OROSCO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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.



Notary Public



My Commission Expires: May 22, 2015

Commission Number: 1933894

ACKNOWLEDGMENT

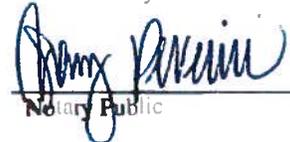
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

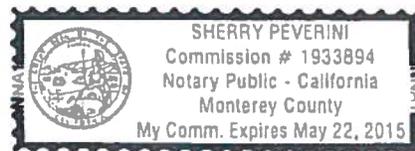
On November 25, 2014, before me, Sherry Peverini, a Notary Public, personally appeared CHRISTOPHER R. OROSCO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in 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.



Notary Public



My Commission Expires: May 22, 2015

Commission Number: 1933894

Subdivision Improvement Agreement

A17

ACKNOWLEDGEMENTS

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 2014 before me, _____, Notary Public, personally appeared _____, 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.

_____(SEAL)
Notary Public

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 2014 before me, _____, Notary Public, personally appeared _____, 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.

_____(SEAL)
Notary Public

Exhibit 2

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City of Antioch)
City Hall)
P.O. Box 5007)
Antioch, CA 94531-5007)
Attention: City Clerk)
)

(Space Above This Line for Recorder's Use Only)
Exempt from recording fee per Gov. Code § 27383.

DEFERRED IMPROVEMENT AGREEMENT

THIS DEFERRED IMPROVEMENT AGREEMENT (the "**Agreement**") is made and entered into on this 16th day of December, 2014 (the "**Effective Date**") by and between BUCHANAN CROSSINGS, LLC, a Delaware limited liability company ("**Developer**"), and the CITY OF ANTIOCH, a California municipal corporation ("**City**").

RECITALS

A. Developer is the owner of that certain real property located at 3100 Buchanan Road in the City of Antioch, Contra Costa County, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "**Property**"). Developer has submitted an application to the City for the development of a minor subdivision on the Property (the "**Project**").

B. On August 12, 2008 the City Council of the City of Antioch adopted Resolution No. 2008/81 approving the final development plan, use permit and vesting tentative map for Buchanan Crossings Subdivision (MS 357-302-08) prepared by Aliquot Associates, Inc. and dated March 20, 2008 subject to certain conditions of approval (the "**Conditions**").

C. The Conditions require either (1) that certain improvements be constructed prior to approval of the final map, or (2) that Developer enter into an agreement with the City providing for the future construction of such improvements.

D. Before Developer can develop the second phase of the Project or construct the Road Widening improvements fronting phase two of the Project (the "**Phase 2 Road Widening**") a wetlands delineation/wetlands permit will be required from the United States Army Corps of Engineers and permission to encroach into an easement held by the Bureau of Reclamation will have to be obtained. In order to allow Developer time to satisfy said requirements, the City Engineer has determined that the Phase 2 Road Widening is required but can be deferred and included in this Deferred Improvement Agreement to be executed by Developers at the same time as the Subdivision Improvement Agreement.

E. The Project conditions of approval also require the Developer to perform a drainage study (the “**Comprehensive Drainage Study**”) to determine the adequacy of storm drain facilities tributary to and downstream of the Project site to ensure the discharge system will have adequate capacity to handle Project flows. Phase 1 of the Project will employ a detention basin and will not alter the inflow and outflow storm water from the entire Project site (Phase 1 and Phase 2). The Comprehensive Drainage study required by Condition of Approval #81 (City Council Resolution No. 2008/81) will not be required until commencement of construction of the Phase 2 Road Widening and the Comprehensive Drainage Study will be made a part of this Deferred Improvement Agreement. The Phase 2 Road Widening and the Comprehensive Drainage Study shall be collectively referred to herein as the “**Deferred Improvements.**”

F. In processing the final maps for approval by the City, Developer has entered into that certain Subdivision Improvement Agreement (the “**SIA**”) with the same effective date as this Deferred Improvement Agreement pursuant to which the Developer agrees to construct and implement all of the work needed to satisfy the Conditions within a specified period of time with the exception of the Deferred Improvements, the requirement for which is included in this Agreement.

G. Developer has submitted plans, specifications and drawings for the Phase 2 Road Widening prepared by BKF Engineers and dated November 18, 2014 (the “**Improvement Plans**”), which Improvement Plans have been approved by the City Engineer.

H. City and Developer desire to enter an agreement providing for the construction and installation of the Deferred Improvements in accordance with the Improvement Plans.

A G R E E M E N T

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth in this Agreement, the parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to guarantee completion of the Phase 2 Road Widening in accordance with the Improvement Plans and ensure satisfactory performance by Developer of Developer’s obligations to satisfy the Conditions.

2. Duty to Install Improvements; Grant of Public Drainage Easement. Developer will dedicate, construct, install and complete, or cause to be prepared, constructed, installed and completed, at the Developer’s sole cost and expense, all public improvements required for the Deferred Improvements as described in the Improvement Plans, in accordance with such plans, all applicable federal, state and local laws and regulations, including without limitation State of California Division of Industrial Safety Construction Orders, and to the satisfaction of the City Engineer, in his or her reasonable discretion. Developer will also supply all labor and materials therefor, all in strict accordance with the terms and conditions of this Agreement. The preparation, construction, installation and completion of the Deferred Improvements and all labor and materials furnished in connection therewith are hereinafter referred to collectively as the “**Work.**” Prior to completion of and acceptance by the City of the Deferred Improvements, Developer shall execute and deliver to the City a conveyance of a public drainage easement in the general location indicated on the vesting tentative map for the Project, in a form acceptable to

the City Engineer and the delivery of such easement shall be considered part of the Work to be performed under this Agreement.

3. Duty to Maintain Deferred Improvements. City shall not be responsible or liable for the maintenance or care of the Deferred Improvements until City formally approves and accepts them in accordance with its policies and procedures. City shall exercise no control over the Deferred Improvements until approved and accepted. Any use by any person of the Deferred Improvements, or any portion thereof, shall be at the sole and exclusive risk of the Developer at all times prior to City's acceptance of the Deferred Improvements. Developer shall maintain all the Deferred Improvements in a state of good repair until they are completed by Developer and approved and accepted by City. Maintenance shall include, but shall not be limited to, repair of pavement, curbs, gutters, sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to City; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by City. If Developer fails to properly prosecute its maintenance obligation under this Section 3, City may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. City shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Deferred Improvements or their condition prior to acceptance.

4. Commencement and Completion Date. Developer will commence the Work within sixty (60) days after receiving all delineations and permits required in Recital D and will notify City in writing at least 24 hours prior to the commencement of the Work. Developer will complete the Work no later than five (5) years of the Effective Date. All Work will be completed in a good and workmanlike manner in accordance with accepted design and construction practices. This completion date may be extended by the City Engineer in consultation with the City Attorney in its sole and absolute discretion at the request of Developer, which request shall be accompanied by a written assurance acceptable to the City Attorney that the securities required by Section 13 shall remain enforceable throughout the term of the extension.

5. Estimated Cost of Work. The estimated cost of the Work is Four Hundred Forty-one Thousand Two Hundred Fifty-five Dollars (\$441,255). Notwithstanding this estimate, Developer hereby acknowledges and agrees that (a) the actual costs to complete the Work may significantly exceed this estimate, (b) this estimate in no way limits Developer's financial obligation, and (c) that Developer is obligated to complete the Work at its own cost, expense, and liability.

6. Modifications to the Plans. Approval of this Agreement by City does not release Developer of its responsibility to correct mistakes, errors or omissions in the Improvement Plans. If, at any time, in the opinion of the City Engineer, in his or her reasonable discretion, the Improvement Plans are deemed inadequate in any respect Developer agrees to make such modifications, changes or revisions as necessary in order to complete the Work in a good and workmanlike manner in accordance with this Agreement.

7. Repairs. Developer agrees to repair or have repaired in a timely manner at its sole cost and expense all public roads, streets, or other public or private property damaged as a result of or incidental to the Work or in connection with the development of the Property or to pay to the property owner of any damaged road, street or property the full cost of such repair. In addition, Developer shall obtain the written acceptance of such repair or payment from any owner whose private property was repaired by Developer or to whom Developer has paid the full cost of such repair in accordance with this Section 7. City shall be under no obligation whatsoever to accept the Work completed under this Agreement until such time as all repairs have been completed or have been paid for and required written acceptances have been provided to the City Engineer.

8. Foreman or Superintendent. Developer shall give personal attention to the Work. A competent foreman or superintendent, satisfactory to the City Engineer, in his or her reasonable discretion, with authority to act for and on behalf of Developer, shall be named in writing by Developer prior to commencement of the Work, shall be present on the Property during the performance of the Work and may not be changed without advance notification to and approval of the City Engineer.

9. Examination of Work. All of the Work shall be performed to the satisfaction of the City Engineer, in his or her reasonable discretion. The City and its authorized agents shall, at all times during the performance of the Work, have free access to the Work and shall be allowed to examine the Work and all materials used and to be used in the Work. No Work shall be performed without inspection by City. Any Work performed without inspection is subject to rejection by City. All Work shall be performed during the City's normal working hours and work days. If any Work is planned to be performed during non-working hours or work days, there must be a request made in writing to City at least 24 hours in advance. If an inspector is available, Developer shall pay the actual costs for overtime work as provided in Section 10 below. If an inspector is not available, no Work shall be performed.

10. City's Inspection, Administration and Testing. Developer shall pay to City the actual cost for all plan checking, inspection, administration and testing services furnished by City in connection with this Agreement, including those performed by consultants under contract with the City (the "City Costs"). The Developer's subdivision inspection deposit and billing for hourly staff time is based upon the current City of Antioch Master Fee Schedule. As work progresses, an invoice for staff time and materials is delivered each month to the applicant for payment. When the project is completed and all bills have been paid, the Developer's subdivision inspection prior is returned in full. Concurrently with the execution of this Agreement, Developer shall deposit an amount equal to the Subdivision Inspection Deposit with City as security for the payment of the City Costs. City may, at its discretion, deposit such funds in an interest-bearing account and retain any and all interest earned.

11. Compliance with Laws. Developer shall fully comply with all federal, state and local laws, ordinances and regulations in the performance of this Agreement. Developer shall, at its own cost and expense, obtain all necessary permits and licenses for the Work, give all necessary notices, pay all fees and taxes required by law and make any and all deposits legally required by those public utilities that will serve the development on the Property. Copies and/or

proof of payment of said permits, licenses, notices, fee and tax payments and deposits shall be furnished to the City Engineer upon request.

12. Encroachment Permits. Developer shall obtain, at its sole cost and expense, any encroachment permits required by the City in order to perform the Work.

13. Performance, Labor and Materials and Warranty Security. In accordance with Title 9, Chapter 4, of the Antioch Municipal Code, as may be amended from time to time ("**Subdivision Ordinance**"), Developer will furnish and deliver to City, within the times set forth below, the following surety bonds, each of which must be issued by a surety company duly and regularly authorized to do general surety business in the State of California, or such other surety as may be acceptable to the City Attorney in accordance with the Subdivision Ordinance. On each anniversary of the Effective Date (i.e., commencing on the execution date of this Agreement and on each anniversary thereafter) (each, an "Adjustment Date") the Bond Amount of both the Performance Bond and Labor and Material Bond referenced below shall be automatically increased by a sum equal to five percent (5%) of the original bond amount.

13.1 Performance Bond. Developer shall furnish and deliver a performance surety bond in the amount of Four Hundred Forty-one Thousand Two Hundred Fifty-five Dollars (\$441,255), concurrently with the execution of this Agreement, which bond must meet the requirements of the Subdivision Ordinance and Government Code Section 66499.1, as may be amended, and be acceptable to the City Attorney. The bond shall be conditioned upon the faithful performance of this Agreement with respect to the Work and shall be released by the City effective upon the date of recordation of the notice of acceptance of the Improvements and Developer's delivery of a Warranty Bond, as described below, or as otherwise allowed by Government Code Section 66499.7.

13.2 Labor and Materials Bond. Developer shall furnish and deliver a labor and materials surety bond in the amount of Four Hundred Forty-one Thousand Two Hundred Fifty-five Dollars (\$441,255) (the "**Bond Amount**"), concurrently with the execution of this Agreement, which bond must meet the requirements of the Subdivision Ordinance and Government Code Section 66499.2, as may be amended, and be acceptable to the City Attorney. The bond shall secure payment to the contractor(s) and subcontractor(s) performing the Work and to all persons furnishing labor, materials or equipment to them. The City shall retain each bond until both (a) the City accepts the Work, and (b) the statute of limitations to file an action under Civil Code section 3114 *et seq.* has expired. After said date, the bond may be reduced by the City Engineer to an amount not less than the total amount claimed by all claimants for whom claims of lien have been recorded and notice given in writing to the City Council. The balance of the bond shall be retained until the final settlement of all such claims and obligations. If no such claims have been recorded, the bond shall be released in full by the City Engineer.

14. Additional Security. If either upon execution of this Agreement or during the course of performance the City considers that it is necessary to have an updated engineer's estimate prepared, the City shall provide written notice to Developer. Developer shall provide such estimate within the timeframe set forth in the City's notice and shall make such modifications to the estimate as may be reasonably requested by City. Developer shall provide additional security as may be required by the updated engineer's estimate. If Developer is

required to post additional security, the City may require either a cash deposit or a surety bond guaranteeing performance in a form and signed by sureties satisfactory to City. The condition of the security shall be that if Developer fails to perform its obligations under this Agreement, the City may, as applicable, use the proceeds or require the sureties to perform the obligations, of the Agreement.

15. No Waiver by City. Inspecting of the work and/or materials, or approval of work and/or materials, or a statement by an officer, agent or employee of the City indicating the work complies with this Agreement, or acceptance of all or any portion of the work and/or materials, or payments thereof, or any combination of all of these acts shall not relieve Developer or its obligation to fulfill this Agreement; nor is the City by these acts prohibited from bringing an action for damages arising from the failure to comply with this Agreement.

16. Completion of Work. After Developer (a) completes the Work in accordance with the Improvement Plans and the terms and conditions of this Agreement, and (b) repairs any road, street, or private or public property damaged as a result of the Work, or pays the full cost of such repair to the owner whose property was damaged, and obtains the written acceptance of such repair or payment from any owner whose private property was repaired by Developer or to whom Developer paid the full cost of such repair in accordance with Section 7 above, Developer will provide City with a written notice of completion, together with copies of all written acceptances as described in Section 7. City, in its sole and absolute discretion, may accept the Work in phases and allow a partial of the bonds provided under Section 13 above.

17. Final Acceptance.

17.1 Notice of Completion. Within sixty (60) days of receipt of Developer's written notification pursuant to Section 16 above, City Engineer shall inspect the Work and repairs and review the written acceptances, if any, and send Developer a written notice stating whether the Work and repair are complete to the satisfaction of the City Engineer, in his reasonable discretion, and whether the written acceptances described in Section 7 have been provided. If the Work and repair are, in the opinion of the City Engineer, not complete, not satisfactory, and/or written acceptances have not been provided, the City Engineer will list the deficiencies that must be corrected to find the Work and repair complete and satisfactory. Upon satisfactory completion of the Work and repair and submittal of written acceptances, the City Engineer will send Developer a written notice of satisfactory completion. The requirement for written acceptances may be waived by the City Engineer, in his reasonable discretion, if Developer has made commercially reasonable efforts to obtain such acceptances. City Engineer's failure to respond to Developer's written notification within sixty (60) days will not be deemed a breach or default under this Agreement.

17.2 Acceptance of Improvements. After sending Developer a written notice of satisfactory completion pursuant to Section 17.1, the City Engineer will recommend acceptance of the Improvements to the City Council. The acceptance of the Improvements shall be by resolution. Upon adoption of such resolution, the City Engineer shall record a notice of acceptance, in a form to be approved by the City Attorney, in the Official Records of Contra Costa County. Title to, and ownership of, all Improvements constructed by Developer under this Agreement shall vest in City upon City's acceptance of such Improvements.

17.3 Acceptance of Dedications. In conjunction with the recommendation to accept the Improvements, the City Engineer will recommend the acceptance of any offers of dedication shown on the final map for, or separately recorded against, the Property (“**Dedicated Property**”). The Dedicated Property shall be conveyed free and clear of all liens, encumbrances, assessments and leases (recorded and unrecorded), except items approved by City in writing. City may require Developer to obtain and pay for title insurance in connection with any such approvals of title exceptions.

18. Warranty Period.

18.1 Warranty; Repair and Reconstruction. Without limiting the foregoing, Developer expressly warrants and guarantees all Work and all materials used in the Work for a period of one year after the date of recordation of the notice of acceptance of the Improvements in accordance with Section 17. If, within this one-year period, any Improvement or part of any Improvement installed or constructed, or caused to be installed or constructed by Developer, or any of the Work, fails to fulfill any of the requirements of the Improvement Plans or this Agreement, Developer shall, without delay and without cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Work or Improvement to the satisfaction of the City Engineer. Should Developer fail to act promptly or in accordance with this requirement, or should the exigencies of the situation require repairs, replacements or reconstruction to be made before Developer can be notified, City may, at its option, make the necessary repairs, replacements or perform the necessary reconstruction and Developer shall pay to the City upon demand the actual cost of such repairs, replacements or reconstruction plus 25 percent.

18.2 Warranty Bond. Developer shall furnish and deliver a warranty bond in the amount of ten percent of the value of the Improvements upon acceptance of the Improvements and prior to release of the entirety of the Performance Bond. The bond shall be in a form acceptable to the City Attorney and shall guarantee and warranty the Work for a period of one year following the date of recordation of the notice of acceptance of the Improvements against any defective work or labor done, or defective materials furnished.

19. Developer Not Agent of City. Neither Developer nor Developer’s contractors, subcontractors, agents, officers, or employees are agents, partners, joint venturers or employees of City and the Developer’s relationship to the City, if any, arising herefrom is strictly that of an independent contractor. Developer’s contractors and subcontractors are exclusively and solely under the control and dominion of Developer. Further, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

20. Indemnification. Developer agrees to indemnify, defend and hold the City, its elective and appointed boards, commissions, officers, agents, employees and consultants, harmless from and against any and all claims, liabilities, losses, damages, injuries, penalties, fines, judgments, awards, decrees, attorneys’ fees and related costs or expenses of any kind or nature (collectively, “**Claims**”) arising out of this Agreement, including without limitation Developer’s, or Developer’s contractors’, subcontractors’, agents’ or employees’, acts, omissions, or operations under this Agreement, and the performance of the Work, whether such acts, omissions, or operations are by Developer or any of Developer’s contractors,

subcontractors, agents or employees. The aforementioned indemnity shall apply regardless of whether or not City has prepared, supplied or approved plans and/or specifications for the Work or Improvements and regardless of whether any insurance required under this Agreement is applicable to any Claims. The City does not and shall not waive any of its rights under this indemnity provision because of its acceptance of the bonds or insurance required under the provisions of this Agreement. Developer's obligation to indemnify City shall survive the expiration or termination of this Agreement.

21. Insurance. During the term of this Agreement, Developer shall maintain at its cost and expense the following insurance coverage against Claims, including Claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Work and the results of that Work by the Developer, its contractors, agents, representatives, employees or subcontractors, with insurers with an A.M. Best's rating of no less than A:VII unless otherwise accepted by the City in writing:

21.1 Commercial General Liability (CGL). Developer shall provide or cause to be provided Insurance Services Office Form CG 00 01 covering CGL 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** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the Project and Property or the general aggregate limit shall be twice the required occurrence limit.

21.2 Railroad Protective Liability. If Developer's services include work within 50 feet of a railroad right of way, Developer shall have removed any exclusion on its liability policy limiting coverage for work near a railroad, or shall provide a Railroad Protective Liability policy in favor of the City. Limits for such coverage shall be no less than \$5,000,000.

21.3 Automobile Liability Insurance. Developer shall provide or cause to be provided ISO Form Number CA 00 01 covering any auto (Code 1), or if Developer has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

21.4 Workers' Compensation Insurance. Developer shall provide, or cause to be provided, Workers' Compensation insurance as required by law, and shall cause its contractors and their subcontractors, agents and representatives to maintain Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. For services deemed public works, by signing this agreement, Developer is certifying, pursuant to Section 1861 of the California Labor Code, that: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract."

21.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

21.5.1 Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Developer 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 Developer's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

21.5.2 Primary Coverage. For any Claims related to this Agreement, the Developer's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Developer's insurance and shall not contribute with it.

21.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

21.5.4 Waiver of Subrogation. Developer hereby grants to City a waiver of any right to subrogation which any insurer of said Developer may acquire against the City by virtue of the payment of any loss under such insurance. Developer 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.

21.5.5 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Developer to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

21.6 Certificate of Insurance and Endorsements. Developer shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Section. All certificates and endorsements are to be received and approved by the City before the Work commences. However, failure to obtain the required documents prior to the commencement of the Work shall not waive the Developer's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

21.7 Subcontractors. Developer shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.

21.8 Higher Limits. If the Developer maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Developer. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

22. Payments. Developer agrees that it will pay, when due, all those furnishing labor or materials in connection with the Work. Developer further agrees that pursuant to Government Code section 66499.7, the Labor and Materials Bond provided by Developer in accordance with Section 13.2 of this Agreement shall not be released if any mechanics liens or stop notices are outstanding, unless said liens are released by bond in compliance with Civil Code section 3143.

23. Notice of Breach and Default. The occurrence of any of the following constitutes a breach and default of this Agreement:

- (1) Developer refuses or fails to complete the Work within the time set forth herein or abandons the Work;
- (2) Developer assigns the Agreement without the prior written consent of City;
- (3) Developer is adjudged bankrupt or makes a general assignment for the benefit of creditors, or a receiver is appointed in the event of Developer's insolvency;
- (4) Developer or Developer's contractors, subcontractors, agents or employees, fail to comply with any terms or conditions of this Agreement or
- (5) There is any delay in the construction of any portion of the Work or repairs, which in the reasonable opinion of the City Engineer, endangers public or private property.

The City may serve written notice of breach and default upon Developer and the financial institution holding the bonds.

24. Breach of Agreement; Performance by City; Remedies. If the City gives Developer notice, under Section 23, of breach and default of this Agreement, the City may pursue any and all remedies available, including but not limited to, bringing legal action to compel performance of the Work, holding the financial institutions that issued the bonds liable to complete the Work and/or for the cost of the Work and/or proceeding to complete the Work by contract or other method the City considers advisable, at the sole expense of Developer. If City completes the Work, Developer, immediately upon demand, shall pay the costs and charges related to the Work and any subsequent repairs. City, without liability for doing so, may take possession of and utilize in completing the Work and repairs, if any, such materials and other property belonging to Developer as may be on or about the Property and necessary for completion of the work. In the event of default, the financial institution holding the bonds shall be liable to City to pay the face amount of the bonds, as specified in this Agreement. As noted above, City may bring legal action to compel performance of this Agreement and recover the costs of completing the Work and/or repairs, if any, including City's administrative and legal costs. Developer agrees that if legal action is brought by City under this Section of the Agreement, Developer shall pay all of the costs of suit, reasonable attorney fees, arbitration costs and such other costs as may be determined by the court or arbitrator. No failure on the part of

City to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that City may have hereunder.

25. Final Drawings. Upon completion of the Work and prior to final acceptance, Developer shall deliver to City a set of "as-built" drawings. These drawings shall be in a form acceptable to the City Engineer, shall be certified as being "as-built" and shall reflect the Work as actually constructed, with any and all changes incorporated therein. The drawings shall be signed and sealed as accurate by the engineer of record.

26. Attorneys' Fees. Should any legal action or arbitration be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the prevailing party shall be entitled to all costs of suit, reasonable attorneys' fees, arbitration costs and such other costs as may be determined by the court or arbitrator.

27. Notices. Formal written notices, demands, correspondence and communications between City and Developer shall be sufficiently given if: (a) personally delivered; (b) dispatched by next day delivery by a reputable carrier such as Federal Express to the offices of City and Developer indicated below, provided that a receipt for delivery is provided; or (c) if dispatched by first class mail, postage prepaid, to the offices of City and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as either party may from time-to-time designate by next day delivery or by mail as provided in this Section.

City: City of Antioch
City Hall
P.O. Box 5007
Antioch, CA 94531-5007
Attention: City Manager

with a copy to: City of Antioch
City Hall
P.O. Box 5007
Antioch, CA 94531-5007
Attention: City Attorney

Developer: Buchanan Crossings, LLC
c/o The Orosco Group
10 Harris Court
Monterey, CA 93940
Attn: Patrick Orosco

with a copy to: Miller Starr Regalia
P.O. Box 8177
Walnut Creek, CA 94596
Attention: Chad Gallagher

Notices delivered by deposit in the United States mail as provided above shall be deemed to have been served two (2) business days after the date of deposit if addressed to an address within the

State of California, and three (3) business days if addressed to an address within the United States but outside the State of California.

28. Transfers; Assignments. Developer may assign its obligations under this Agreement to successor owner(s) of the Property with the prior written consent of the City. In connection with any such assignment, Developer and its assignee shall execute and deliver to City a written assignment and assumption agreement in a form acceptable to the City Attorney.

29. Binding Upon Heirs, Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding upon all heirs, successors and assigns of the parties hereto; provided, however, that this Agreement shall not be binding upon a purchaser or transferee of any portion of the Property unless this Agreement has been assigned pursuant to Section 29. If this Agreement has not assigned or if the assignment has been consented to by City, it shall remain binding on Developer.

30. Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions contained in this Agreement.

31. Severability. If any provision of this Agreement is held, to any extent, invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provision, and shall remain in full force and effect.

32. Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement between City and Developer with respect to the matters addressed in this Agreement. This Agreement may not be altered, amended or modified without the written consent of both parties with the exception of the Conditions and the Subdivision Improvement Agreement referenced in the recitals.

33. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement shall be brought only in the Superior Court of the County of Contra Costa, State of California.

34. Authority. Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

35. Time is of the Essence. Time is of the essence of this Agreement and of each and every term and condition hereof.

36. Runs with the Land; Recordation. This Agreement pertains to and shall run with the Property. Upon execution, this Agreement shall be recorded in the Official Records of Contra Costa County.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the Effective Date.

CITY

CITY OF ANTIOCH, a California municipal corporation

By: _____
Steven Duran, City Manager

ATTEST:

Arne Simonsen, City Clerk

APPROVED AS TO FORM:

Lynn Tracy Nerland, City Attorney

DEVELOPER

BUCHANAN CROSSINGS, LLC, a Delaware limited liability company

By: COASTAL REALTY INVESTORS
NO. 2, LLC, a California limited liability company, Managing Member

By: 
Name: Patrick W. Orosco
Its: Member

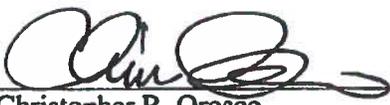
By: 
Name: Christopher R. Orosco
Its: Member

Exhibit A

Legal Description of the Property

The lands situated in the City of Antioch, County of Contra Costa, State of California, described in the Grant Deed from Hydrox Properties I, LLC, a California limited liability company, to Buchanan Crossings, LLC, a Delaware limited liability company, recorded April 5, 2013, in series 2013-0085910-00, Contra Costa County Records.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

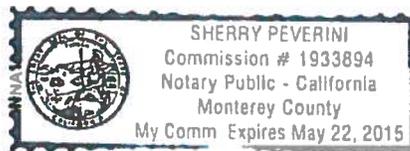
On November 25, 2014, before me, Sherry Peverini, a Notary Public, personally appeared PATRICK W. OROSCO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the 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.



Notary Public



My Commission Expires: May 22, 2015

Commission Number: 1933894

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

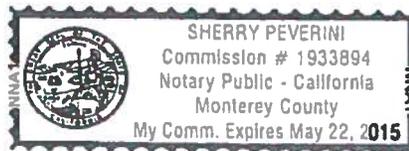
On November 25, 2014, before me, Sherry Peverini, a Notary Public, personally appeared CHRISTOPHER R. OROSCO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed 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.



Notary Public



My Commission Expires: May 22, 2015

Commission Number: 1933894

Deferred Improvement Agreement

ACKNOWLEDGEMENTS

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 2014 before me, _____, Notary Public, personally appeared _____, 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.

_____ (SEAL)
Notary Public

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 2014 before me, _____, Notary Public, personally appeared _____, 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.

_____ (SEAL)
Notary Public

Exhibit 3

RECORDING REQUESTED BY:

Old Republic Title Company
Order Number: 0724014397A-CM

AND WHEN RECORDED MAIL TO:

Buchanan Crossing, LLC
10 Harris Court, Suite B-1
Monterey, CA 93940

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

QUITCLAIM OF EASEMENT Slope and Drainage Easement

Record without fee pursuant to Government Code § 27383.

Portion of Assessor Parcel Number 074-080-013

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

the **CITY OF ANTIOCH**, a California municipal corporation,

does hereby **REMISE, RELEASE AND FOREVER QUITCLAIM** to

BUCHANAN CROSSINGS, LLC, a Delaware limited liability company, its successors and assigns,

with respect to the interest in that certain slope and drainage easement in the City of Antioch, County of Contra Costa, State of California, described as PARCEL SIXTEEN in the Grant Deed recorded August 13, 1957, in Book 3028 at Page 44, Official Records of Contra Costa County, as vacated by the City of Antioch by Resolution _____, dated _____, 20__, recorded _____

SEE EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF.

This Quitclaim Deed is being recorded to terminate the easement described herein.

CITY OF ANTIOCH, a California municipal corporation

By: _____

Dated: _____

Printed Name: _____

Title: _____

See following page for Acknowledgment.

ACKNOWLEDGMENT FORM FOR DOCUMENTS:

A35

STATE OF _____

COUNTY OF _____

On _____, 20____, before me, _____, a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the persons(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 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.

Signature _____

Name (typed or printed), Notary Public in
And for said County and State

(seal)



ENGINEERS
SURVEYORS
PLANNERS

August 11, 2014
BKF Job No.: 20118079-21

EXHIBIT "A"
DESCRIPTION FOR:
VACATION OF SLOPE AND DRAINAGE EASEMENT

All that certain real property in the City of Antioch, County of Contra Costa, State of California, and described as follows:

BEING PARCEL SIXTEEN as said parcel is described in the Grant Deed recorded August 13, 1957, in Book 3028 at Page 44 (3028 O.R. 44), Official Records of Contra Costa County, being more particularly described as follows:

A parcel of land for use as a slope and drainage easement being a portion of the Rancho Los Medanos, containing 0.212 of acreage, more or less, described as follows:

Beginning at the point designated as Station "K" in the description of Parcel Five in said Grant Deed (3028 O.R. 44); thence from said point of beginning North 89°55' East 475 feet; thence North 80°59'35" West 126.60 feet; thence North 88°00'03" West 275.18 feet; thence South 68°06'54" West 80.78 feet to the point of beginning.

A plat showing the above described easement is attached hereto and made a part hereof as Exhibit "B".

This description was prepared from record information for BKF Engineers.

By: 
Barry T. Williams, P.L.S No.6711

Dated: 8-11-14



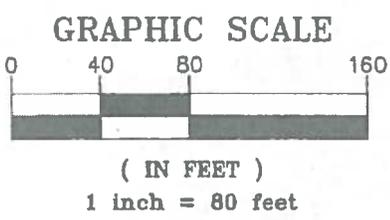
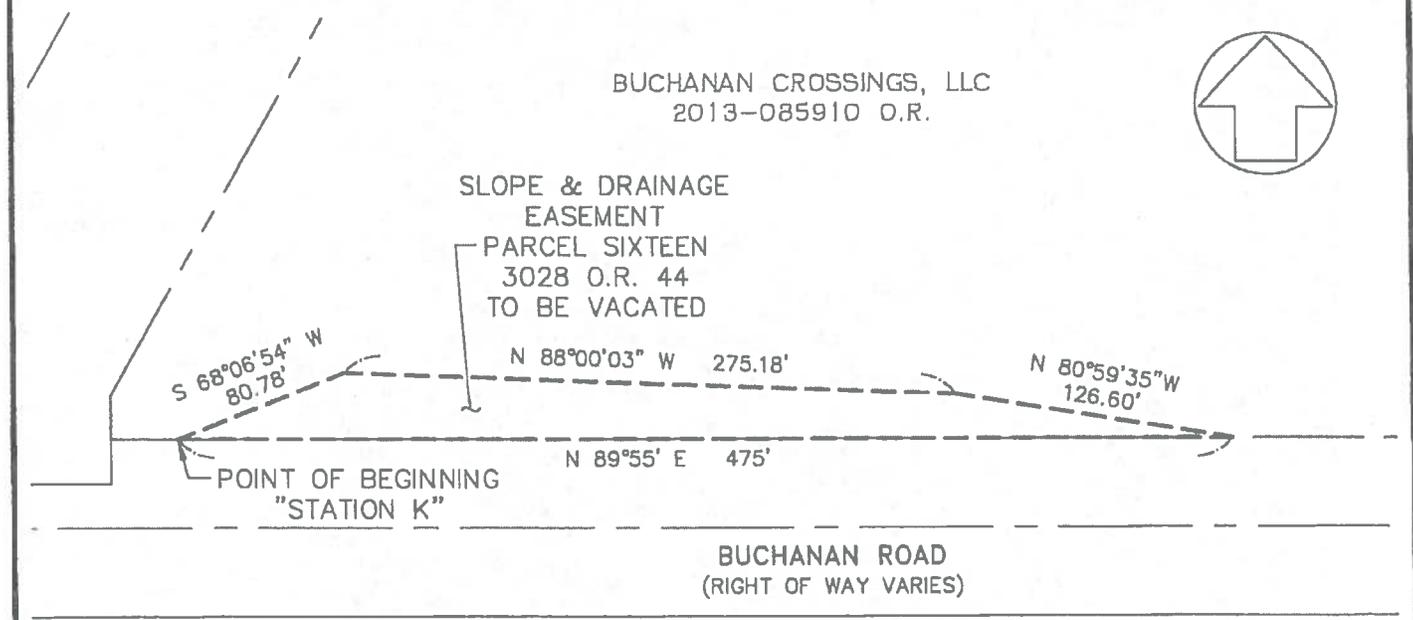
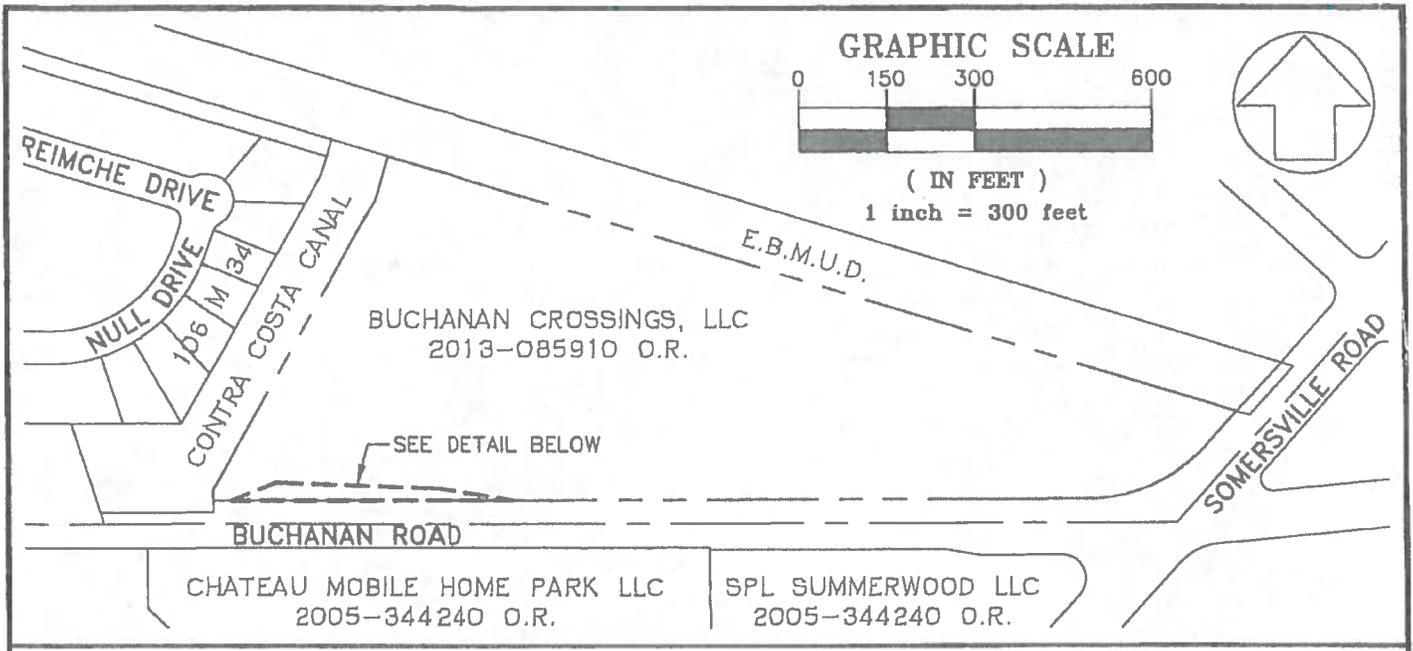


EXHIBIT "B"



1646 NORTH CALIFORNIA BLVD.
SUITE 400
WALNUT CREEK, CA 94596
925-940-2200
925-940-2299 (FAX)

Subject PLAT TO ACCOMPANY
QUITCLAIM OF EASEMENT
Job No. 20118079-21
By MLM Date 08/11/14 Chkd. BTW
SHEET 1 OF 1

A38



**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

PREPARED BY: Ahmed Abu-Aly, Associate Engineer, Capital Improvements Division AA

REVIEWED BY: Lynne Filson, Assistant City Engineer LBF

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

DATE: December 4, 2014

SUBJECT: Resolution of Local Support and Authorizing the Filing of a Grant Application to MTC Requesting an Allocation of the Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funds for New Curb Ramps at Various Locations, P.W. 409-4

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution of Local Support and authorize the filing of a grant application to MTC requesting an allocation of the Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle project funds in the amount of \$90,000 for new curb ramps along: 1) Blue Rock Drive from Lone Tree Way to Deer Valley Road, 2) West Tregallas Road from Lone Tree Way to "G" Street, and 3) "A" Street from Beede Way to Wilbur Avenue.

BACKGROUND INFORMATION

Staff is recommending that the City submit an application requesting an allocation of the Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle project funds for 35 new curb ramps along: 1) Blue Rock Drive from Lone Tree Way to Deer Valley Road, 2) West Tregallas Road from Lone Tree Way to "G" Street, and 3) "A" Street from Beede Way to Wilbur Avenue.

The new curb ramps will improve pedestrian and handicap accessibility to nearby schools and businesses in the area. The Metropolitan Transportation Commission (MTC) requested that the project sponsor submit a council resolution supporting and approving the application for federal funding for this project.

FINANCIAL IMPACT

The project cost estimate is \$130,000. The City is expected to receive \$90,000 of TDA funding for this project and the remaining \$40,000 will be funded through the Gas Tax fund.

STRATEGIC PURPOSE

This program will support Strategy K-4 by pursuing grant funding to improve infrastructure; and Strategy K-5 by reducing City liability from third party claims by increasing and enhancing ADA accessibility and reducing trip hazards.

OPTIONS

None recommended

ATTACHMENTS

- A: MTC Resolution
- B: TDA Application Form

ATTACHMENT "A"

RESOLUTION NO. 2014/**

Resolution of the City Council of the City of Antioch to Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 14/15 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No.4108, entitled "Transportation Development Act, Article 3, Pedestrian and Bicycle Projects," which delineates procedures and criteria for submission of requests for the allocation of "TDA Article 3" funding; and

WHEREAS, MTC Resolution No. 4108 requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the City of Antioch desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists; now, therefore, be it

RESOLVED, that the City of Antioch declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code, and furthermore, be it

RESOLVED, that there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Antioch to carry out the project; and furthermore, be it

RESOLVED, that the project has been reviewed by the countywide Bicycle Advisory Committee and has been approved by MTC to use the countywide BAC and the countywide BAC provides for expanded representation of City of Antioch and the designated Contra Costa County Supervisor's representative from District 5 is familiar with the bicycle and pedestrian needs of the City of Antioch and furthermore, be it

RESOLVED, that the City of Antioch attests to the accuracy of and approves the statements in Attachment B to this resolution; and furthermore, be it

RESOLVED, that a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of contra Costa County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

AI

THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, a true copy of which is on file in the Office of the City Clerk.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted and passed by the City of Antioch, California, at a regular meeting thereof held on the 16th of December by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

A2

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

Prepared by: Harold Jirousky, Associate Engineer *HJJ*

Reviewed by: Lynne Filson, Assistant City Engineer *LBF*

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

Date: December 2, 2014

Subject: Resolution to Summarily Vacate an Easement Reserved with the Abandonment of Old Lone Tree Way and Authorize the City Manager to Execute any Additional Documents to Quitclaim any Interest to Bluerock Partners II, LLC and Authorize the City Manager to Accept an Easement for Relocated and Existing Raw Water Main (PW357-301-09)

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution to summarily vacate an easement reserved for the maintenance of existing utilities with the abandonment of Old Lone Tree Way and accept an easement for the existing and relocated raw water main.

BACKGROUND INFORMATION

On October 28, 2004, the City approved a resolution abandoning Old Lone Tree Way but reserving an easement over the entire right-of-way for the maintenance of existing utilities. The only utility currently in the existing reserved easement is a raw water main from the Contra Loma Reservoir to the water treatment plant. Parcel Map 357-301-09 created eight commercial parcels of which two are occupied with Fresh & Easy and CVS. Along with the creation of the parcels, the City was granted an easement for the anticipated relocation of the raw water line through the existing driveway. In anticipation of a new medical building being constructed on one of the eight parcels, Bluerock Partners II, LLC has requested that the existing utility easement created in 2004 be abandoned and replaced with a 10 foot wide easement for the existing and relocated raw water line. The new building would be located on top of the existing raw water main creating the need for the relocation of the raw water main. A small portion of the existing easement in the driveway, granted to the City in 2010, will also need to be abandoned because the alignment of the raw water main has changed to a more direct route.

The City Council may summarily vacate excess street, highway right-of-way or public service easement pursuant to California Streets & Highway Code §8335 by adopting a resolution of vacation. A public hearing is not required in situations like this one in which the easement has been superseded by relocation. The summary vacation shall be made pursuant to California Streets & Highways Code §8335 and shall include the name or other

 F
12-16-14

description. The description of the portion to be vacated may be by a precise map. At this time, staff recommends that the Council summarily vacate this surplus portion of the easement and authorize the City Manager to execute any additional documents necessary to vacate and quitclaim any interest to Bluerock Partners II and accept the dedication of an easement for the raw water pipeline. Upon recordation, the street, highway or public service easement vacated shall no longer constitute a street, highway or public service easement (California Streets & Highway Code §8335(b)(4) & §8336).

FINANCIAL IMPACT

There will be no cost to the City for the abandonment of the easement and creating a new easement as the project will cover staff costs to process the documents.

STRATEGIC PURPOSE

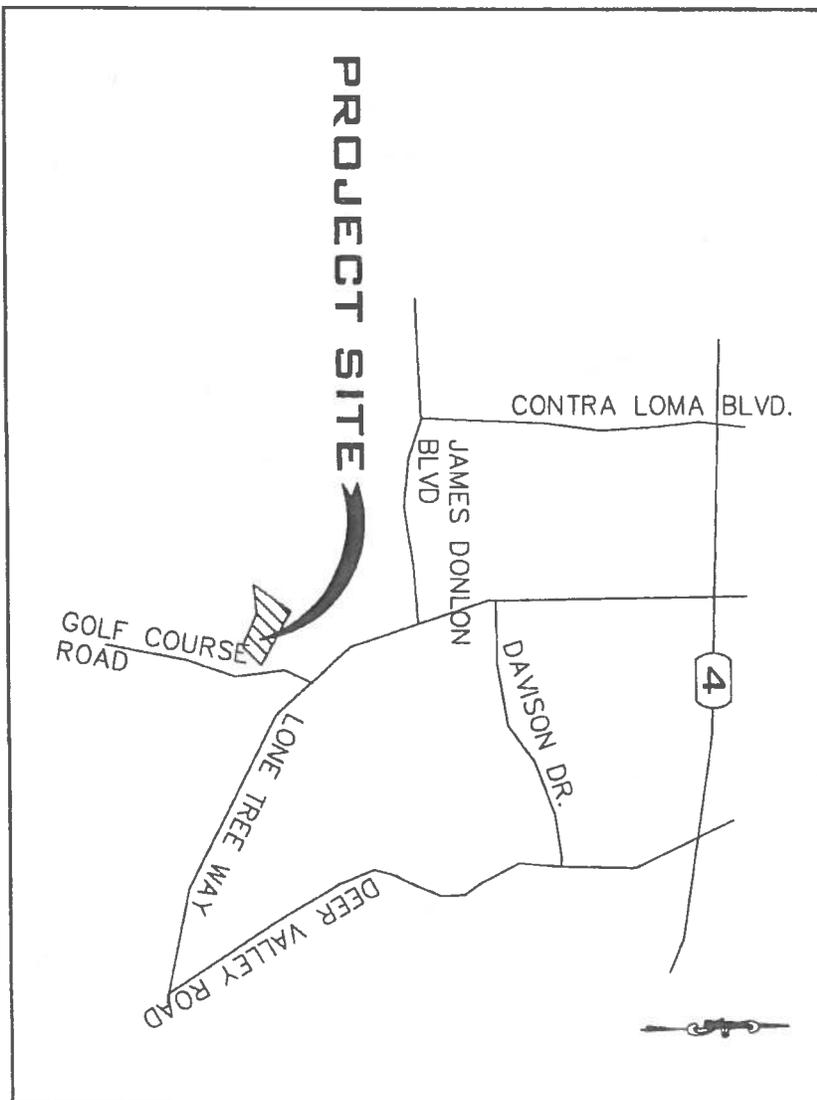
Consideration of this item is consistent with Strategic Plan Long Term Goal F-2; grow Antioch's economy through economic development.

OPTIONS

No options are provided as the realignments of easement are needed to construct the project.

ATTACHMENTS

- A: Vicinity Map
- B: Resolution 2004/124
- C: Resolution to Vacate Existing Raw Water Line Easement
- D: Resolution to Accept New Raw Water Line Easement



VICINITY MAP
NTS

VICINITY MAP
GENESIS
CIVIL ENGINEERS
1402 D STREET, MARTYSVILLE
CALIFORNIA, 95901
(530) 742-1300
(530) 742-1331-fax PAGE 1 OF 1

ATTACHMENT "B"

3

RECORDED AT REQUEST OF
AND FOR THE BENEFIT OF:
CITY OF ANTIOCH

WHEN RECORDED MAIL TO:
William R. Galstan
City Attorney
P.O. Box 5007
Antioch, CA 94531-5007

CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2004-0383942-00
Check Number
Tuesday, OCT 05, 2004 14:06:44
FRE \$0.00
Ttl Pd \$0.00
Nbr-0002367375
ENS/R4/1-3

RESOLUTION NO. 2004/124

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
APPROVING SUMMARY VACATION OF A PORTION OF LONE TREE WAY



WHEREAS the City has relocated Lone Tree Way in an area west of existing Lone Tree Way and northwesterly of Golf Course Road; and

WHEREAS the abandoned portion of the right-of-way does not serve any public circulation needs nor front any private property; and

WHEREAS no access will be denied to any property by virtue of this vacation;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. This vacation is a summary vacation made pursuant to Streets & Highways Code §§8334, 8335.
2. The identity of the street right-of-way being vacated is described and depicted on the attached Exhibit "A", being labeled "Approx. Alignment of Old Lone Tree Way" on the plat map
3. The right-of-way being vacated is excess to the needs of the public and is no longer required for public street purposes.
4. From and after the date this Resolution is recorded, the street right-of-way being vacated shall no longer constitute a street or street right-of-way.

* * * * *

B1

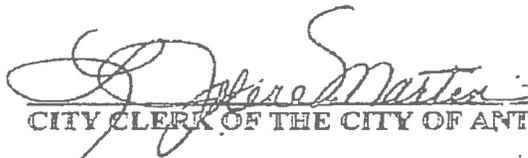
383942

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 28th day of September, 2004, by the following vote:

AYES: Council Members Kalinowski, Davis, Conley, Simonsen, and Mayor Freitas.

NOES: None.

ABSENT: None.


CITY CLERK OF THE CITY OF ANTIOCH

383942

EXHIBIT "A"

"APPROX. ALIGNMENT OF OLD LONE TREE WAY"

THAT PORTION OF OLD LONE TREE WAY THAT TRAVERSES THAT CERTAIN REAL PROPERTY KNOWN AS PARCEL A AS SHOWN ON PARCEL MAP M.S. 2-93, FILED DECEMBER 18, 1996, IN BOOK 170 OF PARCEL MAPS, PAGE 22, CONTRA COSTA COUNTY RECORDS, ASSESSOR'S PARCEL NO. 072-012-087 RESERVING TO THE CITY OF ANTIOCH THE RIGHT TO MAINTAIN EXISTING UTILITIES THEREUNDER, WHICH UTILITIES THE OWNER OF PARCEL A MAY, FROM TIME TO TIME, RELOCATE AT ITS SOLE COST AND EXPENSE.

END OF DOCUMENT

ATTACHMENT "C"

RESOLUTION NO. 2014/**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH TO SUMMARILY VACATE A SURPLUS PORTION OF OLD LONE TREE WAY RIGHT-OF-WAY RESERVED FOR UTILITY PURPOSES AND QUITCLAIM THE INTEREST TO THE UNDERLYING PROPERTY OWNER BLUEROCK PARTNERS II, LLC

WHEREAS, the City Council may summarily vacate excess public service easement pursuant to the authority provided by California Streets & Highway Code §8335;

WHEREAS, all provisions of the California Streets & Highways Code §8335 et seq. have been followed for the consideration of this vacation;

WHEREAS, description of the vacation is to be shown by a precise description as being shown by a precise map shown on Exhibit "A", pursuant to California Streets & Highways Code §8335;

NOW, THEREFORE, BE IT RESOLVED that

1. The City Council hereby summarily vacates a surplus portion of Old Lone Tree Way reserved for utility purposes (Exhibit "A") finding that such easement has been superseded by relocation and there are no other public facilities located within the easement; and
2. From and after the date the resolution is recorded the public service easement vacated shall no longer constitute a public service easement (California Streets & Highways Code §8335(b)(4) & §8336); and
3. The City Manager is authorized to execute any additional documents necessary to vacate and quitclaim the interest Exhibit "A" to Bluerock Partners II, Inc.

* * * * *

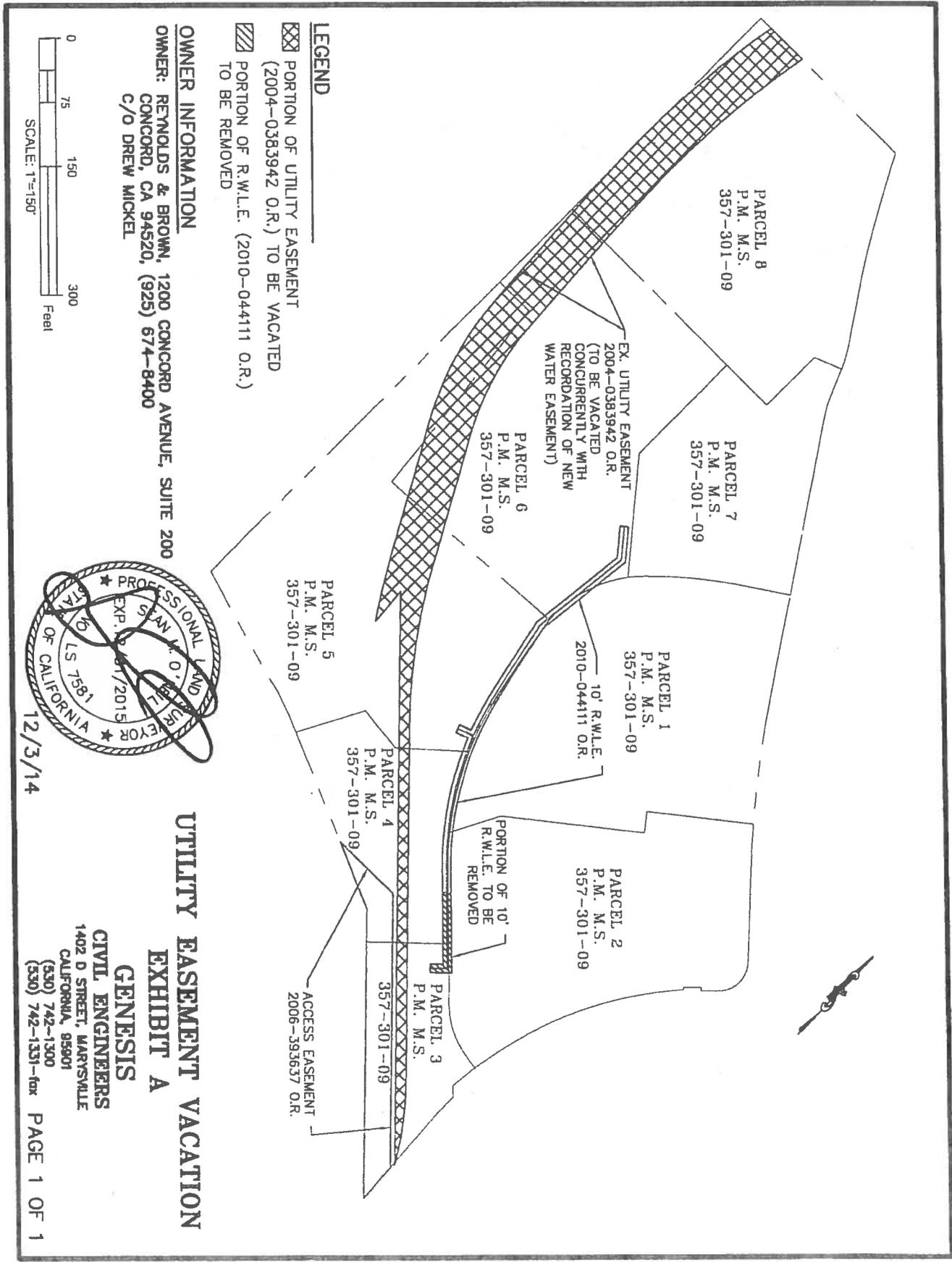
I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a regular meeting thereof, held on the 16th day of December, 2014, by the following vote:

AYES:

NOES:

ABSENT:

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

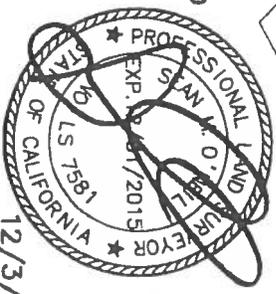


LEGEND

-  PORTION OF UTILITY EASEMENT (2004-0383942 O.R.) TO BE VACATED
-  PORTION OF R.W.L.E. (2010-044111 O.R.) TO BE REMOVED

OWNER INFORMATION

OWNER: REYNOLDS & BROWN, 1200 CONCORD AVENUE, SUITE 200
 CONCORD, CA 94520, (925) 674-8400
 C/O DREW MICKEL



12/3/14

UTILITY EASEMENT VACATION

EXHIBIT A

GENESIS

CIVIL ENGINEERS
 1402 D STREET, MARYSVILLE
 CALIFORNIA, 95901
 (530) 742-1300
 (530) 742-1331-fax

27

ATTACHMENT "D"

RESOLUTION NO. 2014/ **

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH APPROVING
AND AUTHORIZING THE CITY MANAGER TO SIGN DOCUMENTS TO ACCEPT AN
EASEMENT FOR A RELOCATED RAW WATER LINE**

WHEREAS, the existing Raw Water Line is being relocated to accommodate a new building at the Lakeview Center located at the southwest corner of Golf Course Road and Lone Tree Way; and

WHEREAS, the existing Old Lone Tree Way right-of-way reserved for utility purposes is being abandoned;

WHEREAS, a new alignment for the Raw Water Line is needed;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Antioch does hereby accept the easement for the realigned Raw Water Line shown in Exhibit 1 and authorizes the City Manager to execute any additional documents necessary to accept the easement by the City of Antioch.

* * * * *

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 16th day of December 2014, by the following vote:

AYES:

NOES:

ABSENT:

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

EXHIBIT 1

RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE § 6103

RECORDING REQUESTED BY:
City of Antioch, California

WHEN RECORDED MAIL TO:
City of Antioch
Engineering Division—City Hall
P.O. Box 5007
Antioch, CA 94531-5007

Form per Gov't Code § 27361.6

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 072-011-065-09

RAW WATER LINE EASEMENT

BLUEROCK PARTNERS II, LLC, a California limited liability company, Grantor, hereby grants to the **CITY OF ANTIOCH**, a California municipal corporation, an easement and right-of-way in, on, over, under, along, and across the hereinafter described real property situated in the City of Antioch, County of Contra Costa, State of California, as described on Exhibit "A" and depicted on Exhibit "B", for the purpose of constructing, installing, operating, maintaining, repairing and replacing water distribution system facilities and appurtenances thereto, including a reasonable right of ingress and egress over adjoining lands of Grantor.

GRANTOR:

**Bluerock Partners II, LLC, a
California limited liability company**

By: _____
Dana G. Parry, President

By: _____
Drew W. Mickel, Vice President

Exhibit "A"

An easement for water line purposes across a portion of Parcels 3 and 4 of that certain map entitled "Parcel Map M.S. 357-301-09" as such map is recorded in Book 205 of Parcel Maps, Page 4 of the Official Records of Contra Costa, California more particularly described as follows:

Said easement shall be a strip of land 10 feet in width lying 5.00 feet on each side of the following described centerline:

Commencing at the most Southern corner of above noted Parcel 3, thence North $43^{\circ}33'41''$ West along the southwest line of Parcel 3 and a portion of Parcel 4, 324.00 feet to the TRUE POINT of BEGINNING of the herein described centerline;

Thence from the TRUE POINT OF BEGINNING leaving the noted southwest line, North $45^{\circ}07'13''$ East, 48.24 feet; thence North $07^{\circ}13'13''$ East, 56.27 feet to where said centerline intersects with the south west line of that certain existing easement entitled "RAW WATER LINE EASEMENT" as recorded as Document 2010-0044111 in the Official Records of the Contra Costa County Recorder's Office, said point of intersection shall be terminus of said centerline.

Sidelines of said easement shall be lengthened or shortened to intersect with the said south west line of existing easement.

Together with an additional easement for water line purposes across a portion of Parcels 5, 6 and 8 of that certain map entitled "Parcel Map M.S. 357-301-09" as such map is recorded in Book 205 of Parcel Maps, Page 4 of the Official Records of Contra Costa, California more particularly described as follows:

Said easement shall be a strip of land 10 feet in width lying 5.00 feet on each side of the following described centerline:

Commencing at the most westerly corner of above noted Parcel 8, thence South $89^{\circ}29'17''$ East, 35.00 feet, along the northeast line of Parcel 8 to the TRUE POINT of BEGINNING of the herein described centerline:

Thence from the TRUE POINT OF BEGINNING leaving the noted northeast line of Parcel 8, South $8^{\circ}36'57''$ West, 51.17 feet to the beginning of a curve concentric to the east with a centerline radius of 1100.00 feet; thence along the curve to the South 197.59 feet through a central angle of $10^{\circ}17'32''$; thence South $1^{\circ}40'34''$ East, 142.11 feet to the beginning of a curve concave to the northeast with a centerline radius of 550.00 feet; thence along said curve to the southeast 263.99 feet through a central angle of $27^{\circ}30'05''$; thence South $29^{\circ}10'39''$ East, 109.69 feet to the beginning of a curve concave to the Northeast with a centerline radius of 800.00 feet; thence along said curve to the South 184.63 feet through a central angle of $13^{\circ}13'24''$; thence North $46^{\circ}32'52''$ East, 34.68 feet; thence North $69^{\circ}03'19''$ East, 54.62 feet to where centerline intersects with

the south west line of that certain existing easement entitled "RAW WATER LINE EASEMENT" as recorded as Document 2010-0044111-00 in the Official Records of the Contra Costa County Recorder's Office, said point of intersection shall be terminus of said centerline.

Sidelines of said easement shall be lengthened or shortened to intersect with the said south west line of existing easement.

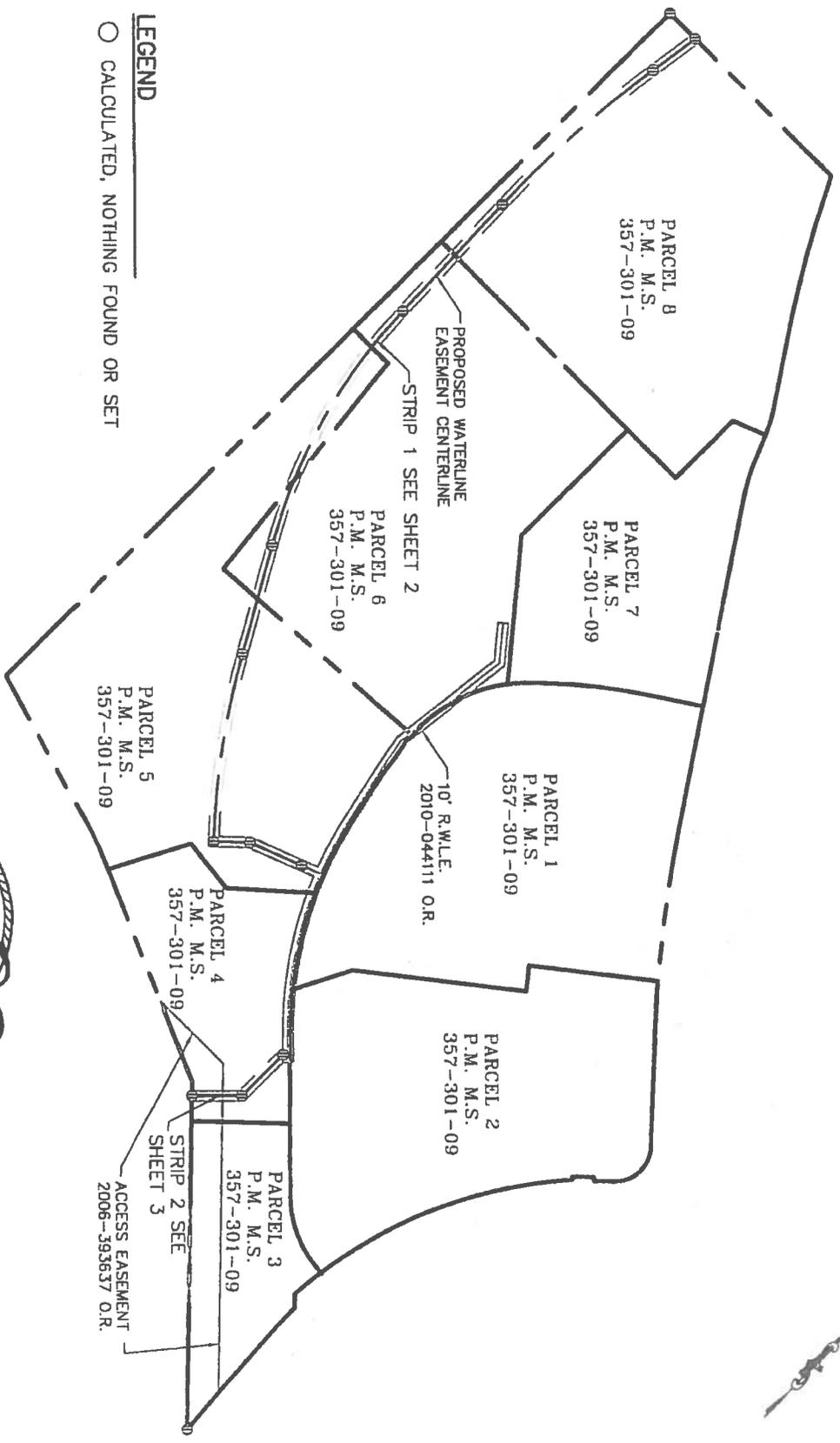
The above described easement is intended to replace the existing utility easement that was retained when the City of Antioch vacated a portion of Lone Tree Way as recorded in Document 2004-0383942-00 in the Recorder's Office of Contra Costa, California, as well as establish two new strips of easement for the installation of a new waterline from the existing waterline to connect to the existing easement that was established with the document that is entitled "RAW WATER LINE EASEMENT" as recorded as Document 2010-0044111-00 in the Official Records of the Contra Costa County Recorder's Office.



A handwritten signature in black ink, appearing to be "S O'Neill", written over a horizontal line.

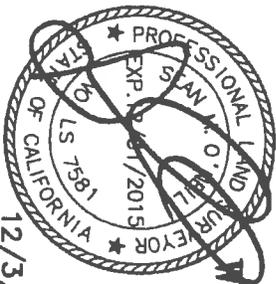
10/29/14

Sean O'Neill
Land Surveyor LS 7581
Exp. 12/31/2015



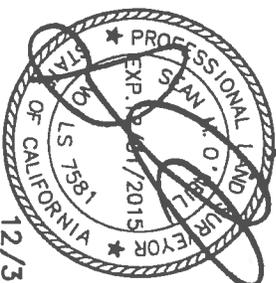
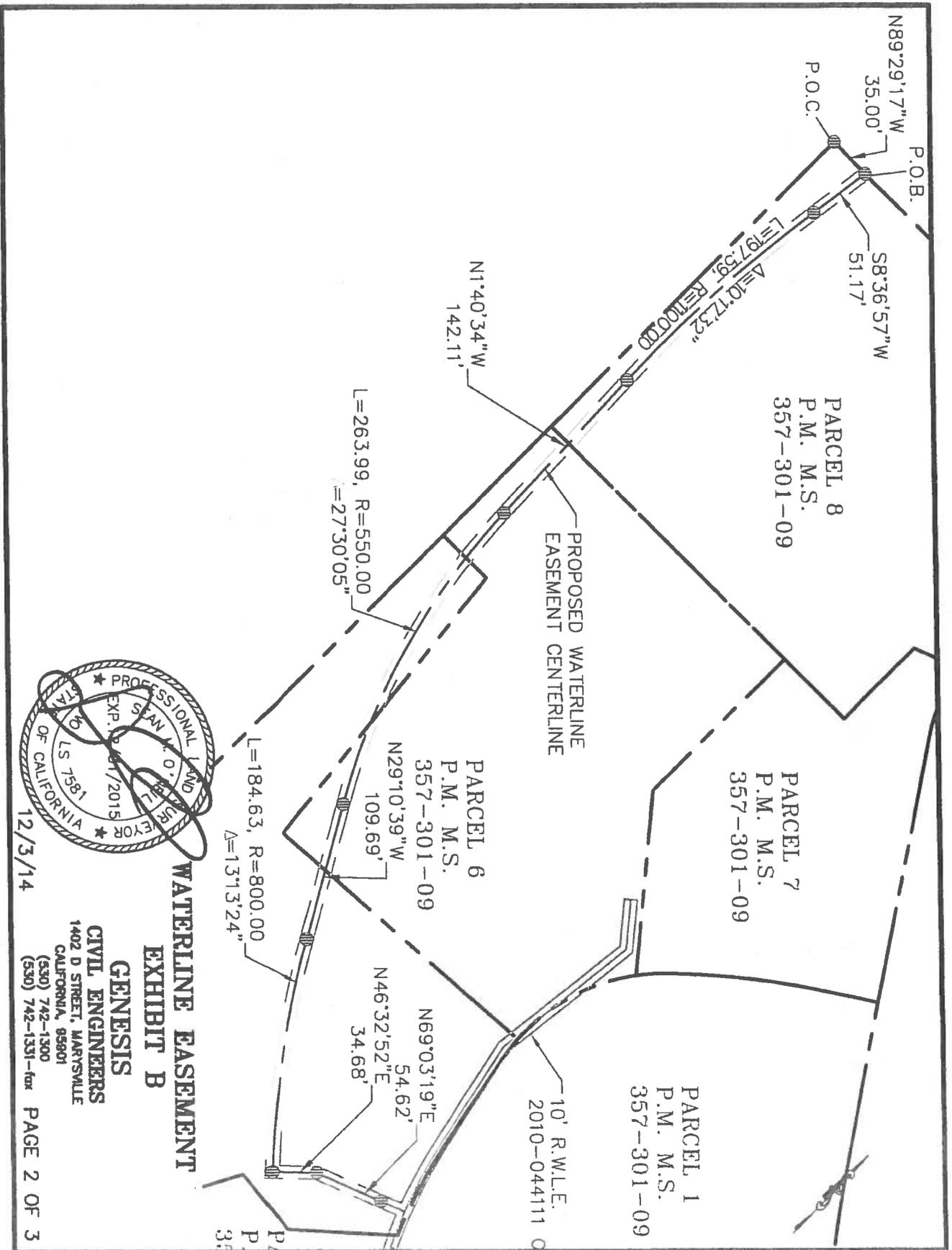
LEGEND
 ○ CALCULATED, NOTHING FOUND OR SET

OWNER INFORMATION
 OWNER: **REYNOLDS & BROWN**, 1200 CONCORD AVENUE, SUITE 200
 CONCORD, CA 94520, (925) 674-8400
 C/O DREW MICHEL



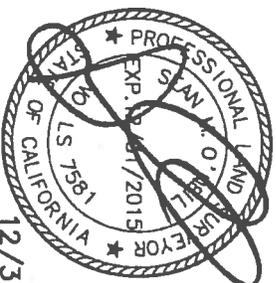
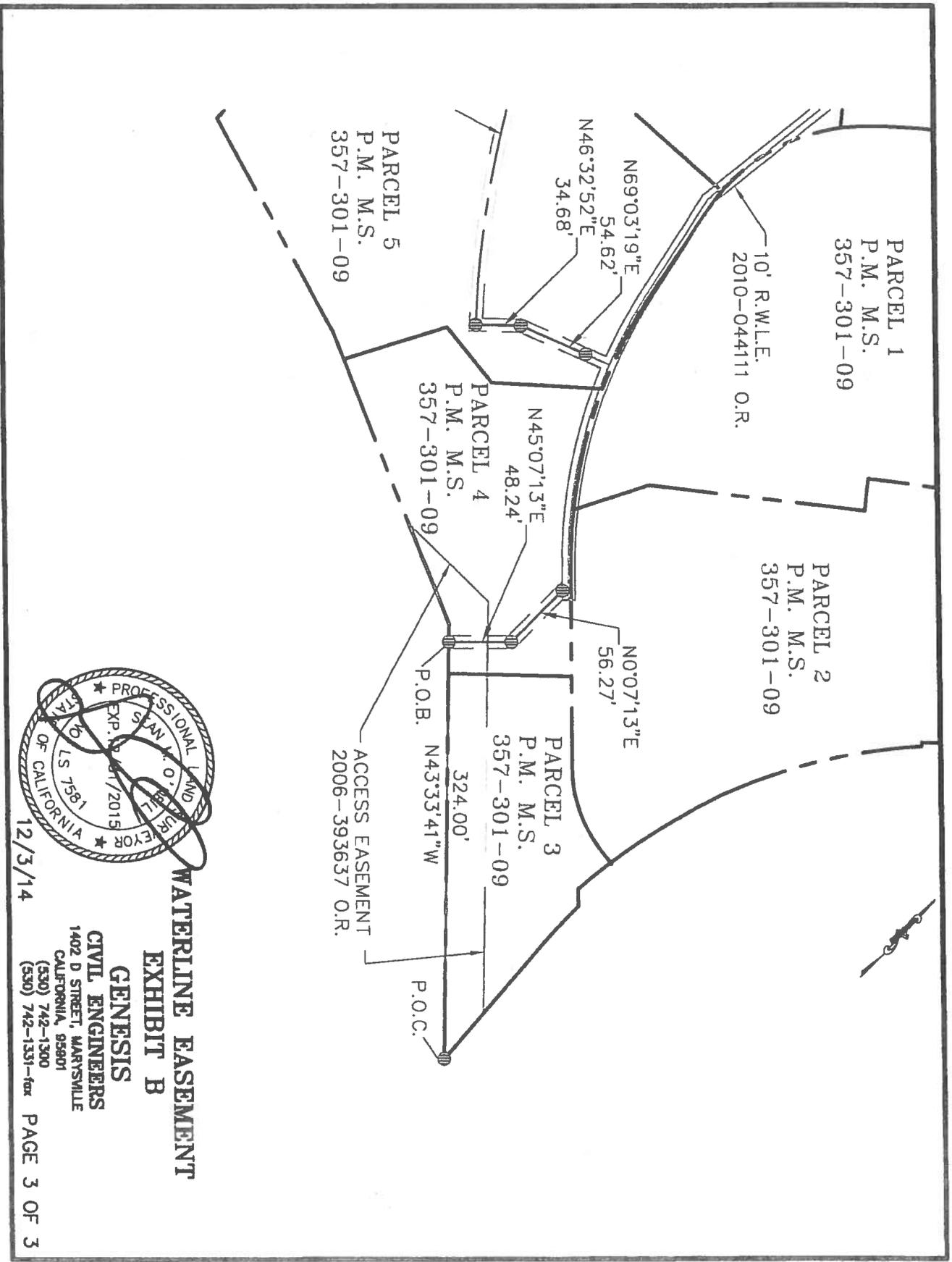
12/3/14

WATERLINE EASEMENT
EXHIBIT B
GENESIS
CIVIL ENGINEERS
 1402 D STREET, MARYSVILLE
 CALIFORNIA, 95901
 (530) 742-1300
 (530) 742-1331-fax
 PAGE 1 OF 3



WATERLINE EASEMENT
EXHIBIT B
GENESIS
CIVIL ENGINEERS
 1402 D STREET, MARYSMILE
 CALIFORNIA, 95901
 (530) 742-1300
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 PAGE 2 OF 3

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WATERLINE EASEMENT
EXHIBIT B
GENESIS
CIVIL ENGINEERS
 1402 D STREET, MARYSVILLE
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**STAFF REPORT TO THE ANTIOCH CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

Prepared by: Nancy Kaiser, Parks and Recreation Director *NAK*
Lonnie Karste, Project Manager, Karste Consulting Inc.

Reviewed by: Ron Bernal, Public Works Director/City Engineer *ROB*

Date: December 11, 2016

Subject: Review, Discuss, Select and Prioritize Potential Development Projects for the Final Phase of Prewett Community Park; Direct Staff to Initiate the Design Process.

RECOMMENDED ACTION

It is recommended that the City Council review, discuss, select and prioritize the potential development projects for the final phase of Prewett Community Park and direct staff to initiate the design process.

STRATEGIC PURPOSE

Long Term Goal J: Parks and Recreation. Provide outstanding facilities and programs for the community.

- **Strategy J-4:** Use remaining Mello-Roos Funds to expand and enhance Antioch Water Park with an all abilities water attraction

FISCAL IMPACT

Community Facilities District 89-1 has a balance of approximately \$2 million dollars dedicated for the development of Prewett Community Park. Homeowner assessments conclude in the 2015/2016 tax year, and the bonds will be paid off in August 2016.

Operations and maintenance of the new park amenities will be incorporated into the General Fund parks and recreation maintenance department. Additional expenditures will be identified during the design process and may be included in future budget recommendations.

DISCUSSION

Background

The Prewett Community Park is a 100 acre community amenity located on Deer Valley Road and Lone Tree Way. This park was developed under the guidelines of the park master plan that was completed in 1988-89, and the original park funding allocation was \$50 million dollars. The balance of the remaining project funding is approximately \$2 million dollars.

criteria to ensure that the community receives new park features at the highest value possible. Common criteria used in development projects are included here.

- Security of the asset.
- Sustainable maintenance practices.
- Additional cost of maintenance to any new asset developed.
- Revenue enhancement for this facility and the city's Parks and Recreation Department.
- Investment in current assets as opposed to the development of new assets.
- Compliance – Americans with Disabilities Act (“ADA”) changes, risk management analysis and audits.
- Additional program vitality/development.

The Antioch Water Park is a premier asset for the community. It provides health and fitness opportunities, quality family gatherings, and active recreation for teens. The park is also the primary youth employment opportunity in the community and develops future leaders and employees. New features added to the community park and/or the water park should represent a sustainable investment at a fair value. Based upon community input and the criteria for development, the improvements that best meet these needs are likely to be:

- Children's playground (all access)
- Group picnic additions
- Information kiosk/technology
- Outside sport court (basketball, handball, etc., lighted)
- Security enhancements
- Shade structures inside water park(large, group accommodation)
- Splash features for 0-3 age group
- Zero depth entry/all abilities pool and play features inside water park

Parks and Recreation Commission

During the regular meeting of the Antioch Parks and Recreation Commission on November 20, 2014, the members of the Commission discussed the project and received public input. The Commission took into consideration the development criteria, community input, and the generally recommended amenities to form a list of priority features for development.

The Commission recommended that the Antioch City Council consider up to thirteen items for the design and feasibility phase of the development project:

1. Shade structures – inside the water park and around the skate park.
2. All access playground
3. Lighted sport courts
4. Security cameras
5. Group picnic areas/shade

6. Facility storage
7. Informational kiosk
8. Bleachers
9. Splash pool (all abilities splash features)
10. Marquee signage
11. Disc golf
12. Coffee kiosk
13. All court field

The feature described as an “all abilities zero depth pool and play area“ was discussed by the Commission and the stakeholders. Features listed as splash pool, playground, shade, and picnic areas were related to the zero depth entry feature. Items one through seven on the list above received higher ranking from the members of the Commission. The staff report and draft minutes related to the Commission meeting are included as Attachments C and D, to provide additional information.

Summary

The design phase of the project is intended to examine the features desired at the Park as well as the overall goal of the development, which is to enhance the Water Park and Community Park, to improve visitor experiences and increase revenues. Overall, the input provided by the community supports the project goals including,

- A need for a new amenity in the Water Park to enhance revenue,
- Enhancing programs and facilities for older children,
- Access to facilities that have no fee for use, but could provide a community benefit,
- Enhancing existing facilities for community use, and
- Security and safety.

In preparation for the design phase of the project and the selection of a qualified firm to complete the design, Karste Consulting Inc. prepared general project estimates for the primary amenities listed in the Commission recommendation. For planning purposes only, the estimate for the key items indicates a slight shortfall. Detailed information is provided on Attachment E.

- | | |
|-----------------------------|-------------|
| • Estimated project total | \$2,087,600 |
| • Project funding available | \$2,038,000 |
| • Project shortfall | (\$47,000) |

The general project estimate highlights the need for further refinement in the selection and prioritization of amenities to include in the final phase development of the park. Staff will work closely with the selected design consultant to identify detailed cost estimates for the prioritized features, as directed by City Council. Prioritizing the new amenities and features will help determine what the project can afford. Items such as

bleachers, kiosks, and security can be identified as a priority separately or included in the feasibility study for other items such as picnic areas and a splash park.

Alternatives

The City Council could elect to not approve projects for the final phase development of Prewett Community Park and the Antioch Water Park. This alternative may result in a loss of development funds and the opportunity to enhance the community's premier facilities. This alternative is not recommended.

ATTACHMENTS

- A. Original Master Plan Elements
- B. Community and Stakeholders Input
- C. Parks and Recreation Commission Minutes, Draft
- D. Parks and Recreation Commission Staff Report
- E. Preliminary Project Costs, For Planning Purposes Only

Original Prewett Park Master Plan Amenities

- Aquatics center - complete
- Community center- complete
- Nature area- complete
- Amphitheater - complete
- Walking paths - complete
- Center plaza - complete
- Western parking lot - complete

- Formal gardens- future
- Children’s Playground area- future
- Main Library(not in original plan) future
- Maintenance center- future
- Play courts – (Basketball , volleyball) future
- Large open meadow - future
- Group picnic areas - future
- Park restroom facilities - future
- Water feature - future
- Pond /lagoon - future

Additions NIC in the original master plan

- Police service center- complete
- Library annex- complete
- Skate board park- complete
- Outdoor picnic areas / aquatic area complete

Prewett Community Park – Final Phase Development

Focus Group and Community Input

Summary of Priorities

Teens

Priorities:

- Café- coffee
- Recording studio
- Outdoor lighted basketball courts
- Multi- use athletic field with a track
- Enlarged Library space

Other considerations:

- Security cameras
- Marquee signage
- Miniature golf course
- Information Kiosk

Pre-school parents

Priorities:

- Open access water spray park
- Lazy river/ wave pool
- Shade at the skate park
- All access/ abilities playground
- Security cameras

Other considerations

- Solar panels. on shade structures in the water park
- Bleachers lap pool
- Waterslide for older children

General Community group

Priorities:

- Splash park –outside of the water park
- Wave rider – older kids
- Enclose , Skate , park , water park , add shade and picnic areas
- All abilities playground
- Futsal courts
- Disc. golf
- All abilities water splash area / Tad pool
- Group picnic areas , shade , BBQ area (outside of the water park)

Other considerations

- Indoor coffee / café- ACC

Keystakeholder interviews

City Council / P&R commission

- All abilities Splash park
- Group picnic areas ,shaded , BBQ's
- Security cameras
- Energy efficiency – solar
- Shade areas in the water park
- Park technology – Informational Kiosks
- Disc golf
- Marquee Signage
- Outdoor sport courts – lighted
- All abilities playground
- Larger waterslides, Wave rider – older children

Department Staff

- Community center Storage
- Performing Arts space
- Marquee Signage
- Security –fences , cameras
- Revenue improving producing amenity-“ all abilities Splash park , Shade, Bleachers”
- Risk mgmnt. – Tad pool repairs

Antioch City Hall
Regular Meeting
November 20, 2014 – NOT APPROVED

CITY OF ANTIOCH
PARKS AND RECREATION COMMISSION

1. **CALL TO ORDER**

Chairperson Immekus called the meeting to order at 7:00 p.m. on Thursday November 20, 2014.

2. **PLEDGE OF ALLEGIANCE**

Chairperson Immekus led the Commission and audience in the Pledge of Allegiance.

3. **ROLL CALL**

Present: Commissioners K. Farr, J. Farr, McClelland and Chairperson Immekus

Absent: Commissioners Soliz

Staff Present: Nancy Kaiser, Parks and Recreation Director
Lonnie Karste, Project Manager
Kitty Eiden, Minutes Clerk

4. **PUBLIC COMMENTS**

Janet Costa, Antioch resident, representing East County Regional Group, introduced themselves as a parent advocacy group with a mission to create a healthier, safer and more family friendly community. She announced they had a meeting scheduled with Parks and Recreation Director Kaiser on November 21, 2014. She reported they had been working on a park assessment project for East County to highlight existing positive play spaces for young children ages 0-5 and to highlight parks in need of improvement. She stated they recently finalized assessment results and would like the opportunity to present them to the Commission in the near future.

In response to Chairperson Immekus, Ms. Costa clarified park assessments were based on specific surveys that addressed safety, amenities and age appropriateness. She added their report would be finalized by February.

5. **APPROVAL OF MINUTES: (May 15, 2014 and July 17, 2014)**

On motion by Commissioner J. Farr, seconded by Commissioner McClelland the Parks and Recreation members present unanimously approved the Minutes of July 17, 2014, as presented.

On motion by Commissioner McClelland, seconded by Commissioner J. Farr the Parks and Recreation members present unanimously approved the Minutes of May 15, 2014, as presented.

Chairperson Immekus requested staff provide an update regarding the parks maintenance contract and grant funding for the marina restroom facility.

In response to Chairperson Immekus, Park and Recreation Director Kaiser stated she would be meeting with Deputy Director of Public Works Bechtholdt when he returned from vacation to be briefed on park development issues. She offered to take requests for updates and respond back to the Commission at a later date.

6. BUSINESS

1. Prewett Community Park – Project Recommendations

Park and Recreation Director Kaiser introduced the item and Project Manager Karste to give the presentation.

Project Manager Karste presented the staff report dated November 12, 2014 and gave an overhead presentation of the “Prewett Community Park – Final Phase”.

Park and Recreation Director Kaiser recommended the Parks and Recreation Commission 1) Review and discuss potential project for the Prewett Community Park based upon the information and feedback developed by Community Stakeholder Interviews and Community Focus Groups and the Park Master Plan and, 2) Recommend to the City Council a list of project priorities to consider for development at the Prewett Community Park.

Chairperson Immekus explained these projects would be funded through CFD 89-1 (Mello Roos) and were required to be utilized for capital projects. He recognized recreation staff for being very successful at their return on dollar for fee based programming, to maintain the City’s assets.

Fredy Leon, First Five East County Regional Group (ECRG) thanked the City of Antioch and consulting team for the presentation and accepting community input. He recommended project priorities include additional shaded areas, a splash park, slide or structure for younger children and improved security at the Water Park.

Yerenia (Jenny) Zarete, First Five East County Regional Group (ECRG), recommended project priorities include an all access playground for ages 0-5 available free of charge

and a shaded bench area for the Skate Park. She suggested the City host a complimentary or reduced cost day at the Water Park for low income families.

Scott Bartlebaugh, Antioch resident, requested the Parks and Recreation Commission consider a disc golf course in their project priority recommendations to the City Council.

In response to Commissioner K. Farr, Mr. Bartlebaugh stated there were disc golf courses at Walden Park in Walnut Creek and Moraga Commons in Moraga.

In response to Chairperson Immekus, Project Manager Karste explained in terms of the larger options such as a wave rider or lazy river, there would most likely only be sufficient funds for one amenity and if smaller items were chosen, there could be multiple opportunities.

Commissioner J. Farr thanked the community for their input. She spoke to the importance of securing the city's assets. She voiced her support for a water splash area outside of the current water park, an all access playground and a small slide for younger children.

Commissioner McClelland agreed security of the park should be the main focus. He voiced his support for additional shade structures at the Water Park and an outdoor basketball court.

Commissioner K. Farr suggested items for consideration include an informational kiosk and an Informational marquee sign. He voiced his support for the all access play area outside of the Water Park, security cameras and storage for the recreational department.

Chairperson Immekus voiced his support for additional shade structures and picnic tables at the Water Park noting he felt it was important to add amenities that allowed families to extend their stay at the park. Additionally, he supported increased security, an all access playground, coffee facility, outdoor basketball/all purpose play area and additional storage for recreation department.

At the request of Chairperson Immekus, each Commissioner provided a list of their top 5-6 project priorities.

On motion by Commissioner McClelland, seconded by Commissioner J. Farr the Parks and Recreation Commission recommended to the City Council the following list of project priorities to consider for development at the Prewett Community Park. (numbers in parenthesis were a tally of votes given by Commission members)

:

1. Increased security (3)
2. Increased shade (3)
3. All access playground (3)

4. Picnic facilities (2)
5. Lighted basketball (2)
6. Storage (2)
7. Information kiosk (2)
8. Bleachers (1)
9. Disc golf (1)
10. Coffee (1)
11. Marquee sign (1)
12. All court field (1)
13. Splash pool (1)

Chairperson Immekus thanked the Commission for their input and staff for working on the recommendations.

7. COMMUNICATIONS (Announcements and Correspondence)

Staff

Parks and Recreation Director Kaiser thanked the Commission and residents for welcoming her to the City of Antioch. She reported the new playground would be installed at Mira Vista Park and proposed the City host a neighborhood reception, when it was completed.

The Parks and Recreation Commission consensus agreed to participate in the neighborhood reception for the reopening of Mira Vista Park. Chairperson Immekus recognized City staff's efforts to acquire the funds for the new play structure.

Parks and Recreation Director Kaiser reported the City Park reseeding and maintenance phase would begin on December 1, 2014. She stated they would be holding discussions with regards to additional opportunities to secure and maintain the facility. She announced she had assisted Chairperson Immekus and Mayor Harper in interviewing candidates for the Parks and Recreation Commission vacancies. She gave a brief background of her personal and professional history.

Chairperson Immekus welcomed Parks and Recreation Director Kaiser to the City of Antioch.

Commission

Commissioner McClelland requested staff consider updating the automated phone message regarding field closures.

Park and Recreation Director Kaiser reported a field update and a closure hotline would be implemented.

Commissioner K. Farr reported he and Commissioner J. Farr had visited various parks throughout the City and compiled a list of safety and maintenance issues. He offered to send the list to fellow Commissioners and staff.

Chairperson Immekus reported he had participated in interviews for Commission vacancies and Mayor Harper would be making his recommendations for appointments at the November 25, 2015 City Council meeting. He stated once new Commissioners were in place, he would be assigning park visitations. He informed Park and Recreation Director Kaiser that thank you gifts were prepared for outgoing Commissioners Flores and Davis and requested those presentations be made at the January Parks and Recreation Commission meeting.

Commissioner J. Farr reported on her attendance at the study session on the opportunities and constraints for developing a Downtown Specific Plan and updating the General Plan Land Use Element and Zoning Ordinance. She stated a river walk and park were being discussed as future amenities and questioned if the Parks and Recreation Commission would be involved in the process.

Parks and Recreation Director Kaiser stated if the City moved forward with park amenities for downtown, she would insure the Parks and Recreation Commission would be involved. She announced the next Parks and Recreation meeting would be held on January 15, 2015.

8. ADJOURNMENT

There being no further business before the Commission, stand adjourned at 8:21 P.M. to January 15, 2014 in Council Chambers.

Respectfully Submitted,
Kitty Eiden

**STAFF REPORT TO THE PARKS AND RECREATION COMMISSION
FOR CONSIDERATION AT THE MEETING OF NOVEMBER 20, 2014**

Prepared by: Lonnie Karste, Project Manager, Karste Consulting Inc.
Reviewed by: Nancy Kaiser, Parks and Recreation Director
Date: November 5, 2014
Subject: Review and Recommend to the Antioch City Council Final Phase Development Project(s) to Consider for Prewett Community Park.

RECOMMENDATION

- 1) To review and discuss potential project(s) for the Prewett Community Park based upon the information and feedback developed by Community Stakeholder Interviews and Community Focus Groups, and the Park Master Plan.
- 2) To recommend to the Antioch City Council a list of project priorities to consider for development at the Prewett Community Park.

Background

The Antioch City Council entered into an agreement with Karste Consulting Inc. to begin the development process for the final project phase of the Prewett Community Park in September of 2014.

The Prewett Community Park is a 100 acre community amenity located on Deer Valley Road and Lone Tree Way. This park was master planned in 1988/89. The original park funding allocation was \$50 million dollars, and development is funded through the CFD 89-1 (Mello Roos). The balance of the remaining project funding is approximately \$2.0 million dollars. This fund collection ceases in the 2015/16 tax year with the final pay off set for August 2016. This park site currently hosts the Antioch Community Center and the Antioch Water Park, Amphitheater, Grand Plaza, Nature Area and Skateboard Park. All of these facilities are operated by the City of Antioch's recreation department.

As part of the project design review and development process Karste Consulting Inc. reviewed the original master plan elements (Attachment A), completed fourteen key stakeholder interviews, and hosted three community focus group meetings. Meeting participants were actively engaged in conversation and provided valuable input towards final projects that may be added to the current developed area.

The original master plan elements were presented to all meeting participants for their feedback and comment. The community input process also invited group discussion about the opportunity for alternative projects. The ideas and suggestions resulting from the community meetings are included in Attachment B.

Discussion

The discussion during the community meetings focused on creating new opportunities for the community and/or water park, as well as enhancing the current features. There were no constraints or criteria included in the conversations. Final development considerations for the new amenities, added into the final phase, will likely match several criteria such as the topography of the selected location, the final cost, long term maintenance and more. Staff recommends that future discussion and consideration for new development includes criteria that will ensure the community receives new park features at the highest value possible. Common criteria used in development projects are included here.

Suggested criteria:

1. Security of the asset.
2. Sustainable maintenance practices.
3. Additional cost of maintenance to any new asset developed.
4. Revenue enhancement for this facility and the city's Parks and Recreation Department.
5. Investment in current assets as oppose to the development of new assets.
6. Legislation – ADA changes, risk management analysis and audits.
7. Additional program vitality / development.

In addition to creating a list of new and exciting features for the park, the meeting participants worked collectively to identify the top five recommendations for consideration. The consolidated priorities are included in this report, along with other considerations that earned mention.

Teens

- Priorities:
 - o Café- coffee
 - o Recording studio
 - o Outdoor lighted basketball courts
 - o Multi- use athletic field with a track
 - o Enlarged Library space
- Other considerations:
 - o Security cameras
 - o Marquee signage
 - o Miniature golf course
 - o Information Kiosk

Pre-School Parents

- Priorities:
 - o Open access water spray park
 - o Lazy river/ wave pool
 - o Shade at the skate park
 - o All access/ abilities playground
 - o Security cameras

- Other considerations
 - Solar panels. on shade structures in the water park
 - Bleachers lap pool
 - Waterslide for older children

General Community Group

- Priorities:
 - Splash park –outside of the water park
 - Wave rider – older kids
 - Enclose Skate park, water park, add shade and picnic areas
 - All abilities playground
 - Futsal courts
 - Disc golf
 - All abilities water splash area /Tad pool
 - Group picnic areas , shade , BBQ area (outside of the water park)
- Other considerations
 - Indoor coffee / café- ACC

Key Stakeholder Interviews

- City Council / P&R Commission
 - All abilities Splash park
 - Group picnic areas ,shaded , BBQ's
 - Security cameras
 - Energy efficiency – solar
 - Shade areas in the water park
 - Park technology – Informational Kiosks
 - Disc golf
 - Marquee Signage
 - Outdoor sport courts – lighted
 - All abilities playground
 - Larger waterslides, Wave rider – older children priorities

Summary of Recreation Staff Input

- Community center Storage
- Performing Arts space
- Marquee Signage
- Security –fences , cameras
- Revenue improving producing amenity-all abilities Splash park, Shade, Bleachers
- Risk management – Tad pool repairs

Findings:

There are several key themes that emerged from the community meetings and discussion. The commonality results from a high desire to improve the quality of life for youth, teens and families. Participants expressed pride in Prewett Community Park and would like to see all residents enjoy the benefits of healthy play. The primary themes include:

1. A need for a new amenity in the water park to enhance revenue,

2. Enhancing programs and facilities for older children,
3. Access to facilities that have no fee for use, but could provide a community benefit,
4. Enhancing existing facilities for community use, and
5. Security and safety.

The input provided by the meeting participants is also valuable feedback for developing new programs and services for youth, teens and families. Staff has the capacity to create the experiences and social interaction that was expressed by residents. The current amenities in the Water Park and community center can support innovative and flexible uses throughout the year.

The Antioch Water Park is a premier asset for the community. It provides health and fitness opportunities, quality family gatherings, and active recreation for teens. The park is also the primary youth employment opportunity in the community and develops future leaders and employees. New features added to the community park and/or the water park should represent a sustainable investment at a fair value. Based upon community input and the criteria for development, the improvements that best meet these needs are likely to be:

- Children's playground (all access)
- Group picnic/use additions
- Information kiosk/technology
- Outside sport court (basketball, handball, etc., lighted)
- Security enhancements
- Shade structures inside water park (large, group accommodation)
- Splash features for 0-3 age group
- Zero depth entry/all abilities pool and play features inside water park

Recommendation

- 1) To review and discuss potential project(s) for the Prewett Community Park based upon the information and feedback developed by Community Stakeholder Interviews and Community Focus Groups, and the Park Master Plan.
- 2) To recommend to the Antioch City Council a list of project priorities to consider for development at the Prewett Community Park.

Attachments

Attachment A – Original Master Plan Elements

Attachment B – Community project suggestions

Prewett Community Park Preliminary and Proposed Project Cost Estimates
(For planning purposes only)

1. Shade structures – inside the water park and around the skate park	\$100,000
2. All access playground	\$160,000
3. Lighted sport courts	\$90,000
4. Security cameras	\$140,000
5. Group picnic areas/ shade	\$300,000
6. Facility storage	\$30,000
7. Informational kiosk	\$50,000
8. All Abilities Zero Depth Pool Play Area	\$600,000
 Subtotal	 \$1,470,000
 Design costs/Project mgmt. costs	 \$360,000
 Construction contingency 8%	 \$117,600
 CIP staff/permits	 \$60,000
 Environmental (TBD)	 \$80,000
 Estimated project total	 \$2,087,600
 Project funds available	 \$2,038,000
 Project shortfall	 (\$47,000)

**SUPPLEMENTAL STAFF REPORT TO THE ANTIOCH CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

Prepared by: Nancy Kaiser, Parks and Recreation Director
Lonnie Karste, Project Manager, Karste Consulting Inc.

Reviewed by: Ron Bernal, Public Works Director/City Engineer

Date: December 11, 2014

Subject: **SUPPLEMENTAL REPORT:** Review, Discuss, Select and Prioritize Potential Development Projects for the Final Phase of Prewett Community Park; Direct Staff to Initiate the Design Process.

RECOMMENDED ACTION

It is recommended that the City Council review, discuss, select and prioritize the potential development projects for the final phase of Prewett Community Park and direct staff to initiate the design process.

STRATEGIC PURPOSE

Long Term Goal J: Parks and Recreation. Provide outstanding facilities and programs for the community.

- **Strategy J-4:** Use remaining Mello-Roos Funds to expand and enhance Antioch Water Park with an all abilities water attraction

FISCAL IMPACT

Community Facilities District 89-1 has a balance of approximately \$2 million dollars dedicated for the development of Prewett Community Park. Homeowner assessments conclude in the 2015/2016 tax year, and the bonds will be paid off in August 2016.

Operations and maintenance of the new park amenities will be incorporated into the General Fund parks and recreation maintenance department. Additional expenditures will be identified during the design process and may be included in future budget recommendations.

DISCUSSION

Background

The Prewett Community Park is a 100 acre community amenity located on Deer Valley Road and Lone Tree Way. This park was developed under the guidelines of the park master plan that was completed in 1988-89, and the original park funding allocation was \$50 million dollars. The balance of the remaining project funding is approximately \$2 million dollars.

Currently, Prewett Community Park includes several premier facilities including the Antioch Community Center, Amphitheater, Grand Plaza, Nature Area with a deed restricted burrowing owl habitat, Skateboard Park, and the Antioch Water Park. These facilities are operated and maintained by the City.

The City entered into an agreement with Karste Consulting Inc. to begin the development process for the final project phase of the Prewett Community Park in September of 2014. As part of the project design review and development process, Karste Consulting Inc. reviewed the original master plan elements (Attachment A), completed fourteen key stakeholder interviews, and hosted three community focus group meetings. Members of the community were actively engaged in conversation, and provided valuable input towards final projects that may be added to the current developed area.

Meeting participants reviewed the original master plan and discussed the opportunity for alternatives. Attachment B provides a summary and outline of the community meetings. The discussion during the community meetings focused on creating new opportunities for the Community Center and/or the Water Park, as well as enhancing the current features. There were no constraints or criteria included in the conversations. The funding available for this project has a capacity beyond a splash park-type feature, and the public input process identified several amenities to include in the final development.

Analysis

There are several key themes that emerged from the community meetings and discussion. The commonality results from a high desire to improve the quality of life for youth, teens and families. Participants expressed pride in Prewett Community Park and would like to see all residents enjoy the benefits of healthy play. The primary themes include:

- A need for a new amenity in the Water Park to enhance revenue,
- Enhancing programs and facilities for older children,
- Access to facilities that have no fee for use, but could provide a community benefit,
- Enhancing existing facilities for community use, and
- Security and safety.

The input provided by the meeting participants is also valuable feedback for developing new programs and services for youth, teens and families. Staff has the capacity to create the experiences and social interaction that was expressed by residents. The current amenities in the Water Park and Community Center can support innovative and flexible uses throughout the year.

The new amenities included in the final development phase should complement common design criteria such as the topography of the selected location, the final cost, long term maintenance and more. Staff recommends that the design process include

criteria to ensure that the community receives new park features at the highest value possible. Common criteria used in development projects are included here.

- Security of the asset.
- Sustainable maintenance practices.
- Additional cost of maintenance to any new asset developed.
- Revenue enhancement for this facility and the city's Parks and Recreation Department.
- Investment in current assets as opposed to the development of new assets.
- Compliance – Americans with Disabilities Act (“ADA”) changes, risk management analysis and audits.
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The Antioch Water Park is a premier asset for the community. It provides health and fitness opportunities, quality family gatherings, and active recreation for teens. The park is also the primary youth employment opportunity in the community and develops future leaders and employees. New features added to the community park and/or the water park should represent a sustainable investment at a fair value. Based upon community input and the criteria for development, the improvements that best meet these needs are likely to be:

- Children's playground (all access)
- Group picnic additions
- Information kiosk/technology
- Outside sport court (basketball, handball, etc., lighted)
- Security enhancements
- Shade structures inside water park (large, group accommodation)
- Splash features for 0-3 age group
- Zero depth entry/all abilities pool and play features inside water park

Parks and Recreation Commission

During the regular meeting of the Antioch Parks and Recreation Commission on November 20, 2014, the members of the Commission discussed the project and received public input. The Commission took into consideration the development criteria, community input, and the generally recommended amenities to form a list of priority features for development.

The Commission recommended that the Antioch City Council consider up to thirteen items for the design and feasibility phase of the development project:

1. Shade structures – inside the water park and around the skate park.
2. All access playground
3. Lighted sport courts
4. Security cameras
5. Group picnic areas/shade

6. Facility storage
7. Informational kiosk
8. Bleachers
9. Splash pool (all abilities splash features)
10. Marquee signage
11. Disc golf
12. Coffee kiosk
13. All court field

The feature described as an “all abilities zero depth pool and play area“ was discussed by the Commission and the stakeholders. Features listed as splash pool, playground, shade, and picnic areas were related to the zero depth entry feature. Items one through seven on the list above received higher ranking from the members of the Commission. The staff report and draft minutes related to the Commission meeting are included as Attachments C and D, to provide additional information.

Summary

The design phase of the project is intended to examine the features desired at the Park as well as the overall goal of the development, which is to enhance the Water Park and Community Park, to improve visitor experiences and increase revenues. Overall, the input provided by the community supports the project goals including,

- A need for a new amenity in the Water Park to enhance revenue,
- Enhancing programs and facilities for older children,
- Access to facilities that have no fee for use, but could provide a community benefit,
- Enhancing existing facilities for community use, and
- Security and safety.

In preparation for the design phase of the project and the selection of a qualified firm to complete the design, Karste Consulting Inc. prepared general project estimates for the primary amenities listed in the Commission recommendation. For planning purposes only, the estimate for the key items indicates a slight shortfall. Detailed information is provided on Attachment E.

- | | |
|-----------------------------|-------------|
| • Estimated project total | \$2,087,600 |
| • Project funding available | \$2,038,000 |
| • Project shortfall | (\$47,000) |

The general project estimate highlights the need for further refinement in the selection and prioritization of amenities to include in the final phase development of the park. Staff will work closely with the selected design consultant to identify detailed cost estimates for the prioritized features, as directed by City Council. Prioritizing the new amenities and features will help determine what the project can afford. Items such as

bleachers, kiosks, and security can be identified as a priority separately or included in the feasibility study for other items such as picnic areas and a splash park.

Alternatives

The City Council could elect to not approve projects for the final phase development of Prewett Community Park and the Antioch Water Park. This alternative may result in a loss of development funds and the opportunity to enhance the community's premier facilities. This alternative is not recommended.

ATTACHMENTS

- A. Original Master Plan Elements
- B. Community and Stakeholders Input
- C. Parks and Recreation Commission Minutes, Draft
- D. Parks and Recreation Commission Staff Report
- E. Preliminary Project Costs, For Planning Purposes Only

Original Prewett Park Master Plan Amenities

- Aquatics center - complete
- Community center- complete
- Nature area- complete
- Amphitheater - complete
- Walking paths - complete
- Center plaza - complete
- Western parking lot - complete

- Formal gardens- future
- Children’s Playground area- future
- Main Library(not in original plan) future
- Maintenance center- future
- Play courts – (Basketball , volleyball) future
- Large open meadow - future
- Group picnic areas - future
- Park restroom facilities - future
- Water feature - future
- Pond /lagoon - future

Additions NIC in the original master plan

- Police service center- complete
- Library annex- complete
- Skate board park- complete
- Outdoor picnic areas / aquatic area complete

Prewett Community Park – Final Phase Development

Focus Group and Community Input

Summary of Priorities

Teens

Priorities:

- Café- coffee
- Recording studio
- Outdoor lighted basketball courts
- Multi- use athletic field with a track
- Enlarged Library space

Other considerations:

- Security cameras
- Marquee signage
- Miniature golf course
- Information Kiosk

Pre-school parents

Priorities:

- Open access water spray park
- Lazy river/ wave pool
- Shade at the skate park
- All access/ abilities playground
- Security cameras

Other considerations

- Solar panels. on shade structures in the water park
- Bleachers lap pool
- Waterslide for older children

General Community group

Priorities:

- Splash park –outside of the water park
- Wave rider – older kids
- Enclose , Skate , park , water park , add shade and picnic areas
- All abilities playground
- Futsal courts
- Disc. golf
- All abilities water splash area / Tad pool
- Group picnic areas , shade , BBQ area (outside of the water park)

Other considerations

- Indoor coffee / café- ACC

Key stakeholder interviews

City Council / P&R commission

- All abilities Splash park
- Group picnic areas ,shaded , BBQ's
- Security cameras
- Energy efficiency – solar
- Shade areas in the water park
- Park technology – Informational Kiosks
- Disc golf
- Marquee Signage
- Outdoor sport courts – lighted
- All abilities playground
- Larger waterslides, Wave rider – older children Priorities:

Department Staff

- Community center Storage
- Performing Arts space
- Marquee Signage
- Security –fences , cameras
- Revenue improving producing amenity-“ all abilities Splash park , Shade, Bleachers”
- Risk mgmnt. – Tad pool repairs

**Antioch City Hall
Regular Meeting
November 20, 2014 – NOT APPROVED**

**CITY OF ANTIOCH
PARKS AND RECREATION COMMISSION**

1. CALL TO ORDER

Chairperson Immekus called the meeting to order at 7:00 p.m. on Thursday November 20, 2014.

2. PLEDGE OF ALLEGIANCE

Chairperson Immekus led the Commission and audience in the Pledge of Allegiance.

3. ROLL CALL

Present: Commissioners K. Farr, J. Farr, McClelland and Chairperson Immekus
Absent: Commissioners Soliz

Staff Present: Nancy Kaiser, Parks and Recreation Director
Lonnie Karste, Project Manager
Kitty Eiden, Minutes Clerk

4. PUBLIC COMMENTS

Janet Costa, Antioch resident, representing East County Regional Group, introduced themselves as a parent advocacy group with a mission to create a healthier, safer and more family friendly community. She announced they had a meeting scheduled with Parks and Recreation Director Kaiser on November 21, 2014. She reported they had been working on a park assessment project for East County to highlight existing positive play spaces for young children ages 0-5 and to highlight parks in need of improvement. She stated they recently finalized assessment results and would like the opportunity to present them to the Commission in the near future.

In response to Chairperson Immekus, Ms. Costa clarified park assessments were based on specific surveys that addressed safety, amenities and age appropriateness. She added their report would be finalized by February.

5. APPROVAL OF MINUTES: (May 15, 2014 and July 17, 2014)

On motion by Commissioner J. Farr, seconded by Commissioner McClelland the Parks and Recreation members present unanimously approved the Minutes of July 17, 2014, as presented.

On motion by Commissioner McClelland, seconded by Commissioner J. Farr the Parks and Recreation members present unanimously approved the Minutes of May 15, 2014, as presented.

Chairperson Immekus requested staff provide an update regarding the parks maintenance contract and grant funding for the marina restroom facility.

In response to Chairperson Immekus, Park and Recreation Director Kaiser stated she would be meeting with Deputy Director of Public Works Bechtholdt when he returned from vacation to be briefed on park development issues. She offered to take requests for updates and respond back to the Commission at a later date.

6. BUSINESS

1. Prewett Community Park – Project Recommendations

Park and Recreation Director Kaiser introduced the item and Project Manager Karste to give the presentation.

Project Manager Karste presented the staff report dated November 12, 2014 and gave an overhead presentation of the “Prewett Community Park – Final Phase”.

Park and Recreation Director Kaiser recommended the Parks and Recreation Commission 1) Review and discuss potential project for the Prewett Community Park based upon the information and feedback developed by Community Stakeholder Interviews and Community Focus Groups and the Park Master Plan and, 2) Recommend to the City Council a list of project priorities to consider for development at the Prewett Community Park.

Chairperson Immekus explained these projects would be funded through CFD 89-1 (Mello Roos) and were required to be utilized for capital projects. He recognized recreation staff for being very successful at their return on dollar for fee based programming, to maintain the City’s assets.

Fredy Leon, First Five East County Regional Group (ECRG) thanked the City of Antioch and consulting team for the presentation and accepting community input. He recommended project priorities include additional shaded areas, a splash park, slide or structure for younger children and improved security at the Water Park.

Yerenia (Jenny) Zarete, First Five East County Regional Group (ECRG), recommended project priorities include an all access playground for ages 0-5 available free of charge

and a shaded bench area for the Skate Park. She suggested the City host a complimentary or reduced cost day at the Water Park for low income families.

Scott Bartlebaugh, Antioch resident, requested the Parks and Recreation Commission consider a disc golf course in their project priority recommendations to the City Council.

In response to Commissioner K. Farr, Mr. Bartlebaugh stated there were disc golf courses at Walden Park in Walnut Creek and Moraga Commons in Moraga.

In response to Chairperson Immekus, Project Manager Karste explained in terms of the larger options such as a wave rider or lazy river, there would most likely only be sufficient funds for one amenity and if smaller items were chosen, there could be multiple opportunities.

Commissioner J. Farr thanked the community for their input. She spoke to the importance of securing the city's assets. She voiced her support for a water splash area outside of the current water park, an all access playground and a small slide for younger children.

Commissioner McClelland agreed security of the park should be the main focus. He voiced his support for additional shade structures at the Water Park and an outdoor basketball court.

Commissioner K. Farr suggested items for consideration include an informational kiosk and an Informational marquee sign. He voiced his support for the all access play area outside of the Water Park, security cameras and storage for the recreational department.

Chairperson Immekus voiced his support for additional shade structures and picnic tables at the Water Park noting he felt it was important to add amenities that allowed families to extend their stay at the park. Additionally, he supported increased security, an all access playground, coffee facility, outdoor basketball/all purpose play area and additional storage for recreation department.

At the request of Chairperson Immekus, each Commissioner provided a list of their top 5-6 project priorities.

On motion by Commissioner McClelland, seconded by Commissioner J. Farr the Parks and Recreation Commission recommended to the City Council the following list of project priorities to consider for development at the Prewett Community Park. (numbers in parenthesis were a tally of votes given by Commission members)

:

1. Increased security (3)
2. Increased shade (3)
3. All access playground (3)

4. Picnic facilities (2)
5. Lighted basketball (2)
6. Storage (2)
7. Information kiosk (2)
8. Bleachers (1)
9. Disc golf (1)
10. Coffee (1)
11. Marquee sign (1)
12. All court field (1)
13. Splash pool (1)

Chairperson Immekus thanked the Commission for their input and staff for working on the recommendations.

7. COMMUNICATIONS (Announcements and Correspondence)

Staff

Parks and Recreation Director Kaiser thanked the Commission and residents for welcoming her to the City of Antioch. She reported the new playground would be installed at Mira Vista Park and proposed the City host a neighborhood reception, when it was completed.

The Parks and Recreation Commission consensus agreed to participate in the neighborhood reception for the reopening of Mira Vista Park. Chairperson Immekus recognized City staff's efforts to acquire the funds for the new play structure.

Parks and Recreation Director Kaiser reported the City Park reseeding and maintenance phase would begin on December 1, 2014. She stated they would be holding discussions with regards to additional opportunities to secure and maintain the facility. She announced she had assisted Chairperson Immekus and Mayor Harper in interviewing candidates for the Parks and Recreation Commission vacancies. She gave a brief background of her personal and professional history.

Chairperson Immekus welcomed Parks and Recreation Director Kaiser to the City of Antioch.

Commission

Commissioner McClelland requested staff consider updating the automated phone message regarding field closures.

Park and Recreation Director Kaiser reported a field update and a closure hotline would be implemented.

Commissioner K. Farr reported he and Commissioner J. Farr had visited various parks throughout the City and compiled a list of safety and maintenance issues. He offered to send the list to fellow Commissioners and staff.

Chairperson Immekus reported he had participated in interviews for Commission vacancies and Mayor Harper would be making his recommendations for appointments at the November 25, 2015 City Council meeting. He stated once new Commissioners were in place, he would be assigning park visitations. He informed Park and Recreation Director Kaiser that thank you gifts were prepared for outgoing Commissioners Flores and Davis and requested those presentations be made at the January Parks and Recreation Commission meeting.

Commissioner J. Farr reported on her attendance at the study session on the opportunities and constraints for developing a Downtown Specific Plan and updating the General Plan Land Use Element and Zoning Ordinance. She stated a river walk and park were being discussed as future amenities and questioned if the Parks and Recreation Commission would be involved in the process.

Parks and Recreation Director Kaiser stated if the City moved forward with park amenities for downtown, she would insure the Parks and Recreation Commission would be involved. She announced the next Parks and Recreation meeting would be held on January 15, 2015.

8. ADJOURNMENT

There being no further business before the Commission, stand adjourned at 8:21 P.M. to January 15, 2014 in Council Chambers.

Respectfully Submitted,
Kitty Eiden

**STAFF REPORT TO THE PARKS AND RECREATION COMMISSION
FOR CONSIDERATION AT THE MEETING OF NOVEMBER 20, 2014**

Prepared by: Lonnie Karste, Project Manager, Karste Consulting Inc.
Reviewed by: Nancy Kaiser, Parks and Recreation Director
Date: November 5, 2014
Subject: Review and Recommend to the Antioch City Council Final Phase Development Project(s) to Consider for Prewett Community Park.

RECOMMENDATION

- 1) To review and discuss potential project(s) for the Prewett Community Park based upon the information and feedback developed by Community Stakeholder Interviews and Community Focus Groups, and the Park Master Plan.
- 2) To recommend to the Antioch City Council a list of project priorities to consider for development at the Prewett Community Park.

Background

The Antioch City Council entered into an agreement with Karste Consulting Inc. to begin the development process for the final project phase of the Prewett Community Park in September of 2014.

The Prewett Community Park is a 100 acre community amenity located on Deer Valley Road and Lone Tree Way. This park was master planned in 1988/89. The original park funding allocation was \$50 million dollars, and development is funded through the CFD 89-1 (Mello Roos). The balance of the remaining project funding is approximately \$2.0 million dollars. This fund collection ceases in the 2015/16 tax year with the final pay off set for August 2016. This park site currently hosts the Antioch Community Center and the Antioch Water Park, Amphitheater, Grand Plaza, Nature Area and Skateboard Park. All of these facilities are operated by the City of Antioch's recreation department.

As part of the project design review and development process Karste Consulting Inc. reviewed the original master plan elements (Attachment A), completed fourteen key stakeholder interviews, and hosted three community focus group meetings. Meeting participants were actively engaged in conversation and provided valuable input towards final projects that may be added to the current developed area.

The original master plan elements were presented to all meeting participants for their feedback and comment. The community input process also invited group discussion about the opportunity for alternative projects. The ideas and suggestions resulting from the community meetings are included in Attachment B.

Discussion

The discussion during the community meetings focused on creating new opportunities for the community and/or water park, as well as enhancing the current features. There were no constraints or criteria included in the conversations. Final development considerations for the new amenities, added into the final phase, will likely match several criteria such as the topography of the selected location, the final cost, long term maintenance and more. Staff recommends that future discussion and consideration for new development includes criteria that will ensure the community receives new park features at the highest value possible. Common criteria used in development projects are included here.

Suggested criteria:

1. Security of the asset.
2. Sustainable maintenance practices.
3. Additional cost of maintenance to any new asset developed.
4. Revenue enhancement for this facility and the city's Parks and Recreation Department.
5. Investment in current assets as oppose to the development of new assets.
6. Legislation – ADA changes, risk management analysis and audits.
7. Additional program vitality / development.

In addition to creating a list of new and exciting features for the park, the meeting participants worked collectively to identify the top five recommendations for consideration. The consolidated priorities are included in this report, along with other considerations that earned mention.

Teens

- Priorities:
 - Café- coffee
 - Recording studio
 - Outdoor lighted basketball courts
 - Multi- use athletic field with a track
 - Enlarged Library space
- Other considerations:
 - Security cameras
 - Marquee signage
 - Miniature golf course
 - Information Kiosk

Pre-School Parents

- Priorities:
 - Open access water spray park
 - Lazy river/ wave pool
 - Shade at the skate park
 - All access/ abilities playground
 - Security cameras

- Other considerations
 - Solar panels. on shade structures in the water park
 - Bleachers lap pool
 - Waterslide for older children

General Community Group

- Priorities:
 - Splash park –outside of the water park
 - Wave rider – older kids
 - Enclose Skate park, water park, add shade and picnic areas
 - All abilities playground
 - Futsal courts
 - Disc golf
 - All abilities water splash area /Tad pool
 - Group picnic areas , shade , BBQ area (outside of the water park)
- Other considerations
 - Indoor coffee / café- ACC

Key Stakeholder Interviews

- City Council / P&R Commission
 - All abilities Splash park
 - Group picnic areas ,shaded , BBQ's
 - Security cameras
 - Energy efficiency – solar
 - Shade areas in the water park
 - Park technology – Informational Kiosks
 - Disc golf
 - Marquee Signage
 - Outdoor sport courts – lighted
 - All abilities playground
 - Larger waterslides, Wave rider – older children priorities

Summary of Recreation Staff Input

- Community center Storage
- Performing Arts space
- Marquee Signage
- Security –fences , cameras
- Revenue improving producing amenity-all abilities Splash park, Shade, Bleachers
- Risk management – Tad pool repairs

Findings:

There are several key themes that emerged from the community meetings and discussion. The commonality results from a high desire to improve the quality of life for youth, teens and families. Participants expressed pride in Prewett Community Park and would like to see all residents enjoy the benefits of healthy play. The primary themes include:

1. A need for a new amenity in the water park to enhance revenue,

2. Enhancing programs and facilities for older children,
3. Access to facilities that have no fee for use, but could provide a community benefit,
4. Enhancing existing facilities for community use, and
5. Security and safety.

The input provided by the meeting participants is also valuable feedback for developing new programs and services for youth, teens and families. Staff has the capacity to create the experiences and social interaction that was expressed by residents. The current amenities in the Water Park and community center can support innovative and flexible uses throughout the year.

The Antioch Water Park is a premier asset for the community. It provides health and fitness opportunities, quality family gatherings, and active recreation for teens. The park is also the primary youth employment opportunity in the community and develops future leaders and employees. New features added to the community park and/or the water park should represent a sustainable investment at a fair value. Based upon community input and the criteria for development, the improvements that best meet these needs are likely to be:

- Children's playground (all access)
- Group picnic/use additions
- Information kiosk/technology
- Outside sport court (basketball, handball, etc., lighted)
- Security enhancements
- Shade structures inside water park (large, group accommodation)
- Splash features for 0-3 age group
- Zero depth entry/all abilities pool and play features inside water park

Recommendation

- 1) To review and discuss potential project(s) for the Prewett Community Park based upon the information and feedback developed by Community Stakeholder Interviews and Community Focus Groups, and the Park Master Plan.
- 2) To recommend to the Antioch City Council a list of project priorities to consider for development at the Prewett Community Park.

Attachments

Attachment A – Original Master Plan Elements

Attachment B – Community project suggestions

Prewett Community Park Preliminary and Proposed Project Cost Estimates
(For planning purposes only)

1. Shade structures – inside the water park and around the skate park	\$100,000
2. All access playground	\$160,000
3. Lighted sport courts	\$90,000
4. Security cameras	\$140,000
5. Group picnic areas/ shade	\$300,000
6. Facility storage	\$30,000
7. Informational kiosk	\$50,000
8. All Abilities Zero Depth Pool Play Area	\$600,000
Subtotal	\$1,470,000
Design costs/Project mgmt. costs	\$360,000
Construction contingency 8%	\$117,600
CIP staff/permits	\$60,000
Environmental (TBD)	\$80,000
Estimated project total	\$2,087,600
Project funds available	\$2,038,000
Project shortfall	(\$47,000)

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF December 16, 2014**

Prepared by: Lizeht Zepeda, Economic Development Program Manager 
Approved by: Steve Duran, City Manager
Date: December 16, 2013
Subject: Two Partial-Term Appointments for Two Vacancies on the Economic Development Commission (EDC)

RECOMMENDATION

It is recommended that the City Council receives and files the attached applications, and the Mayor appoint and Council approve the appointment of two Economic Development Commissioners.

BACKGROUND INFORMATION

Two Partial-term vacancies exist that expire in June 2017. There were four applicants for the two vacancies. Mayor Harper interviewed the applicants on Thursday October 30th, 2014. The four applicants are as follows:

- Titi Ikhile
- Loretta Sweatt
- Ken Turnage
- Warren Ritter

FINANCIAL IMPACT

None.

OPTIONS

- Appoint one or two applicants.
- Do not appoint applicants to both vacancies and request that staff re-advertise the vacancies.

ATTACHMENTS

A: Candidate's Applications



RECEIVED

OCT 16 2014

CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, October 16, 2014

ECONOMIC DEVELOPMENT COMMISSION - Commissioner

Two (2) Partial-Term Vacancies (Expires June 2017)

Print Your Name Titi Ikhile
 Address [REDACTED] City Antioch
 ZIP Code 94509 Phone (H) [REDACTED] (W) [REDACTED] (C) [REDACTED]
 E-Mail Address [REDACTED]
 Employer Self-employed (Four Sight)
 Address [REDACTED] City Antioch
 Occupation Business Coach / SBDC Advisor
 Years lived in the City of Antioch ~~0~~ 15yrs

List the three (3) main reasons for your interest in this Appointment:

- I went to Antioch High and remember memories here and I want my children to also be able to enjoy a safe community
- I live and do business in this community and want to be ^{the chair} part of
- I have ^{development field} work experience in small business finance, consulting and economic

Have you attended any meetings of this commission? No

Have you had any previous City community service on this commission? (If yes, please explain) No

What skills/knowledge do you have that would be helpful in serving on the commission for which you are applying? I have a Business degree from USC, I am a ^{certified} Economic Development Finance Professional. I am a business coach, I am a former banker. I work with small businesses in Contra Costa County.

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application:

I am passionate about small business growth and I've focused my career on building relationships within Contra Costa County. I worked at Citibank and JPMorgan Chase in Antioch. I went to Antioch High, and moved back after college, had my 2 kids and started my consulting business here. I have also worked at with Business Dev. Center, in West County where I was involved in mobilizing business community through various collaborations. (San Pablo, Richmond, Rodeo, (rocket)). I understand the impact that businesses have on economic development on a practical and theoretical level. Please read the attached general information regarding boards and commission so you are aware of the duties, time and frequency of meetings. Can you attend meetings for this commission at the designated times? Yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

Please note that this completed application is available for public review.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment.

Deliver or mail to: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007


Signature

10/16/14
Date

Titi Ikhile

EXPERIENCE

SBDC –Pleasant Hill CA

Jan'13 - Current

(Contract) Small Business Advisor

- Coach startup & established businesses on business growth strategies
- Develop curriculum for training and presentations
- Develop and use Assessment tools to determine health of business
- Provide training and advice to small businesses

BUSINESS DEVELOPMENT CENTER (WCCBDC) – Richmond CA

Aug '12 - Current

(Contract) Project Manager- Contra Costa CAN!

- Create and execute a marketing plan to promote alternate lending opportunities for Contra Costa County businesses
- Market alternate lending opportunities to small businesses in Contra Costa County especially East & West
- Build strategic relationships to expand referral network
- Act as a liaison between the referral network, lenders, clients and the BDC
- Screen potential borrowers in the food manufacturing industry
- Create loan packages for prequalified businesses
- Attend & Plan networking & seminar events

4SIGHT Consulting– Antioch, CA

Owner

Sept '11- Current

- Prepare and Implement business and marketing plans for small businesses
- Coach startup & established businesses on business growth strategies
- Develop curriculum for training and presentations
- Develop and use Assessment tools to determine health of business
- Prepare loan packages
- Conduct all marketing activities
- Maintain bookkeeping records

CHASE- Antioch, CA

Asst. VP- Business Banking Manager

Aug '10-Sept '11

- Acquired, Deepened and Retained Business Relationships
- Followed up on all business accounts to ensure we have captured the full opportunity
- Coached and mentored the entire branch team to uncover sales opportunities
- Handled or oversaw all business credit applications.
- Drove Branch P&L Growth- Worked with the branch's existing book of business customers to increase branch balance and revenue growth.

CITIBANK- Walnut Creek, CA

Business Banking Officer

Jan '07- Aug'10

- Provided excellent customer service and solutions to businesses by managing expectations
- Developed strategic partnership with key stakeholders that improved visibility for the bank
- Managed the business client portfolio for the largest branch in Contra Costa County
- Analyzed financial statements and data and provided recommendations to business clients
- Increased branch deposits by 20% in 1st quarter 2010
- Coached other branch staff on identifying sales opportunities with walk-in clients
- Engaged in outbound sales activities and cold calling to increase sales

WEST CONTRA COSTA BUSINESS DEVELOPMENT CENTER (WCCBDC) – Richmond CA

Business Specialist

Mar '05 – Jan '07

- Provided strategic planning and advisory services to businesses in diverse industries
- Directed the Public Relations and Marketing efforts on behalf of the organization
- Structured and negotiated public and private financing for several businesses
- Developed and implemented business and marketing plans for small businesses
- Managed and Administered City government's business loan funds.
- Launched curriculum and facilitated restaurant startup course at Contra Costa College

EDUCATION

B.S Degree – Business Administration (Emphasis: Finance & Entrepreneurship)

2003

University of Southern California, Los Angeles CA

NDC Certified Economic Development Finance Professional

2007

Masters Certificate – Business Analysis

2010

Titi Ikhile



Villanova University, Villanova PA

NETWORKS & LEADERSHIP

Antioch Chamber Member

Current

Business Network International Member (Former President)

Current

Contra Costa CANI- Project Manager

Current



RECEIVED

SEP 29 2014

CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, October 16, 2014

ECONOMIC DEVELOPMENT COMMISSION - Commissioner

Two (2) Partial-Term Vacancies (Expires June 2017)

Print Your Name Loretta Sweatt

Address [REDACTED]

City Antioch

ZIP Code 94509 Phone (H) _____ (W) _____ (C) [REDACTED]

E-Mail Address [REDACTED]

Employer n/a

Address _____ City _____

Occupation Accounting/Real Estate/Property Management/Banking

Years lived in the City of Antioch 2

List the three (3) main reasons for your interest in this Appointment:

I feel I can contribute to the good and well-being of Antioch and its citizens.

I have 20+ yrs. Accounting, Real Estate, Banking, Property Management Background.

I feel I would be a part of Antioch in a meaningful way in this position.

Have you attended any meetings of this commission? Not yet

Have you had any previous City community service on this commission? (If yes, please explain) no

What skills/knowledge do you have that would be helpful in serving on the commission for which you are applying? I have real estate, single family home construction, rental/commercial property management, banking and Accounting Management.

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application:

I would like to be of service and make myself useful to the community with time that I have available where my skills, education, background and experience would be of value and useful.

Please read the attached general information regarding boards and commission so you are aware of the duties, time and frequency of meetings. Can you attend meetings for this commission at the designated times? Yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

Please note that this completed application is available for public review.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment.

Deliver or mail to: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007



Signature



Date

- The EDC's function is to address economic development issues within the City and make recommendations to the City Council and staff regarding policies, regulations, marketing, development strategies and planning activities designed to enhance the City's economic base and create quality jobs.
- 7 members; 4-year terms.
- At least five members shall be Antioch residents/electors. Non-resident members shall own or operate a business in the city.
- Regular meetings are held at 6:00 p.m. in the Council Chamber on the first Tuesday in the months of February, April, June, October and December, the third Tuesday in July, and on the first Tuesday on an as-needed basis only during the months of March, May and November. No meetings are held during January or August.
- Members of the Economic Development Commission are required to file an annual *Statement of Economic Interest* (FPPC Form 700).

LORETTA SWEATT

PROGRAMS

Windows 8, Quick Books Pro 2011, Peachtree 2010, Yardi Genesis, Excel, Word 2010, Surface Tablet and Apps, Filemaker 2012
ADP, Paychex, Verizon Field Force Manager

EDUCATION

BA: Liberal Arts, Holy Names College,
Diablo Valley College, Accounting & Business Administration
Former Realtor, Current Notary Public

BACKGROUND

Real Estate, Property Management, Hotels
20 years' experience

EMPLOYMENT

- 2010-2012 East Bay Sotheby's International Realty, Inc. Montclair Village, Oakland

Accounting Manager, Exempt Position

All Accounting, Escrows, Payroll, HR, Year End CPA Prep, Audits

Supervisor: Mark Attarha, Owner/Managing Broker (510) 339-4004
- 2005-2009 Total Property Solutions, Pleasant Hill, CA.

Accounting Manager, Exempt Position
- \$40 Million Trust held Real Estate
 - 5 sets of books and bank accounts
 - 54 properties/300 units-Homes, Apts., Offices
 - Oversee all Accounting Functions & Staff
 - Produce All Financial Statements & Year End
 - Produce Owner's Property Monthly Rental Reports

- Produce Management Fees
- Job Costing & Billing Payroll to Properties
- Supervise and Train Accounts Receivable/Accounts Payable
- Manage Cash Flow-Forecast & Disbursements
- Reconcile Bank Accounts
- Process 35-Employee Payroll
- Review & Post Payroll Taxes & Reports
- Interface and Support Legal & CPA Firms
- Build and Update Chart of Accounts
- Train on new Office Systems & Software
- Advise on Company Business & Financial Endeavors

Supervisor: Hunter Miley, Owner (925) 933-1400

Prior Supervisor: Todd Lockwood, Owner (925) 945-1293

1995—2000

- Various Part Time/Temp/Contract/Free Lance Employment:

2004—2005

- Environmental Realty Company, Martinez

2000—2004

- Various Part Time/Temp/Contract/Free Lance Employment

2000—2000

- Safeway, Pleasanton, Special Contract Project

1999—2000

- Valley Construction, Temp Full Time, Walnut Creek

1998—1999

- Intercontinental Services, Martinez

1997—1998

- David Deutscher Real Estate Arena, Pleasant Hill

1995—1996

- Marriott Hotel, Berkeley Marina



RECEIVED

OCT 16 2014

CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, October 16, 2014

ECONOMIC DEVELOPMENT COMMISSION - Commissioner

Two (2) Partial-Term Vacancies (Expires June 2017)

Print Your Name Ken Tinsley II

Address [REDACTED]

City ANTIOCH

ZIP Code 94509 Phone (H) [REDACTED] (W) [REDACTED] (C) [REDACTED]

E-Mail Address [REDACTED]

Employer K26C

Address [REDACTED]

City ANTIOCH

Occupation CONTRACTOR

Years lived in the City of Antioch 3.2

List the three (3) main reasons for your interest in this Appointment:

1. I know I can help due to my business background
2. I am finally old enough and established enough to have the time to commit to a position
3. It is time to give back to the community I grew up in

Have you attended any meetings of this commission? Yes

Have you had any previous City community service on this commission? (if yes, please explain) no

What skills/knowledge do you have that would be helpful in serving on the commission for which you are applying? I have a business background to which I was able to grow a construction company during the worst economic downturn of our lifetime

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application:

Even though I did move away from Antioch for a period of time, I ONLY SLEPT in other cities. I have always been and will ALWAYS be an Antioch resident

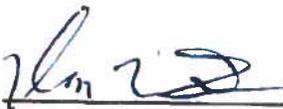
Please read the attached general information regarding boards and commission so you are aware of the duties, time and frequency of meetings. Can you attend meetings for this commission at the designated times? yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

Please note that this completed application is available for public review.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment.

Deliver or mail to: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007



Signature

10-16-14

Date

Kenneth R. Turnage II



Professional Experience

President

May 2005

K2GC — Antioch, CA

President of K2GC, a general contracting company specializing in home remodels and insurance home repairs.

HVAC Sales

August 2004 to May 2005

Premier Heat & Air

Sold heating and air conditioning units.

Company Manager

June 1999 to August 2004

Turnage Construction

Job Superintendent/Estimator

October 1994 to June 1999

Turnage Construction

Scheduled jobs

Calculated the price of time, labor and materials for a specific job to put together an estimates for new projects.

Job Foreman

September 1990 to October 1994

Turnage Construction

Supervised at construction sites.

Carpenter

June 1984 to September 1990

Turnage Construction

Started as a carpenter working on residential homes.

Skill Highlights

- Analytical skills and the ability to make quick decisions.
- Organizational Skills: handles details, coordinates tasks, punctual, manages projects effectively, meets deadlines, keeps control over budget.
- Set Goals: Set goals for yourself to achieve and put into action to achieve them.
- Precise: Make sure that things are done accurately and correctly.
- Management Skills: leads groups, teaches/trains /instructs, counsels/coaches, manages conflict, delegates responsibility, makes decisions, directs others, implements decisions, and enforces policies.
- Resourceful: Think of new, creative, and different ways to do things when there are no obvious solutions available.

Core Accomplishments

K2GC:

Earned a contractors License in 2000

Prime Buyers Report top rated contractor

Diamond Certified

Nominated Best of the Bay

Contributed to 14 episodes of Curb Appeal and Power Broker on HDTV



RECEIVED

SEP 18 2014

CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, September 18, 2014

ECONOMIC DEVELOPMENT COMMISSION - Commissioner

Two (2) Partial-Term Vacancies (Expires June 2017)

Print Your Name Warren Ritter
 Address [REDACTED] City Antioch
 ZIP Code 94531 Phone (H) [REDACTED] (W) [REDACTED] (C) [REDACTED]
 E-Mail Address [REDACTED]
 Employer None
 Address _____ City _____
 Occupation Law School Graduate, May 2014
 Years lived in the City of Antioch 5 months

List the three (3) main reasons for your interest in this Appointment:

- 1) I have family that live in Antioch
- 2) I see Antioch's potential
- 3) I would like to utilize my skills for the betterment of my community.

Have you attended any meetings of this commission? No

Have you had any previous City community service on this commission? (If yes, please explain) No

What skills/knowledge do you have that would be helpful in serving on the commission for which you are applying? I have extensive experience in community economic development at the City University of New York - engaging businesses, applying for grants, proposing General Plan amendments and requesting variances.

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application:

My Francé was born and raised in Antioch. Before moving back, she would speak of Antioch as a place in need of economic development. Since May of this year I have seen exactly what my Francé described, a need for identity, rebranding and significant infrastructural development

I would like to help Antioch reach these goals and build a better future for ourselves and the other residents of Antioch.

Please read the attached general information regarding boards and commission so you are aware of the duties, time and frequency of meetings. Can you attend meetings for this commission at the designated times? yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

Please note that this completed application is available for public review.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment.

Deliver or mail to: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007



Signature

9-18-14

Date

WARREN D. RITTER

EDUCATION:

City University of New York J.D. *May 2014*
Publications: *The Community Land Trust Tax Credit: A Sustainable Model for Affordable Housing Development* (Publication Pending, City University of New York School of Law)

Awards: Securities and Finance Law Certification, ASAFE/NYC Bar Association *April 2014*

John Jay College of Criminal Justice- B.A., International Relations *May 2006*

EXPERIENCE:

The Parodneck Foundation/CATCH, New York, NY
Student Attorney, Community Assisted Tenant Controlled Housing *September 2013-April 2014*
Drafted limited partnership agreement for the repositioning of Low-Income Housing Tax Credit properties. Analyzed monthly management reports to generate financial projections. Monitored project compliance with partnership agreements and HUD regulations including HOME, HOPE VI, and New Market Tax Credits. Generated pro forma analysis, feasibility studies and presented project recommendations.

Almazan and Associates, New York, NY
Real Estate Transaction Intern *June 2013-September 2013*
Drafted and reviewed closing documents, performed due diligence, ordered and obtained title searches, established escrow accounts, arranged closing dates, arranged property inspections and drafted listing agreements according to state and federal law.

New York City Community Land Initiative, New York, NY
Governance Committee *June 2013-January 2014*
Drafted incorporation documents, by-laws, conflict of interest policy. Drafted ground and proprietary lease agreements. Prepared and delivered feasibility study to Board of Directors.

California Rural Legal Assistance, Santa Cruz, CA
Paralegal *February 2007-October 2010*
Provided legal assistance to low-income families with a focus on landlord/tenant law. Performed client interviews, legal research, screened cases for potential representation, negotiated and drafted settlements, drafted complaints to the Department of Fair Employment and Housing.

PROFESSIONAL TRAINING:

Joint Venturing on Year-15 Restructuring Projects, Enterprise Comm. Partners, *February 2014*
Advanced Housing Law Training, Neighbor Works America *December 2013*
ABA Forum on Affordable Housing and Community Development Law *May 2013*
Annual New Market Tax Credit Summit, Cohn Reznick *April 2013*

SKILLS: Conversant in American Sign Language and Spanish

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

Prepared by: Tina Wehrmeister, Community Development Director *TW*

Date: December 11, 2014

Subject: Planning Commission Appointment

RECOMMENDATION

It is recommended that the City Council receive and file the attached applications and the Mayor nominate and Council appoint one member to the Planning Commission.

BACKGROUND INFORMATION

The Planning Commission has one partial term vacancy with an expiration date of October 2017. Five applications were received during the recruitment period ending October 16, 2014. The five applicants were interviewed by Mayor Harper, Krystal Hinojosa, Planning Commission Chair and Senior Planner Mindy Gentry.

The applicants are as follows:

Nedrea Arias
Charlotte Dangerfield
Loretta Sweatt
Ken Turnage
Janet Zacharatos

There is currently an open recruitment for another Planning Commission position recently vacated. Under the Maddy Act, applicants listed above who are not selected must reapply for the position currently being recruited if they remain interested in serving on the Commission. All interested residents are encouraged to apply.

FINANCIAL IMPACT

There is no financial impact to the City as all positions are voluntary.

STRATEGIC PURPOSE

Long Term Goal L: City Administration: Provide exemplary City administration.

Strategy L-7: Coordinate City Boards and Commissions administrative requirements.

OPTIONS

If Council desires, staff can continue advertisement for additional applicants.

ATTACHMENTS

A. Applications



RECEIVED

OCT 16 2014

CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, October 16, 2014

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name Ken Turnage #

Address _____ City ANTIOCH

ZIP Code 94509 Phone (H) _____ (W) _____ (C) _____

E-mail address _____

Employer K2 LC

Address 329 E. 18TH ST, City ANTIOCH

Occupation CONTRACTOR

Years lived in the City of Antioch 32

List the three (3) main reasons for your interest in this appointment:

I would like to be involved with the development of our city

I have a vast knowledge of construction from all eras

I am a great problem solver when it comes to renovation

Have you attended any meeting of this commission? YES

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) NO

What skills/knowledge do you have that would be helpful in serving on the Planning Commission?

I understand and know how older buildings are built as well as all forms of new construction commercial & residential. I have dealt with many planning departments/commissions in the past so I have seen their strengths & weakness so I feel I can bring some of my experience to the table

A1

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

I send some of my Fire Time Research Reports which are used by other cities as well as counties. I have extensive knowledge in our city and how each subdivision was constructed due to repairing so many houses and buildings in Antioch

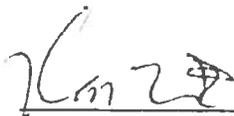
Can you attend meetings at the designated days and time? Yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

PLEASE NOTE THIS COMPLETED APPLICATION IS AVAILABLE FOR PUBLIC REVIEW.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment and commission members are required to file a "assuming office" and annual FPPC Form 700 (Statement of Economic Interests) with the City Clerk.

DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007



Signature

10-18-14

Date

AZ

Kenneth R. Turnage II

Professional Experience

President

May 2005

K2GC — Antioch, CA

President of K2GC, a general contracting company specializing in home remodels and insurance home repairs.

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August 2004 to May 2005

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Job Superintendent/Estimator

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- Resourceful: Think of new, creative, and different ways to do things when there are no obvious solutions available.

Core Accomplishments

K2GC:

Earned a contractors License in 2000

Prime Buyers Report top rated contractor

Diamond Certified

Nominated Best of the Bay

Contributed to 14 episodes of Curb Appeal and Power Broker on HDTV

AB



RECEIVED

SEP 29 2014

CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, October 16, 2014

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name Loretta Sweatt

Address _____

City Antioch

ZIP Code 94509 Phone (H) (W) (C) _____

E-mail address _____

Employer n/a

Address _____ City _____

Occupation Accounting and Real Estate

Years lived in the City of Antioch 2

List the three (3) main reasons for your interest in this appointment:

I feel I can contribute to the good and well-being of Antioch and its citizens.

I have 20 years Accounting, Real Estate, Banking, Property Management Experience.

I feel I would be a part of Antioch in a meaningful way in this position.

Have you attended any meeting of this commission? not yet

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) no

What skills/knowledge do you have that would be helpful in serving on the Planning Commission? I have real estate, single family home construction, rental/commercial property management, banking and Accounting Management

A4

DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007



Signature



Date

Rev: 5/15/2014

- The Commissioners makes decisions and recommendations to the City Council on land use, zoning and General Plan issues.
- Must be an elector of the City of Antioch and continuously reside within the city during their tenure in office.
- Meetings are held the first and third Wednesday of each month at 6:30 p.m.
- 7 member board – 4 year terms.
- Members of the Planning Commission are subject to The Brown Act
- Commissioners are required to submit a FPPC Form 700 (Statement of Economic Interests) upon assuming office, and every year thereafter no later than April 1st.
- Newly appointed Commissioners are also required to complete the AB 1234 Ethics training within 1-year of their appointment. All Commissioners must then take the AB 1234 Ethics training every two years thereafter. The Ethics training is available online.

LORETTA SWEATT

PROGRAMS

Windows 8, Quick Books Pro 2011, Peachtree 2010, Yardi Genesis, Excel, Word 2010, Surface Tablet and Apps, Filemaker 2012
ADP, Paychex, Verizon Field Force Manager

EDUCATION

BA: Liberal Arts, Holy Names College,
Diablo Valley College, Accounting & Business Administration
Former Realtor, Current Notary Public

BACKGROUND

Real Estate, Property Management, Hotels
20 years' experience

EMPLOYMENT

2010-2012	East Bay Sotheby's International Realty, Inc. Montclair Village, Oakland Accounting Manager, Exempt Position All Accounting, Escrows, Payroll, HR, Year End CPA Prep, Audits Supervisor: Mark Attarha, Owner/Managing Broker (510) 339-4004
2005-2009	Total Property Solutions, Pleasant Hill, CA. Accounting Manager, Exempt Position - \$40 Million Trust held Real Estate - 5 sets of books and bank accounts - 54 properties/300 units-Homes, Apts., Offices - Oversee all Accounting Functions & Staff - Produce All Financial Statements & Year End - Produce Owner's Property Monthly Rental Reports

- Produce Management Fees
 - Job Costing & Billing Payroll to Properties
 - Supervise and Train Accounts Receivable/Accounts Payable
 - Manage Cash Flow-Forecast & Disbursements
 - Reconcile Bank Accounts
 - Process 35-Employee Payroll
 - Review & Post Payroll Taxes & Reports
 - Interface and Support Legal & CPA Firms
 - Build and Update Chart of Accounts
 - Train on new Office Systems & Software
 - Advise on Company Business & Financial Endeavors
- Supervisor: Hunter Miley, Owner (925) 933-1400
- Prior Supervisor: Todd Lockwood, Owner (925) 945-1293

- 1995—2000 - Various Part Time/Temp/Contract/Free Lance Employment:
- 2004—2005 - Environmental Realty Company, Martinez
- 2000—2004 - Various Part Time/Temp/Contract/Free Lance Employment
- 2000—2000 - Safeway, Pleasanton, Special Contract Project
- 1999—2000 - Valley Construction, Temp Full Time, Walnut Creek
- 1998—1999 - Intercontinental Services, Martinez
- 1997—1998 - David Deutscher Real Estate Arena, Pleasant Hill
- 1995—1996 - Marriott Hotel, Berkeley Marina



RECEIVED
OCT 16 2014
CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, October 16, 2014

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name NEDREA ARIAS

Address _____ City ANTIOCH

ZIP Code 94509 Phone (H) NONE (W) _____ (C) _____

E-mail address _____

Employer SELF

Address _____ City ANTIOCH

Occupation BUSINESS OWNER

Years lived in the City of Antioch 7 YEARS 8 MONTHS

List the three (3) main reasons for your interest in this appointment:

1. THE CITY OF ANTIOCH HAS THE POTENTIAL OF BEING SUCH A GREAT 'DESTINATION CITY'; I WANT TO BE A PART OF THAT PROCESS.

2. AS AN ENTREPRENEUR AND CIVIC MINDED CITIZEN AFFECTING POSITIVE CHANGE IS IMPORTANT TO ME

Have you attended any meeting of this commission? YES 3x SEE BELOW

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) SORT OF; I HAVE BEEN A POLL WORKER SINCE ARRIVING IN ANTIOCH; NOW AN INSPECTOR FOR LAST THREE ELECTIONS.

What skills/knowledge do you have that would be helpful in serving on the Planning Commission? I AM LITERALLY, A PLANNER. I OWN TWO RELEVANT BUSINESSES: 1. PROFESSIONAL ORGANIZER AND 2. REAL ESTATE INVESTOR COMPANIES.

3. FROM SEVENTH GRADE THROUGH COLLEGE AND THROUGHOUT MY LIFE A9

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

I AM COMMITTED TO THE REVITALIZATION OF ANTIOCH.
I BELIEVE THAT A CITY WITH HER HISTORY SHOULD SHINE FAR BRIGHTER, AND ENCOURAGE ITS CITIZENS TO PARTICIPATE WITH PRIDE.

Can you attend meetings at the designated days and time? YES.

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

PLEASE NOTE THIS COMPLETED APPLICATION IS AVAILABLE FOR PUBLIC REVIEW.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment and commission members are required to file a "assuming office" and annual FPPC Form 700 (Statement of Economic Interests) with the City Clerk.

DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007

Thank you,
Natalie Avias

Signature

2014 OCTOBER 9.

Date

NEDREA (KNEE.DREE.AH!) ARIAS

Antioch CA 94509 7015
USA

Profile

"Entrepreneurship is a positive for the economy." My quote. Seventeen years experience managing processes while encouraging the spirit of business creation and greater competition among innovators. Founded four companies and co-founded three others by utilizing: a persist and insist approach, grant writing capability, project management, an awareness of the power of giving back, and the value of certainty of purpose.

Experience

Real Estate Investor, Hillside Street Investors Group, San Francisco, CA - 2011
PRESENT

Founder, member of a women-owned investors group that make joint investment decisions specific to real estate with focus on rehab and restoration of real and commercial property, and the purchase of stocks. Establishing our LLC.

Life Coach, The Empowerment Coach, San Diego, CA - 2013
PRESENT

Certified Life Coach with earned skill set to assist: hoarders in beginning again, career transitions; strong focus on women in or returning to business, and effective home or office organization for individuals, small businesses and corporations.

Editor in Chief, Eat.Drink.Live.Give LLC, Alameda, CA - 2008-2013

Built the brand and held the post as Editor in Chief of this online foodie magazine. Coined our slogan "Eat.Drink.Live.Give" with its emphasis on giving back 5% of proceeds to the non profit The World Food Bank.

Management Consultant, NEXUS INC, Berkeley, CA - 2003-2005

A management consulting firm specialized in obtaining public and private grants for non profit organizations and qualified *for profit* clientele. An 81% success rate. At request of repeat clients or a compelling non profit project continue to write proposals, executive summaries and business plans.

Executive management with BofA and other leadership positions since 1996.

Education

University of California, Berkeley, CA - 1991-1994

University of California, Berkeley, CA - 1991-1994



RECEIVED
JUN 12 2014
CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, June 12, 2014

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (4-year term)

Print Your Name Charlotte M. Dangerfield

Address _____ City Antioch

ZIP Code 94509 Phone (H) _____ (W) _____ C/L _____

E-mail address _____

Employer Bay Area Rapid Transit

Address 300 Lakeside Dr. City Oakland

Occupation Station Agent

Years lived in the City of Antioch 6 years

List the three (3) main reasons for your interest in this appointment: I am a current resident and intend to retire in Antioch. Insuring that health hazards and risks are minimal is a personal priority. Participation on the Planning Commission will provide an avenue to assist in this regard. 2) I enjoyed taking Urban Planning course work in college and would relish the opportunity to assist in future planning efforts to insure residents, visitors, and merchants can enjoy current events, preserve history and maintain the peaceful atmosphere we are accustomed to in Antioch. 3) I find the possibility of contributing to the City's growth and development in this way fascinating. I believe strongly in volunteerism and would appreciate the opportunity to be involved at this level.

Have you attended any meeting of this commission? NO

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) No

What skills/knowledge do you have that would be helpful in serving on the Planning Commission? I have good verbal and written communication skills. I recently completed a Transit and Paratransit Management Certificate Program offered at University of Pacific in Stockton. I'm a team player - able to lead as well as take direction. On a professional level, I work with diverse groups daily. I believe that I possess superior decision-making ability. As a service employee in the Transportation industry, I regularly perform well under pressure and am solution-oriented.

A12

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

I have always been actively involved in my community having raised 4 children in the City of Hercules and in Vallejo. I was a girl scout leader for several years and regularly volunteered in the schools my children attended. I served on the Board of Directors of the performing arts organization, San Francisco Bay Revels. I have an entrepreneurial spirit having owned several businesses over the years. I enjoyed several years as a Family Daycare Provider and also managed my children's careers in the Entertainment industry. I am a Certified Debt Consultant assisting people to increase their FICO scores enabling them to make major purchases sooner rather than later. I teach and train adults regularly at my church in various areas - New Members, Sunday School, Praise Dance and Music Ministry.

Can you attend meetings at the designated days and time? yes

**Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).

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DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007

Charlotte M. Dangerfield
Signature

June 12, 2014
Date

CHARLOTTE DANGERFIELD

Objective

Dedicated, enthusiastic professional eager to offer proven customer service, administrative support, management skills and talents towards maximizing your success within a growth-oriented role.

Experience

2012 – present

BART

Oakland, Ca

- Temporary Station Agent Employee Development Specialist

Train new and current employees in the classroom and the field in all Station Agent duties and procedures. Train students on technical information, troubleshooting equipment and safety. Administer, grade and assess written and practical exams to students and complete all related paperwork.

1990 – present

BART

Oakland, Ca

- Station Agent

Assist patrons with navigating the BART system by providing information regarding fare structure, rules and regulations, schedules and safety precautions. Manage the Station Facilities ensuring that all hazards and unsafe conditions are rectified. Utilize a variety of communications equipment to inform the public of delays, transfers, etc.

2006-present

VrTech Inc.

Framingham MI

- Certified Debt Consultant

Offer credit and debt consultation to clients.
Conduct credit and home buyer seminars to the public.
Utilize computer to submit applications, maintain records, prepare correspondence, etc.

2000-present

Keys to Life, Inc.

Richmond, Ca

- Staff Supervisor

Conduct training classes and indoctrinate new members.
Perform a variety of administrative support duties, public speaking, supervise volunteers.

Education

1988 – AA Degree

Merritt College

Oakland, Ca



RECEIVED

SEP 18 2014

CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Thursday, September 18, 2014

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name Janet M. Zacharatos

Address _____ City Antioch

ZIP Code 94509 Phone (H) _____ (W) _____

E-mail address _____

Employer Wells Fargo Bank

Address 1220 Concord Ave City Concord

Occupation Project Manager

Years lived in the City of Antioch 35 years

List the three (3) main reasons for your interest in this appointment:

Many of the decisions made that influence the growth and future of Antioch are made by the Planning Commission. I have lived in Antioch for more than 35 years. I have many life and work experiences and I feel they will benefit this commission.

Have you attended any meeting of this commission? Yes

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) Economic Development Commission

What skills/knowledge do you have that would be helpful in serving on the Planning Commission? My Financial Institution background in Project Management, Marketing and Operations has many transferable skills that will benefit this commission. My current project manager responsibilities allow me to organize, prioritize, plan, communicate and manage all aspects of my current position. (see next section)

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

(continued from skills/knowledge section) I have excellent people skills that have allowed me to resolve conflicts and restore an atmosphere of collaboration and cooperation. My ability to quickly size up a situation has allowed me to find ways to compromise and create a win/win solution for all parties involved.

Can you attend meetings at the designated days and time? Yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT)**

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200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007

Junit M. [Signature]
Signature

9/17/14
Date

Antioch, CA. 94509

SUMMARY: This results-oriented, strategic thinking Project Management Professional is very experienced with all phases of the Project Management Life Cycle in Marketing, Operations, Payment Networks and Technology projects in the Financial Services Industry.

EDUCATION

- Bachelor of Science in Management, Golden Gate University, San Francisco, CA.

EXPERIENCE SUMMARY

- 15+ Years' experience in Project Management in numerous areas of the Financial Services Industry. Extensive experience leading project teams through the full project lifecycle from the Discovery Phase to Closeout including post installation system fixes and problem resolution. Large projects with budgets in excess of \$20MM include: ATM and Payment Network installations, new telephony platforms, large multiple departmental functional change implementations and reorganizations of existing processes; and various Compliance Projects.
- Very experienced with Wells Fargo Project Methodology, project lifecycle documentation and the development of business and technical requirements.
- Extensive experience with change management, developing and tracking project budgets and various metrics.
- 12+ Years' experience in Community Banking partnership as a Project Manager to implement large projects impacting stores and back shops. These projects benefitted areas such as: Deposit Products, Card Services and Consumer Lending, Home Mortgage and others.
- Strong relationship management, collaboration and negotiation skills with internal and external business partners.
- Strong leader, independently motivated self-starter and problem solver who takes the initiative to get things done. Very experienced working remotely as an individual contributor with minimal supervision.
- Extensive experience coordinating and facilitating large multi-departmental meetings with informative agendas, prompt follow-up on open issues and timely issue resolution.
- Detail oriented, multi-task individual who quickly adapts to competing business needs and goals.
- Excellent organizational and communication skills with a key focus on developing win/win solutions.
- Excellent presentation and interpersonal skills. Experience presenting to all levels of Senior Management.
- Advanced experience utilizing the Microsoft Office Suite including Excel, Word, PowerPoint, MS Project, Visio, Access and SharePoint.
- Available as needed for flexible work schedules and business travel.

LEGAL KNOWLEDGE	SOFTWARE KNOWLEDGE	SYSTEMS KNOWLEDGE
Federal Regulation B, CC, E, D, Z and UDAP.	Microsoft Office Suite	LDRPS 9 & 10
US Patriot Act/FACTA	Microsoft Project	Hogan, FDR
Bank Secrecy Act	Microsoft Certified in Access	New Vendor Management SOR
Anti-Money Laundering/CTRs/Structured Transactions	Microsoft Share Point 2007	PolicyWorks
Privacy Laws and Wells Fargo Privacy Options	Microsoft Visio	CRAS, RCSA, CICAT, STAMP, CREST

WELLS FARGO BANK

August 2013 to Present

Wholesale Banking**Business Project Manager**

Responsible for managing medium to large implementation and enhancement projects for the Global Remittance ExpressSend product. Managed large project teams that include team members from across the Enterprise in a matrix environment. Projects span a time period of six to 18 months and they involve sub teams and technology partners in many areas of specialization. All projects were managed within time, budget and scope.

- Project management process improvements included increased efficiency by utilizing SharePoint software to allow for improved communication and access to project documents.

WELLS FARGO BANK

April 2013 to August 2013

Enterprise Marketing**Contractor, Project Manager**

Responsible for leading a team tasked with creating an Enterprise Telemarketing Campaign Practices Policy. Created and collaborated with Senior Management to create and implement a policy that reflects the telemarketing management practices throughout the enterprise and in accordance with guidelines imposed by Federal and State agencies.

- Convened the team and held the kickoff meeting within one week of starting the assignment.

BANK OF THE WEST

June 2012 to September 2012

Operational Risk Management**Contractor, Operational Risk Department**

Responsible for reviewing and evaluating Basel II RCSA documents for various business groups. These business initiatives encompassed key risks and controls at the business level. Created and collaborated on documents for various Operational Risk initiatives in preparation for presentation to Senior Management. Implemented a weekly meeting with the division Operational Risk Managers in order to provide timely business updates and increase the collaboration between the business groups. This was a 90 day assignment.

- Created Enterprise level RCSA business group assessments.
- Conducted New Account Activity Review at the Enterprise level.
- Consulted with the Dodd Frank Team on Regulation E deliverables.
- Established and lead weekly meetings with division Operational Risk Managers to provide training, support and a strategic approach for completing key deliverables.

WELLS FARGO BANK**Technology & Operations Group****Project Manager, Information Services**

February 2010 to August 2011

Responsible for supporting Operational Risk Projects and initiatives for the TOG Information Services ORM team. These projects include: Business Continuity Planning, Audit, Vendor Management, Policy Review Process and ongoing efficiency improvements and automation efforts with the goal of maximizing utilization of resources.

- Key contact for Information Services Business Continuity Plan Audit. Managed document gathering and submission process to the audit team. The audit was completed with no major findings.
- Led a project to create and implement process for importing BCP Plans from other RABUs. The process encompasses the areas of communication, quality assurance, ongoing business partnership and early pre-audit to identify any plan compliance concerns.
- Developed and implemented the new Policy Review Process for the TOG Information Services Team. Established and maintained a SharePoint website to improve automation of policy comments and questions. This automation has also increased team member collaboration and reduced the time spent on the policy review process by 20-25%.
- Business Continuity Plan contact for the TOG Information Services Team. Created 2011 BCP Oversight Process. This process was designed to support the Business Continuity Administrators to ensure all Exercise and Maintenance tasks occurred in accordance with BCP Policy.

Wells Fargo Card Services**Operational Risk Project Manager, Customer Marketing**

October 2004 to December 2009

Responsible for leading projects, managing Operational Risk functions and other compliance efforts including: Vendor Management, Risk Control Self Assessment (RCSA), Business Continuity Planning (BCP), Record Retention process, Liaison Manager between Legal, Compliance and Audit Management.

- Managed Operational Risk Subteam for Rewards Vendor Conversion and Wachovia Rewards vendor migration projects. Activities included: Initiating the new vendor into compliance with Wells Fargo's Information Security, Vendor Management, Business Continuity Planning and Security Code and CISE Reviews requirements.
- Managed Compliance and Internal WFB Audits and results were excellent with no major findings.
- Established a Corporate Governance website on Share Point to provide a central point of service for all Operational Risk deliverables and communications.
- Managed large critical vendor relationships and partnered with the vendor and business contacts to ensure all vendors met Wells Fargo's Operational Risk requirements.

Project Manager, Customer Marketing

September 2000 to September 2004

Responsible for managing several areas that include: Statement and Plastics Marketing, Implementation Team Projects (large projects that affect the line business groups), and acquisition credit card inbound and outbound telemarketing to support direct mail campaigns.

- Recruited mail shop and telemarketing vendors to reduce mail piece and account acquisition costs.
- Established an inbound call center in Las Vegas to support direct mail, reduced external costs by \$120K per year and increased sales for account features by 25%. This initiative saved 25 FTE positions.
- Managed Vendor Management, Information Security and Business Continuity Planning responsibilities for third party vendors and their dependent service providers.

PREVIOUSLY HELD POSITIONS:

- **Credit Card Collections Loss Control Manager**
- **Compliance Project Manager**—Projects involving Federal Regulatory Compliance, Annual 1099 statements and TEFRA B Notices.
- **Operations Manager**—Credit and Debit Card daily settlement and interchange fees for MasterCard and Visa, exception item processing and Federal Regulation E dispute resolution.

AWARDS AND RECOGNITION:

- Several Technology and Operations Group Shared Success Awards in 2010 and 2011.
- Card Services – Service Excellence Award Q1 2008/2009 and Q4 2009
- Card Services 2007 Heroes 100 Award for Leadership Excellence

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**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

Prepared by: Julie Haas-Wajdowicz, Environmental Resource Coordinator *JWH*
Reviewed by: Tina Wehrmeister, Community Development Director *TW*
Date: December 11, 2014
Subject: Property Assessed Clean Energy Programs (PACE) to Operate in Antioch Administered by California HERO Program, California Enterprise Development Authority (CEDA)/Figtree Financing, and CaliforniaFIRST

RECOMMENDATION

It is recommended that the City Council take the following actions in order to allow Antioch property owners to voluntarily participate in Property Assessed Clean Energy Programs (PACE):

California HERO program/Western Riverside Council of Governments:

1. Motion to adopt the resolution consenting to the inclusion of properties within the City's jurisdiction in the California HERO Program to finance distributed generation renewable energy sources, energy and water efficiency improvements and electric vehicle charging infrastructure and approving the amendment to certain joint powers agreement related thereto and authorizing the City Manager to execute the Amendment to the Joint Power Agreement adding City of Antioch as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of PACE program services contingent on appropriate City indemnity and compliance with City insurance requirements set forth in an indemnification agreement acceptable to the City Manager and City Attorney and authorizing the City Manager to execute such agreement; and

California Enterprise Development Authority (CEDA) / Figtree Financing:

2. Motion to adopt the resolution approving Associate Membership by the City of Antioch in the California Enterprise Development Authority and authorizing the City Manager to execute an Associate Membership Agreement related to membership of the City in the Authority; and
3. Motion to adopt the resolution authorizing the City of Antioch to join the Figtree PACE Program contingent on appropriate City indemnity and compliance with City insurance requirements set forth in an indemnification agreement acceptable to the City Manager and City Attorney and authorizing the City Manager to execute such agreement; authorizing the California Enterprise Development Authority to conduct contractual assessment proceedings and levy contractual assessments with the City of Antioch; and

CaliforniaFIRST/California Statewide Communities Development Authority:

4. Motion to adopt the resolution authorizing the City of Antioch to join the CaliforniaFIRST Program; authorizing the California Statewide Communities Development Authority to accept application from property owners, conduct contractual assessment proceedings and levy contractual assessments within the incorporated territory of the City of Antioch contingent on appropriate City indemnity and compliance with City insurance requirements set forth in an indemnification agreement acceptable to the City Manager and City Attorney and authorizing the City Manager to execute such agreement.

BACKGROUND INFORMATION

Assembly Bill (AB) 811, signed into law on July 21, 2008, and AB 474, signed into law January 1, 2010, authorized a legislative body to designate an area within which willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property. The contractual assessment is collected by the County tax collector through the property owner's annual property tax bill. The financing for these improvements has come to be known as PACE, which stands for Property Assessed Clean Energy (PACE).

By allowing PACE programs to operate, the City would not incur any cost or involvement, and there are no administrative responsibilities, marketing obligations, or financial exposure to the City assuming appropriate indemnification agreements are in place. Joining an existing program allows the PACE program to do business in Antioch with property owners that are interested in participating. This is a completely voluntary program.

There are currently three PACE programs operating in California. Staff is recommending authorization of all three programs to allow property owners the greatest amount of option in selecting a program that meets their improvement project and financing needs.

California HERO Program

The California HERO Program, founded in 2013, is sponsored by the Western Riverside Council of Governments (Authority). It is the largest privately-funded residential PACE program in the country. The California HERO Program is focused on providing financing to residential property owners. To join this program, the City has to adopt the Resolution to join the HERO program and the Authority as an associate member (Attachment "A," recommendation action item 1). There is also an Amendment to the Joint Powers Authority (Exhibit 1 to Attachment "A") that will need to be finalized and signed prior to the program being available to Antioch property owners.

CEDA/Figtree Financing

Founded in 2011, Figtree Financing is sponsored by the California Enterprise Development Authority (CEDA). Figtree Financing concentrates on commercial, industrial, retail, and multi-family properties, but will be expanding to residential properties. In order for property owners in Antioch to participate in this program, the City has to adopt the Resolution to join CEDA as an associate member (Attachment "B", recommended action item 2) and the Resolution to join Figtree (Attachment "C", recommended action item 3). These resolutions allow staff to finalize and execute an indemnification agreement and CEDA Associate Membership Agreement (Exhibit 1 to Attachment "B").

CaliforniaFIRST

CaliforniaFIRST Program is sponsored by the California Statewide Communities Development Authority (CSCDA). CSCDA is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. The member agencies of California Communities include 57 counties and more than 400 other local agencies throughout California, including the City of Antioch. CaliforniaFIRST is currently available to commercial, industrial and multi-family properties and anticipates being available to residential properties in early 2015. As the City is already a member of CSCDA, only the Resolution opting in to the CaliforniaFIRST program (Attachment "D," recommended action item 4) needs to be adopted by Council. An indemnification agreement can be finalized and signed by staff as directed in the resolution.

DISCUSSION

PACE programs provide property owners with an option to traditional home equity lines of credit or other home loans for financing energy efficiency and renewable energy upgrades to their property. While the programs require the City Council to adopt resolutions so that the programs can assess payments on the property tax bills, these are not city administered programs. City action is required in order for the programs to assess payments on the property tax rolls. The City has the option to promote the programs and provide applications for property owners at the permit counter, but it is up to the property owner to decide if they wish to participate and to do their own research to insure this funding option is a good one for them.

The benefits to the property owner include:

- Only property owners who choose to participate in the program will have assessments imposed on their property.
- In today's economic environment, there may not be attractive private enterprise alternatives for property owners to finance renewable energy/energy efficiency/water efficiency improvements.
- Even if there were private enterprise alternatives, most private loans are due on sale of the benefited property, which makes it difficult for property owners to match the life of the repayment obligation with the useful life of the financed improvements. Under California law, the assessment obligation transfers with the property upon sale.
- The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties. (Currently there are no prepayment penalties for residential properties.)
- Regional aggregation provided by the PACE Programs may produce a lower borrowing cost.

The benefits of PACE to the City include:

- Implementation of E1 of our 2010 Community Climate Action plan calls for loans for energy efficiency improvements. Strategic Plan Long Term Goal E (Environmental Enhancements) will also be implemented by PACE programs.

- As in conventional assessment financing, the City is not obligated to repay the bonds issued by the PACE Programs or to pay the assessments levied on the participating properties.
- Adding a new financing tool for property owners has the potential to increase the number of energy efficiency upgrade jobs in the community, which will increase local jobs.
- The PACE programs handle all assessment administration, bond issuance and bond administration functions.

Potential issues with PACE programs:

- Potential for property owners that choose to participate in the program having a bad experience and coming to the City to correct the issue.

Outside of approving the attached resolutions to opt-in to the PACE programs, the City has no involvement in the process for individual properties owners. In speaking with staff from cities that have opted in to PACE programs, such as the City of San Jose, there has been little to no issues that have warranted city involvement.

- Existing law permits foreclosure due to non-payment of assessment.

If a homeowner does not pay assessments foreclosure is possible. Some mortgage lenders are concerned about the potential foreclosure due to unpaid PACE assessments. California has a State PACE Loss Reserve Program. The most widely known element of this Program is the Loss Reserve fund itself, which exists to ensure mortgage lenders and mortgage note buyers (e.g., Fannie Mae and Freddie Mac) that they are protected from the potential loss of unpaid PACE assessment payments should a home be foreclosed upon; the Program reimburses the note holder 100% of the unpaid PACE assessments that need to be paid before the property is sold to a new owner. As of October 31, 2014, zero properties have defaulted on their PACE assessment payments, and thus no claims have been made from the Loss Reserve's fund.

- Aggressive marketing and sales tactics by contractors to individuals who may not qualify for conventional financing and are at greater risk of non-payment of assessments and foreclosure.

An important but lesser known element of the program serves to protect consumers (as well as mortgage note holders). The Program's regulations require underwriting standards to ensure that homeowners do not over-leverage their properties. These standards are:

- *All property taxes for the assessed property are current for the previous three years or since the current owner acquired the property, whichever period is shorter.*
- *The property is not subject to any involuntary lien in excess of \$1,000.*
- *The property is not subject to any notices of default.*
- *The property owner is not in bankruptcy proceedings.*
- *The property owner is current on all mortgage debt.*
- *The Assessment is for less than ten percent (10%) of the value of the property.*

- Additional workload added to the City staff to review forms and address owners' issues.

As mentioned above, staff does not anticipate any increase in workload once the program is adopted. There will be additional work for the County Assessor's office, but that cost is recovered by the annual assessment payments made by the individual property owner.

City Indemnification and Insurance:

Staff is recommending that any PACE program adopted cannot start until proper indemnification and insurance are provided. The resolutions opting in to each PACE program reflect this requirement and direct staff to execute program agreements only after appropriate indemnification and insurance is provided.

FINANCIAL IMPACT

None.

OPTIONS

Decline to participate in PACE programs and do not adopt the resolutions.

ATTACHMENTS

- A: Resolution opting in to California HERO Program
Exhibit 1: Amendment to the Joint Powers Agreement - West Riverside Council of Governments
- B: Resolution joining CEDA
Exhibit 1: CEDA Associate Membership Agreement
- C: Resolution opting in to FigTree Program
- D: Resolution opting in to CaliforniaFIRST

Attachment "A"

RESOLUTION NO. 2014/**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH, CALIFORNIA,
CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE CITY'S
JURISDICTION IN THE CALIFORNIA HERO PROGRAM TO FINANCE
DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, ENERGY AND
WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE AND APPROVING THE AMENDMENT TO A CERTAIN JOINT
POWERS AGREEMENT RELATED THERETO**

WHEREAS, the Western Riverside Council of Governments ("Authority") is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Act") and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the "Authority JPA"); and

WHEREAS, Authority intends to establish the California HERO Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the "Improvements") pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code ("Chapter 29") within counties and cities throughout the State of California that elect to participate in such program; and

WHEREAS, City of Antioch (the "City") is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change; and

WHEREAS, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

WHEREAS, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the California HERO Program would promote the purposes cited above; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence, and in doing so cooperate with Authority in order to efficiently and economically assist property owners in the City with financing such Improvements; and

WHEREAS, Authority has authority to establish the California HERO Program, which will be a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into April 1, 1991, as amended to date, and the Amendment to Joint Powers Agreement Adding the City of Antioch as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of

RESOLUTION NO. 2014/**

December 16, 2014

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Property Assessed Clean Energy (PACE) Program Services within the City (the "JPA Amendment"), by and between Authority and the City, a copy of which is attached as Exhibit 1 hereto, to assist property owners within the incorporated area of the City in financing the cost of installing Improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the California HERO Program to finance the installation of Improvements.

2. This City Council consents to inclusion in the California HERO Program of all of the properties in the incorporated area within the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program, and to the assumption of jurisdiction thereover by Authority for the purposes thereof.

3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the California HERO Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent and be secured by such contractual assessments.

4. This City Council hereby approves the JPA Amendment and authorizes the execution thereof by the City Manager only after appropriate indemnify and insurance documentation is provided to the City (Exhibit 1).

5. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the California HERO Program within the City, and report back periodically to this City Council on the success of such program.

6. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act ("CEQA"), because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

7. This Resolution shall take effect once it is adopted and a fully executed indemnification agreement and insurance documentation has been provided to the City.

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The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority Executive Committee.

* * * * *

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 16th day of December 2014, by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

EXHIBIT 1

AMENDMENT TO THE JOINT POWERS AGREEMENT ADDING CITY OF ANTIOCH AS AN ASSOCIATE MEMBER OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS TO PERMIT THE PROVISION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM SERVICES WITH SUCH CITY

This Amendment to the Joint Powers Agreement ("JPA Amendment") is made and entered into on the ___ day of _____, 2014, by City of Antioch ("City") and the Western Riverside Council of Governments ("Authority") (collectively the "Parties").

RECITALS

WHEREAS, Authority is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Joint Exercise of Powers Act") and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the "Authority JPA"); and

WHEREAS, as of October 1, 2012, Authority had 18 member entities (the "Regular Members").

WHEREAS, Chapter 29 of the Improvement Act of 1911, being Division 7 of the California Streets and Highways Code ("Chapter 29") authorizes cities, counties, and cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy ("PACE") program, to fund certain renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the "Improvements") that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

WHEREAS, Authority intends to establish a PACE program to be known as the "California HERO Program" pursuant to Chapter 29 as now enacted or as such legislation may be amended hereafter, which will authorize the implementation of a PACE financing program for cities and county throughout the state; and

WHEREAS, City desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow Authority to conduct proceedings under Chapter 29 to finance Improvements to be installed on such properties; and

WHEREAS, this JPA Amendment will permit City to become an Associate Member of Authority and to participate in California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of City; and

WHEREAS, pursuant to the Joint Exercise of Powers Act, the Parties are approving this JPA Agreement to allow for the provision of PACE services, including the operation of a PACE financing program, within the incorporated territory of City; and

WHEREAS, the JPA Amendment sets forth the rights, obligations and duties of City and Authority with respect to the implementation of the California HERO Program within the incorporated territory of City.

MUTUAL UNDERSTANDINGS

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

A. JPA Amendment.

1. The Authority JPA. City agrees to the terms and conditions of the Authority JPA, attached.

2. Associate Membership. By adoption of this JPA Amendment, City shall become an Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of City as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the incorporated territory of City. Except as expressly provided for by this JPA Amendment, City shall not have any rights otherwise granted to Authority's Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, the right to amend or vote on amendments to the Authority JPA, and the right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. City shall not be considered a member for purposes of Section 9.1 of the Authority JPA.

3. Rights of Authority. This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

B. Implementation of California HERO Program within City Jurisdiction.

1. Boundaries of the California HERO Program within City Jurisdiction. City shall determine and notify Authority of the boundaries of the incorporated territory within City's jurisdiction within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries"), which boundaries may include the entire incorporated territory of City or a lesser portion thereof.

2. Determination of Eligible Improvements. Authority shall determine the types of distributed generation renewable energy sources, energy efficiency or water

conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.

3. Establishment of California HERO Program. Authority will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable Authority to make contractual financing of Eligible Improvements available to eligible property owners within the Program Boundaries.

4. Financing the Installation of Eligible Improvements. Authority shall develop and implement a plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program.

5. Ongoing Administration. Authority shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the California HERO Program, and providing reports as required by Chapter 29.

City will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

6. Phased Implementation. The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. City entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

C. Miscellaneous Provisions.

1. Withdrawal. City or Authority may withdraw from this JPA Amendment upon six (6) months written notice to the other party; provided, however, there is no outstanding indebtedness of Authority within City. The provisions of Section 6.2 of the Authority JPA shall not apply to City under this JPA Amendment. City may withdraw approval for conduct of the HERO Program within the jurisdictional limits of City upon thirty (30) written notice to WRCOG without liability to the Authority or any affiliated entity. City withdrawal shall not affect the validity of any voluntary assessment contracts (a) entered prior to the date of such withdrawal or (b) entered into after the date of such withdrawal so long as the applications for such voluntary assessment contracts were submitted to and approved by WRCOG prior to the date of City's notice of withdrawal.

2. Mutual Indemnification and Liability. Authority and City shall mutually defend, indemnify and hold the other party and its directors, officials, officers,

employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the willful misconduct or negligent acts, errors or omissions of the indemnifying party or its directors, officials, officers, employees and agents in connection with the California HERO Program administered under this JPA Amendment, including without limitation the payment of expert witness fees and attorneys fees and other related costs and expenses, but excluding payment of consequential damages. Without limiting the foregoing, Section 5.2 of the Authority JPA shall not apply to this JPA Amendment. In no event shall any of Authority's Regular Members or their officials, officers or employees be held directly liable for any damages or liability resulting out of this JPA Amendment.

3. Environmental Review. Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may required in implementing or administering the California HERO Program under this JPA Amendment.

4. Cooperative Effort. City shall cooperate with Authority by providing information and other assistance in order for Authority to meet its obligations hereunder. City recognizes that one of its responsibilities related to the California HERO Program will include any permitting or inspection requirements as established by City.

5. Notice. Any and all communications and/or notices in connection with this JPA Amendment shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

Authority:

Western Riverside Council of Governments
4080 Lemon Street, 3rd Floor, MS1032
Riverside, CA 92501-3609
Attn: Executive Director

City:

City of Antioch
PO Box 5007
Antioch, CA 94531
Attn: City Manager

6. Entire Agreement. This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

7. Successors and Assigns. This JPA Amendment and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

8. Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

9. Governing Law. This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

10. No Third Party Beneficiaries. This JPA Amendment shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this JPA Amendment to maintain a suit for personal injuries or property damages under the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11. Severability. In the event one or more of the provisions contained in this JPA Amendment is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this JPA Amendment and the remaining parts of this JPA Amendment shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this JPA Amendment.

12. Headings. The paragraph headings used in this JPA Amendment are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

13. Amendment. This JPA Amendment may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this JPA Amendment shall be of no effect.

14. Effective Date. This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this JPA Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: _____
Executive Committee Chair
Western Riverside Council of Governments

Date: _____

CITY OF ANTIOCH

By: _____
Title: City Manager

Date: _____

ATTACHMENT "B"

RESOLUTION NO. 2014/**

RESOLUTION APPROVING ASSOCIATE MEMBERSHIP BY THE CITY OF ANTIOCH IN THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY AND AUTHORIZING AND DIRECTING THE EXECUTION OF AN ASSOCIATE MEMBERSHIP AGREEMENT RELATING TO ASSOCIATE MEMBERSHIP OF THE CITY IN THE AUTHORITY

WHEREAS, the City of Antioch, California (the "City"), a municipal corporation, duly organized and existing under the Constitution and the laws of the State of California; and

WHEREAS, the City, upon authorization of the City Council, may pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, commencing with Section 6500 (the "JPA Law") enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which such contracting parties may jointly exercise any power common to them; and

WHEREAS, the City and other public agencies wish to jointly participate in economic development financing programs for the benefit of businesses and nonprofit entities within their jurisdictions offered by membership in the California Enterprise Development Authority (the "Authority") pursuant to an associate membership agreement and Joint Exercise of Powers Agreement Relating to the California Enterprise Development Authority (the "Agreement"); and

WHEREAS, under the JPA Law and the Agreement, the Authority is a public entity separate and apart from the parties to the Agreement and the debts, liabilities and obligations of the Authority will not be the debts, liabilities or obligations of the City or the other members of the Authority; and

WHEREAS, the form of Associate Membership Agreement (the "Associate Membership Agreement") between the City and the Authority is attached; and

WHEREAS, the City is willing to become an Associate Member of the Authority subject to the provisions of the Associate Membership Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Antioch, hereby finds, determines and declares as follows:

1. The City Council hereby specifically finds and declares that the actions authorized hereby constitute public affairs of the City. The City Council further finds that the statements, findings and determinations of the City set forth in the preambles above are true and correct.

RESOLUTION NO. 2014/**

December 16, 2014

Page 2

2. The Associate Membership Agreement (Exhibit 1) presented to this meeting and on file with the City Clerk is hereby approved. The City Manager, the City Clerk and other officials of the City are each hereby authorized and directed, for and on behalf of the City, to execute and deliver the Associate Membership Agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

3. The officers and officials of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this resolution and the Associate Membership Agreement. All such actions heretofore taken by such officers and officials are hereby confirmed, ratified and approved.

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 16th day of December 2014, by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

Exhibit 1

ASSOCIATE MEMBERSHIP AGREEMENT

by and between the

CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY

and the

CITY OF ANTIOCH, CALIFORNIA

THIS ASSOCIATE MEMBERSHIP AGREEMENT (this "Associate Membership Agreement"), dated as of _____ by and between CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY (the "Authority") and the CITY OF ANTIOCH, CALIFORNIA, a political subdivision, duly organized and existing under the laws of the State of California (the "City");

WITNESSETH:

WHEREAS, the Cities of Selma, Lancaster and Eureka (individually, a "Member" and collectively, the "Members"), have entered into a Joint Powers Agreement, dated as of June 1, 2006 (the "Agreement"), establishing the Authority and prescribing its purposes and powers; and

WHEREAS, the Agreement designates the Executive Committee of the Board of Directors and the President of the California Association for Local Economic Development as the initial Board of Directors of the Authority; and

WHEREAS, the Authority has been formed for the purpose, among others, to assist for profit and nonprofit corporations and other entities to obtain financing for projects and purposes serving the public interest; and

WHEREAS, the Agreement permits any other local agency in the State of California to join the Authority as an associate member (an "Associate Member"); and

WHEREAS, the City desires to become an Associate Member of the Authority;

WHEREAS, the City Council of the City has adopted a resolution approving the Associate Membership Agreement and the execution and delivery thereof;

WHEREAS, the Board of Directors of the Authority has determined that the City should become an Associate Member of the Authority;

NOW, THEREFORE, in consideration of the above premises and of the mutual promises herein contained, the Authority and the City do hereby agree as follows:

Section 1. Associate Member Status. The City is hereby made an Associate Member of the Authority for all purposes of the Agreement and the Bylaws of the Authority, the provisions of which are hereby incorporated herein by reference. From and after the date of execution and delivery of this Associate Membership Agreement by the City and the Authority, the City shall be and remain an Associate Member of the Authority.

Section 2. Restrictions and Rights of Associate Members. The City shall not have the right, as an Associate Member of the Authority, to vote on any action taken by the Board of Directors or by the Voting Members of the Authority. In addition, no officer, employee or representative of the City shall have any right to become an officer or director of the Authority by virtue of the City being an Associate Member of the Authority.

Section 3. Effect of Prior Authority Actions. The City hereby agrees to be subject to and bound by all actions previously taken by the Members and the Board of Directors of the Authority to the same extent as the Members of the Authority are subject to and bound by such actions.

Section 4. No Obligations of Associate Members. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the City.

Section 5. Execution of the Agreement. Execution of this Associate Membership Agreement and the Agreement shall satisfy the requirements of the Agreement and Article XII of the Bylaws of the Authority for participation by the County in all programs and other undertakings of the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Associate Membership Agreement to be executed and attested by their proper officers thereunto duly authorized, on the day and year first set forth above.

**CALIFORNIA ENTERPRISE DEVELOPMENT
AUTHORITY**

By: _____
Gurbax Sahota, Chair
Board of Directors

Attest:

Michelle Stephens, Asst. Secretary

CITY OF ANTIOCH, CALIFORNIA

By: _____
Steve Duran, City of Antioch

Attest:

Arne Simonsen,
City Clerk of the City of Antioch

Attachment "C"

RESOLUTION NO. 2014/**

RESOLUTION AUTHORIZING THE CITY OF ANTIOCH TO JOIN THE FIGTREE PACE PROGRAM; AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF ANTIOCH AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Enterprise Development Authority ("CEDA") is a joint exercise of powers authority, comprised of cities and counties in the State of California, including the City Antioch (the "City"); and

WHEREAS, CEDA has adopted the Figtree Property Assessed Clean Energy (PACE) and Job Creation Program (the "Program" or "Figtree PACE"), to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements (the "Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29"), and the issuance of improvement bonds or other evidences of indebtedness (the "Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 et seq.) (the "1915 Act") upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property ("Participating Parcel") within its jurisdiction ("Participating Property Owners") to participate in Figtree PACE, and to allow CEDA to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, CEDA will conduct assessment proceedings under Chapter 29 to establish an assessment district (the "District") and issue Bonds under the 1915 Act to finance Improvements; and

WHEREAS, there has been presented to this meeting a proposed form of Resolution of Intention to be adopted by CEDA in connection with such assessment proceedings (the "ROI"); and

WHEREAS, said ROI sets forth the territory within which assessments may be levied for Figtree PACE which territory shall be coterminous with the City's official boundaries of record at the time of adoption of the ROI (the "Boundaries"); and

WHEREAS, pursuant to Chapter 29, the City authorizes CEDA to conduct assessment proceedings, levy assessments, pursue remedies in the event of delinquencies, and issue bonds or other forms of indebtedness to finance the Improvements in connection with Figtree PACE; and

RESOLUTION NO. 2014/**

December 16, 2014

Page 2

WHEREAS, to protect the City in connection with operation of the Figtree PACE program, Figtree Energy Financing, the program administrator, has agreed to defend and indemnify the City; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies, the issuance, sale or administration of the bonds or other indebtedness issued in connection with Figtree PACE.

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

1. Good Standing. The City is either a municipal corporation or other public body and a member of CEDA in good standing.

2. Public Benefits. On the date hereof, the City Council hereby finds and determines that the Program and issuance of Bonds by CEDA in connection with Figtree PACE will provide significant public benefits, including without limitation, savings in effective interest rates, bond preparation, bond underwriting and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the City.

3. Appointment of CEDA. The City hereby appoints CEDA as its representative to (i) record the assessment against the Participating Parcels, (ii) administer the District in accordance with the Improvement Act of 1915 (Chapter 29 Part 1 of Division 10 of the California Streets and Highways Code) (commencing with Section 8500 et seq.) (the "Law"), (iii) prepare program guidelines for the operations of the Program and (iv) proceed with any claims, proceedings or legal actions as shall be necessary to collect past due assessments on the properties within the District in accordance with the Law and Section 6509.6 of the California Government Code. The City is not and will not be deemed to be an agent of Figtree or CEDA as a result of this Resolution.

4. Assessment Proceedings. In connection with Figtree PACE, the City hereby consents to the special assessment proceedings by CEDA pursuant to Chapter 29 on any property within the Boundaries and the issuance of Bonds under the 1915 Act, provided that:

- (1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI;
- (2) The Participating Property Owners, who shall be the legal owners of such property, voluntarily execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
- (3) The City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the

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RESOLUTION NO. 2014/**

December 16, 2014

Page 3

case of delinquencies in such assessment payments, or the issuance, sale or administration of the Bonds in connection with Figtree PACE.

5. Program Report. The City Council hereby acknowledges that pursuant to the requirements of Chapter 29, CEDA has prepared and will update from time to time the "Program Report" for Figtree PACE (the "Program Report") and associated documents, and CEDA will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

6. Foreclosure. The City Council hereby acknowledges that the Law permits foreclosure in the event that there is a default in the payment of assessments due on a property. The City Council hereby designates CEDA as its representative to proceed with collection and foreclosure of the liens on the defaulting properties within the District, including accelerated foreclosure pursuant to the Program Report.

7. Indemnification. The City Council hereby authorizes the appropriate officials and staff of the City to finalize, execute and deliver an appropriate Indemnification Agreement to Figtree.

8. City Contact Designation. The appropriate officials and staff of the City are hereby authorized and directed to make applications for Figtree PACE available to all property owners who wish to finance Improvements. The following staff persons, together with any other staff designated by the City Manager from time to time, are hereby designated as the contact persons for CEDA in connection with Figtree PACE: Julie Haas-Wajdowicz, Environmental Resource Coordinator, 925-779-7097, jhaaswajdowicz@ci.antioch.ca.us.

9. City Execution of Documents. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents as are reasonably required by CEDA in accordance with the Program Report to implement Figtree PACE for Participating Property Owners.

10. CEQA. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act ("CEQA"), because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

11. Effective Date. This Resolution shall take effect once it is adopted and a fully executed indemnification agreement and insurance documentation has been provided to the City. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to Figtree Energy Financing.

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December 16, 2014

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12. Costs. Services related to the formation and administration of the assessment district will be provided by CEDA at no cost to the City.

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 16th day of December 2014, by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

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Attachment "D"

RESOLUTION NO. 2014/**

RESOLUTION AUTHORIZING THE CITY OF ANTIOCH TO JOIN THE CALIFORNIAFIRST PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE INCORPORATED TERRITORY OF THE CITY; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Statewide Communities Development Authority ("California Communities") is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the City of Antioch (the "City"); and

WHEREAS, California Communities has established the CaliforniaFIRST program (the "CaliforniaFIRST Program") and will provide financing for certain improvements authorized by Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29"), including, but not limited to, renewable energy, energy efficiency and water efficiency improvements and seismic strengthening improvements (the "Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29") and the issuance of improvement bonds (the "Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the "1915 Act") upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property ("Participating Property Owners") within the incorporated territory of the City to participate in the CaliforniaFIRST Program and to allow California Communities to conduct assessment proceedings under Chapter 29 within the incorporated territory of the City and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, California Communities will conduct assessment proceedings under Chapter 29 and issue Bonds under the 1915 Act to finance Improvements;

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program;

RESOLUTION NO. 2014/**

December 16, 2014

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

1. This City Council hereby finds and declares that properties in the City's incorporated area will benefit from the availability of the CaliforniaFIRST Program within the incorporated territory of the City and, pursuant thereto, the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 and the issuance of Bonds under the 1915 Act.

2. In connection with the CaliforniaFIRST Program, the City hereby consents to the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 on any property within its jurisdiction and the issuance of Bonds under the 1915 Act; provided, that

(1) The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and

(2) The City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program.

(3) The issuance of Bonds will occur following receipt of a final judgment in a validation action filed by California Communities pursuant to Code of Civil Procedure Section 860 that the Bonds are legal obligations of California Communities.

3. Pursuant to the requirements of Chapter 29, California Communities has prepared and will update from time to time the "Program Report" for the CaliforniaFIRST Program (the "Program Report"), and California Communities will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

4. The appropriate officials and staff of the City are hereby authorized and directed to make applications for the CaliforniaFIRST program available to all property owners who wish to finance Improvements; provided, that California Communities shall be responsible for providing such applications and related materials at its own expense. The following staff persons, together with any other staff persons chosen by the City Manager from time to time, are hereby designated as the contact persons for California Communities in connection with the CaliforniaFIRST Program: Julie Haas-Wajdowicz, Environmental Resource Coordinator 925-779-7097, jhaaswajdowicz@ci.antioch.ca.us.

RESOLUTION NO. 2014/**

December 16, 2014

Page 3

5. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents as are reasonably required by California Communities in accordance with the Program Report to implement the CaliforniaFIRST Program for Participating Property Owners.

6. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

7. This Resolution shall take effect once it is adopted and a fully executed indemnification agreement and insurance documentation has been provided to the City. The City Manager is authorized to execute the indemnification agreement. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of California Communities.

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 16th day of December 2014, by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL FOR CONSIDERATION AT
THE COUNCIL MEETING OF DECEMBER 16, 2014**

FROM: Michelle Fitzer, Administrative Services Director 

DATE: December 2, 2014

**SUBJECT: RESOLUTION APPROVING THREE (3) CODE ENFORCEMENT
OFFICER POSITIONS IN THE FY 2014/15 BUDGET AND
AUTHORIZING THE APPROPRIATE BUDGET ADJUSTMENT**

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving three (3) Code Enforcement Officer positions in FY 2014/15, and authorizing the appropriate budget adjustment.

STRATEGIC PURPOSES

This action achieves the Council's strategic objectives of:

Long Term Goal C: Blight Eradication. Eradicate blight through code enforcement and blight abatement.

Strategy C-4: To grow the Code Enforcement staff in number and efficacy.

FINANCIAL IMPACT

The total annual cost of funding three (3) Code Enforcement Officer positions is \$361,020. Of this amount, \$170,882 is General Fund, including Measure C. The remaining amount is charged to CDBG, Solid Waste, and Abandoned Vehicle funds.

Currently, the contract services expenses are budgeted at \$387,576 annually, also split between the above funding sources. Part of the requested Council action is to move the expense allocation from Contract Professional Services to Salaries/Benefits for the projected six month cost remaining in the 2014/15 fiscal year of \$180,510.

DISCUSSION

- **Background**

In 2011 the City Council authorized reinstating one (1) full-time Code Enforcement Officer position in the budget. At that time a recruitment was conducted. Unfortunately, although the position was offered to the top three (3) candidates, each declined to accept. Given the recruitment challenges, and the need to reinstate Code Enforcement activities, the Council authorized contracting for these services.

In 2013 the City had two (2) contract Code Enforcement Officers working, and the Deputy Community Development Director was splitting his time between Code Enforcement duties and managerial oversight of Recreation and Building functions. With the passage of Measure C, for fiscal year 2014/15 the Council authorized a third Code Enforcement Officer contract position, and reallocated an additional twenty percent (20%) of the Deputy Director's time to Code Enforcement. Currently, there are three (3) contract Code Enforcement Officers working.

- **Analysis & Conclusion**

At this time staff feels another recruitment is warranted to transition the funded positions from contract services back to City employees. The contract services worked well during the economic downturn, and in response to the unsuccessful recruitment efforts. However, given the Council's stated priority of Code Enforcement activities it seems most appropriate to reinstate the funding to staff positions rather than contract services.

The plan is to phase in the three (3) requested positions. A recruitment will be conducted in the hopes that we could select one candidate for initial hire and training. The training period is anticipated to be 2-3 months. A second candidate would then be selected to begin employment at the conclusion of the first candidate's training period. Finally, the third position would be filled, hopefully from the same eligibility list. However, a second recruitment may be necessary, depending on the timing of the hires and the availability of candidates from the original list. We expect to have all three positions transitioned from contract to City employees within one year of the first hire.

This plan has been discussed with the representatives of Operating Engineers Local 3.

ATTACHMENTS

- A. Resolution Approving Three Code Enforcement Officer Positions in the FY 2014/15 Budget, and Authorizing the Appropriate Budget Adjustment

RESOLUTION NO. 2014/XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
APPROVING THREE (3) CODE ENFORCEMENT OFFICER POSITIONS IN
THE FY 2014/15 BUDGET AND AUTHORIZING THE APPROPRIATE BUDGET
ADJUSTMENT

WHEREAS, the City Council has identified Code Enforcement activities as a top priority; and

WHEREAS, currently Code Enforcement is staffed with three contracted Code Enforcement Officers; and

WHEREAS, now seems to be the appropriate time to convert the staffing from contract back to City employees; and

WHEREAS, representatives of the City and Operative Engineers Local 3 have discussed the recommended plan to transition to three (3) staff Code Enforcement Officers over the next twelve months.

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

Section 1. That three (3) Code Enforcement Officer positions are hereby approved to be funded in the fiscal year 2014/15 budget, moving the funding from Contract Professional Services to Salaries/Benefits, at a total cost of \$180,510; and

Section 2. That the Finance Director is authorized to make the necessary adjustments to the fiscal year 2014/15 budget to effectuate this change.

* * * * *

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 16th day of December, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH

**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF DECEMBER 16, 2014**

FROM: Lynn Tracy Nerland, City Attorney 
DATE: December 10, 2014
SUBJECT: Sewer Lateral Inspection and Replacement Program

ACTION: In accordance with the Settlement Agreement with Northern California River Watch, a private sewer lateral inspection and replacement program is being presented which requires the following actions:

1. Motion to read the Ordinance by title only; and
2. Motion to introduce an Ordinance (Attachment A) adding Sections 6-4.301 to 6-4.310 to the Antioch Municipal Code regarding a Sewer Lateral Inspection and Replacement program, which includes a requirement that all sewer laterals have proper cleanouts and that sewer laterals be inspected, cleaned and replaced if necessary when there have been two or more sewer overflows in the same private sewer lateral within two years and prior to the following events, unless the sewer lateral was installed within the past 10 years or inspected within the past 20 years and not found defective:
 - a) The sale or transfer of property,
 - b) The issuance of a building permit for a significant remodel, or
 - c) A more intensive use.

The Ordinance also amends section 5-1.314 of the Antioch Municipal Code to make minor corrections and provide that the City Manager may designate someone to make a determination regarding the use of summary abatement of a public nuisance. For example, the Deputy Community Development Director is most often the person in the field making determinations whether a public nuisance needs immediate City abatement. Likewise, in the event of a sewer spill, the authority would likely be delegated to the Public Works Director or Deputy Public Works Director. In any event, the City Attorney is required to be consulted before the City undertakes summary abatement of a public nuisance on private property.

If the Ordinance is introduced as presented, then a budget amendment will be brought forward with the second reading of the Ordinance to approve one Public Works technician.

IMPLEMENTATION OPTIONS:

The draft Ordinance follows the parameters of the 2013 Settlement Agreement with Northern

California River Watch regarding alleged violations of the Federal Clean Water Act and state regulations due to sewer spills that can reach navigable waters (Attachment B). However, key issues for City Council consideration are:

1. **Staffing** - Due to the City's current staffing limitations, it is expected that property owners will use private contractors/plumbers with appropriate qualifications and certifications to perform the inspection of a sewer lateral, which includes a closed circuit television video (CCTV) inspection, and repair if necessary. However, there will still be the need for staff to publicize the requirements of the program; review the qualifications of the private contractors and establish a list of qualified contractors; review the documentation that is submitted by private contractors; create and keep a database of properties that have passed an inspection and received certification; answer inquiries from the public; provide evidence or certifications for properties that meet the program requirements to interested individuals including but not limited to owners, real estate agents, and buyers; and enforce the program.

Earlier this year, staff sought City Council approval to hire an additional Public Works technician to be funded through the Sewer Enterprise Fund to address increased administrative and regulatory requirements, input and maintain databases, and verify field data and information. The City Council denied this position. However, existing staff does not believe that they have the personnel and resources to implement an additional program as contemplated by the proposed Ordinance without additional staffing. Accordingly, if the City Council introduces the proposed Ordinance, then a budget amendment will be brought forward with the second reading of the Ordinance to approve one Public Works technician, with the cost to be borne entirely by the Sewer Fund and estimated to be approximately \$120,000 plus \$30,000 for startup costs for a work station and vehicle.

2. **Timing/Phase-In.** A number of preliminary steps would need to occur before the full program contemplated by the proposed Ordinance could be implemented, such as allowing time for the City to create job descriptions and hire the additional staff to implement the program; for local contractors/plumbers to become certified under the Lateral Assessment Certification Program; to prepare the appropriate notices and forms; to advise building contractors on the implementation requirement for a sewer lateral inspection with a building remodel; and to advise the real estate community and title companies on the implementation requirement for a sewer lateral inspection prior to the close of escrow. To this end, the following phase-in schedule could be incorporated into the Ordinance:

Effective Date
of Ordinance –

Implementation for all properties to have a proper cleanout that allows access from the public right of way to the building sewer lateral. This has been requirement of all new construction since 1970. Therefore, staff estimates that approximately 25,000 residential units of the approximately 35,000 residential units in Antioch should have a proper cleanout already. With a proper cleanout, the City can access the sewer lateral from the proper cleanout (typically near the property line) to the sewer main that is

typically in the middle of the street. Otherwise, the property owner is responsible for the maintenance of the entire sewer lateral. A proper cleanout for a typical residential use costs approximately \$500-\$1500, so it is a good investment for a property owner.

Implementation date for the requirement to inspect, clean and replace if necessary a sewer lateral when there is an apparent problem, including if there have been two or more sewer overflows from the same private sewer lateral within the past two years.

January 1, 2016

Implementation date for the requirement that prior to a change of use resulting in an increase in sewer flow, the sewer lateral needs to be inspected, cleaned, and replaced if required.

Implementation date for the requirement that prior to issuance of a significant remodel or change in use increasing sewer flow, the sewer lateral needs to be inspected, cleaned, and replaced if required.

Implementation date for the requirement that prior to the sale of property, the sewer lateral needs to be inspected, cleaned, and replaced if required.

BACKGROUND:

Jerry Bernhaut from the Law Offices of Jack Silver on behalf of Northern California River Watch (“River Watch”) sent a letter to the City dated November 13, 2012 entitled: “Notice of Violations and Intent to File Suit under the Clean Water Act.” In January of 2013, the City settled that matter with River Watch prior to the filing of a complaint in federal court to avoid expensive litigation as the Clean Water Act would require the City to pay the attorneys’ fees for River Watch if it prevailed. Under the terms of the Settlement Agreement, the City agreed that a program for inspection and repair of private sewer laterals would be presented for the City Council’s consideration within two years of the Settlement Agreement date. This proposed lateral ordinance is being presented in order to comply with this term of the Settlement Agreement.

City’s Sewer System

The City’s sewer system includes sewer mains that are typically located within a City street. The laterals connect the sewer main to a building. The City’s Municipal Code already requires that new construction have a proper cleanout in the sewer lateral before it connects with the sewer main to allow access to inspect and to clean out the sewer lateral if there is a blockage. If the sewer lateral has a proper cleanout, then the City takes responsibility for the maintenance of the lower lateral from the sewer main to the cleanout. If there is no proper clean-out, then the private property owner is responsible for the entire sewer lateral. (*See Construction Detail*

diagram at Attachment C, which can be approved with the second reading of the Ordinance)

Sewer laterals can become defective, leading to leaks or sewer blockages in a number of ways including: root intrusion; displaced joints in the lateral line; damaged or missing cleanouts or backflow prevention devices (devices to try to keep sewage from backing up into a building); or deterioration with time. Since sewer laterals are underground, most property owners do not think to check them until a problem because apparent.

It is important to minimize leaks and blockages in sewers to decrease sewer overflows for a number of reasons: sewer overflows can cause contamination into the storm water system and ultimately the San Joaquin River; sewer backflows into a building are problematic for the occupants and may result in claims against the City; and federal and state laws require the City to maintain its sewer system to protect the environment and public health and safety. Certainly no one wants to try to flush a toilet, only to have the sewage back up into the building or spill out onto the roadway and into local creeks and waterways.

Sewer Lateral Inspection and Replacement Program

To decrease sewer system overflows, River Watch generally advocates for a program to inspect and replace sewer laterals and not to wait for a problem to appear. A number of jurisdictions, including cities and sanitation districts have already adopted a sewer lateral inspection and replacement program and it is possible that state and federal environmental laws will require such programs in the future.

The first requirement under the proposed program is to install a proper cleanout that provides access to the building sewer lateral from the public right of way. The proposed program would then require that sewer laterals be inspected, cleaned, and replaced if necessary under the following conditions:

1. Prior to the sale of property, unless the sewer lateral was installed within the past 10 years or inspected within the past 20 years and not found defective (in effect, like the typical termite inspection that occurs with property transactions);
2. Prior to the issuance of a building permit for a significant remodel or modifications of \$25,000 or more, unless the sewer lateral was installed within the past 10 years or inspected within the past 20 years and not found defective;
3. Prior to a change in use that will result in an increase in sewer flow, unless the sewer lateral was installed within the past 10 years or inspected within the past 20 years and not found defective; or
4. If a problem with the sewer lateral is apparent, including if there have been two or more sewer overflows in the same private sewer lateral within two years.

Due to the City's staffing limitations, it is expected that property owners will use private

contractors with appropriate qualifications and certifications to do the inspection of a sewer lateral, which includes a closed circuit television video (CCTV) inspection and repairs or replacement as necessary. A property that passes the sewer inspection shall be provided a Certificate of Compliance that is valid for at least 10 years.

Staff estimates that the typical cost to a private residential property to have a private contractor inspect a sewer later is in the range of \$300-600. Costs for commercial properties may be more if the typical sewer lateral is longer on a larger commercial property. The cost of replacing a sewer lateral found defective could be in the range of \$5000-10,000 and might also require the removal of a physical structure(s) and/or tree(s) if the tree roots are destroying the lateral.

STRATEGIC GOALS: The proposed Private Sewer Lateral inspection and replacement program supports a number of the goals in the City's Strategic Plan, including:

1. **Long Term Goal D. Building Safety** – Provide uniform enforcement of the Building Housing, Municipal Codes and state laws with an emphasis on eliminating illegal or substandard housing.
2. **Long Term Goal E. Environmental Enhancement.** Pollution prevention, water conservation, energy and carbon conservation, and waste reduction.
3. **Long Term Goal K: Public Works and Engineering.** Designing, building, operating, maintaining, stewarding and enhancing Antioch's assets and resources in partnership with the community.

In addition, the City Council's consideration of this private sewer lateral inspection and replacement program is a requirement of the Settlement Agreement with River Watch that the City Council approved, and may reduce liability for sewer spills in the future.

FISCAL IMPACT:

There will be staff costs to implement the Private Sewer Lateral inspection and replacement program, such as reviewing the qualifications of local plumbers to conduct the inspections and to keep a database of those properties that have passed an inspection after verifying the installation of a proper clean out and an inspection of the lower lateral. If the Ordinance is introduced, then a budget amendment will be brought forward with the second reading of the Ordinance to approve one Public Works technician, with the cost of approximately \$120,000, with additional startup costs of \$30,000 for a work station and vehicle, to be borne entirely by the Sewer Fund.

Once a proper cleanout is installed, the City will televise and repair or replace damaged lower laterals, which depending on the extent of damage may require additional staff and equipment that may impact future budgets.

However, private property owners shall hire private plumbers and contractors to certify compliance with the ordinance and to install cleanouts and to make repairs to the upper laterals as needed.

ATTACHMENTS:

- A. Proposed Ordinance
- B. 2012 Settlement Agreement with River Watch
- C. Construction Detail -- Diagram of Sewer Lateral

ORDINANCE NO. ____

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
ADDING ARTICLE 3 TO CHAPTER 4 OF TITLE 6 TO THE ANTIOCH
MUNICIPAL CODE REQUIRING TESTING, INSPECTION, REPAIR AND
REPLACEMENT OF BUILDING SEWER LATERALS AND AMENDING
SECTION 5-1.314 OF THE ANTIOCH MUNICIPAL CODE REGARDING
SUMMARY ABATEMENT OF NUISANCES**

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

SECTION 1. Article 3, "Private Sewer Lateral Testing, Inspection, Repair and Replacement" is added to Chapter 4 of Title 6 of the Antioch Municipal Code to read as follows:

"Article 3

Private Sewer Lateral Testing, Inspection, Repair and Replacement

Sections:

- 6-4.301 Purposes
- 6-4.302 Definitions
- 6-4.303 Proper Cleanout
- 6-4.304 Testing of New Building Sewer Laterals
- 6-4.305 Testing of Existing Building Sewer Laterals
- 6-4.306 Building Sewer Lateral certification.
- 6-4.307 Notices to correct violations.
- 6-4.308 Coordination of Lateral Repairs with City Main Improvement Projects
- 6-4.309 Regulations to Implement this Chapter.
- 6-4.310 Nuisance .
- 6-4.311 Right of entry.

§ 6-4.301 PURPOSES.

The purposes of this article are: (i) to provide for operation and maintenance of the City of Antioch's sewer system to maintain a reliable and serviceable condition, (ii) to eliminate or minimize sewage overflows by eliminating or minimizing stoppages and reducing sources of infiltration and inflow into the City's sewer system, (iii) to comply with applicable legal requirements pertaining to the City's sewer system, and (iv) to protect the public health and safety by establishing and providing a mechanism for enforcing performance standards for private sewer laterals that connect or are connected to the City sanitary sewer system.

§ 6-4.302 DEFINITIONS.

As used in this Ordinance, the following words, phrases and terms shall have the following definitions, unless the context clearly indicates or requires a different meaning. To the extent that the definitions in this section differ from those in section 6-4.101, the definitions in this section control the meaning for purposes of Chapter 4, Article 3.

- A. **"Air Testing"** or **"Air Tested"** shall refer to a method where a Building Sewer Lateral is pressurized with air for the purpose of detecting leaks or defects in the pipe.

- B. **"Building Drain"** shall refer to the part of the lowest horizontal piping of a building drainage system that receives the discharge of waste and other drainage from pipes inside the walls of the building or structure and connects to the Building Sewer Lateral beginning two (2) feet outside the Building Wall.

- C. **"Building Sewer Lateral"** or **"Lateral"** shall refer to the part of the generally horizontal piping of a drainage system that begins at the end of the Building Drain and receives the discharge from the Building Drain and connects

to a Public Sewer, private sewer, individual sewage disposal system, or other point of disposal. The Building Sewer Lateral begins at the upper point of connection to the Building Drain and ends at the Proper Cleanout, or if no Proper Cleanout, then at the wye or point of connection with the public sewer. At times, the sewer lateral from the Building Drain to the Proper Cleanout may be referred to as the “**Upper Lateral**” and the sewer lateral from the Proper Cleanout to the connection to the Public Sewer may be referred to as the “**Lower Lateral.**”

D. “**Building Wall**” shall refer to the outer component part of a structure built, erected, framed, or designed for the housing, shelter, enclosure or support or persons, animals, or property of any kind.

E. “**Certificate of Compliance**” shall refer to a written certificate issued by a Certified Plumber to the Property Owner and the City Engineer certifying that a Building Sewer Lateral is properly equipped, structurally sound, and complies with all standards established by the City.

F. “**Certified Plumber**” shall refer to a State-licensed plumbing contractor certified under the Lateral Assessment Certification Program (LACP) with at least 2 years of experience in the performance of CCTV inspections.

G. “**Closed Circuit TV (CCTV) Inspection**” shall refer to a process whereby a closed circuit television camera is placed into, runs through, and videotapes the inside of a Public Sewer or Building Sewer Lateral for the purpose of detecting leaks or other obvious defects.

H. “**Common Sewer Lateral**” shall refer to a Lateral serving more than one building, dwelling, or premises.

I. “**Defective Sewer Lateral**” shall refer to any Building Sewer Lateral that displays obvious leaks or defects upon the completion of CCTV Inspection or that is deemed by the City of Antioch, in its discretion, to be defective upon completion of Air Testing or any other testing method required or implemented by the City. An

Air Tested Building Sewer Lateral will be deemed to be a “Defective Sewer Lateral” for purposes of this Ordinance if the pipe does not hold 3.5 pounds per square inch of air pressure (psi-air) for at least 2 minutes with at least 2.5 psi-air remaining at end of the Air Test.

J. “Proper Cleanout” shall refer to a sanitary sewer cleanout, which may be located within the street right-of-way, installed in a Building Sewer Lateral prior to connection with a Public Sewer main in accordance with City Standard Detail 23.

K. “Property Owner” shall refer to any individual or entity owning property within the boundaries of the City of Antioch that is connected to any portion of the City of Antioch’s Public Sewer main.

L. “Public Sewer” shall refer to the sewer mains and Lower Laterals owned or maintained by the City of Antioch lying within the limits of the public streets, roads, easements, reserves, nonexclusive easements, or other public rights of way serving or intended to serve two or more separate properties, persons, or parcels. That portion of the Building Sewer Lateral that lies within any public street or right of way is considered to be a Public Sewer in the City of Antioch unless there is no Proper Cleanout between the Building Drain and the sewer main.

§ 6-4.303 PROPER CLEANOUT

All properties shall have a Proper Cleanout as depicted in City Standard Detail 23 that allows access from the public right of way to the Building Sewer Lateral. An encroachment permit from the City is required for the installation of a Proper Cleanout.

§ 6-4.304 TESTING OF NEW BUILDING SEWER LATERALS.

All new Building Sewers Laterals shall be tested in accordance with provisions of this Ordinance and all other rules and regulations established the City as of the

effective date of this Ordinance or thereafter. The method of testing used shall be at the discretion of the City of Antioch. The test section shall be throughout the full length of the Building Sewer Lateral.

§ 6-4.305 TESTING OF EXISTING BUILDING SEWER LATERALS

(A) **General.** Every Property Owner shall keep and maintain the Building Sewer Lateral(s) connecting the Property Owner's premises to the Public Sewer main in good condition and repair. It shall be unlawful and considered a nuisance for any Property Owner of a house, building, property, or other structure connected to the City's Public Sewer main to maintain a Building Sewer Lateral in a defective condition. As used in this Ordinance, "defective condition" includes, but is not limited to (1) displaced joints, (2) root intrusion, (3) substantial deterioration, (4) damaged or missing Proper Cleanout, (5) damaged or missing backflow prevention device, (6) a condition that allows or will allow infiltration and inflow of extraneous water or exfiltration of water or sewage, (7) a condition that materially increases the possibility of a blockage or overflow, (8) constructed without a proper permit or with materials not approved by the City, (9) lack of an approved manufactured connection to the City's Public Sewer main, (10) otherwise in violation of City requirements, or (K) in such a condition that the tests required by this Ordinance cannot be accomplished to the satisfaction of the City.

(B) **Conditions Requiring Cleaning and Testing of Building Sewer Laterals.** All Building Sewer Laterals, including but not limited to those serving residential, multi-family residential, industrial, retail, and commercial properties connected to the City's Public Sewer main shall be cleaned and tested, at the Property Owner's expense, when any of the following events occur:

(1) Effective January 1, 2016, at the point of property transfer, except if (a) there is a Proper Cleanout, and (b) either inspection, repair, or replacement of the Lateral has occurred in the last twenty (20) years or the

Lateral was installed within the last ten (10) years. The “point of property transfer” means completion of repairs or withholding of the funds to complete the repairs prior to the close of escrow upon a sale or other transfer of the house, building, property or other structure served or, if there is no escrow, prior to recording a deed or other document transferring title to the house, building, property or other structure served. In a probate or other testamentary proceeding or in the event of a transfer pursuant to the terms of a trust, joint tenancy termination, or other similar instrument, completion of repairs must occur within 180 days after the sale, transfer, or conveyance of the house, building, property or other structure connected to the City’s Public Sewer main.

(2) Effective January 1, 2016, prior to the issuance of a building permit for a significant remodel or modification (valuation of \$25,000 or more as determined by the City), except if (a) there is a Proper Cleanout, and (b) either inspection, repair, or replacement of the Lateral has occurred in the last twenty (20) years or the Lateral was installed within the last ten (10) years. Before final building inspection and permit issuance, all repairs or replacements necessary to bring the Building Sewer Lateral(s) serving the remodeled or modified premises into compliance shall be completed.

(3) Effective January 1, 2016, prior to a change in use that will result in an increase in flow, except if (a) there is a Proper Cleanout, and (b) either inspection, repair, or replacement of the Lateral has occurred in the last twenty (20) years or the Lateral was installed within the last ten (10) years. A change of use of the house, building, property or other structure served could include (1) from residential to business, commercial, or other non-residential use; (2) from a non-residential/non-restaurant/non-industrial use to restaurant or industrial uses, such as carwashes, cleaners and laundries, that results in higher flows than the current non-residential use; or (3) to a non-residential use

where the structure served has been vacant/unoccupied for more than three years.

(4) As of the effective date of the Ordinance, upon repair or replacement of any portion of the Building Sewer Lateral or significant repair or replacement of the Public Sewer to which the Lateral is attached where evidence exists of issues related to the connected Lateral (e.g., roots from private Lateral visible in the Public Sewer, visible offsets or damage, lack of Proper Cleanout, etc.).

(5) As of the effective date of the Ordinance, upon a determination by the City of Antioch that the cleaning, testing, repair or replacement is required for the protection of the public health, safety and welfare; or where the City is aware of two (2) or more sanitary sewer overflows were caused by the same Lateral within two years.

(C) Testing Criteria for Building Sewer Laterals. The Property Owner or an agent of the Property Owner of a house, building, property or other structure connected to the Public Sewer shall engage the services of a Certified Plumber and notify the City at least forty-eight (48) hours prior to testing so the City has the opportunity to witness the testing. All Building Sewer Laterals shall be tested by Closed Circuit Television Video (CCTV) Inspection method in accordance with all requirements imposed by the City. The Building Sewer Lateral shall first be cleaned, and then tested via an internal CCTV Inspection for the full length of the Building Sewer Lateral. The City shall reserve the right to request that a copy of any video recordings of the CCTV Inspection be submitted to the City for verification of the condition of the Building Sewer Lateral. A Building Sewer Lateral will comply with the provisions of this Chapter if CCTV Inspection verifies all of the following conditions as approved by the City:

(1) The Building Sewer Lateral is free of roots, grease deposits, and other solids or obstructions that may impede or obstruct the transmission of waste water and sewage.

(2) No illicit or illegal connections to the Building Sewer Lateral exist, such as roof or yard drainage facilities.

(3) All joints in the Building Sewer Lateral are tight and sufficiently sound to prevent the exfiltration of waste water and sewage or the infiltration of groundwater.

(4) The Building Sewer Lateral is free of structural defects, cracks, breaks, or missing portions and the grade is reasonably uniform without major sags or offsets.

(5) The Building Sewer Lateral is equipped with at least one (1) Proper Cleanout; and with a backflow protection device if required by the City.

If a CCTV Inspection cannot be performed on a Building Sewer Lateral, the Building Sewer Lateral shall be tested by another method approved by the City.

(D) **Testing Failure Mitigation.** When a Building Sewer Lateral fails to comply with the provisions of this Chapter, the Property Owner shall make all repairs necessary to bring the Building Sewer Lateral(s) back into compliance with the criteria set by the City, or replace the Building Sewer Lateral(s) in accordance with all City requirements. When replacement of a Building Sewer Lateral(s) is required, the Property Owner shall install a Proper Cleanout in the public right of way in accordance with City Standard Detail 23. In addition, if required by the City, the Property Owner shall install a backflow prevention device at the point within five (5) feet of the building footprint, unless otherwise approved by the City to be placed in another location. All costs of repair or

replacement of the Building Sewer Lateral(s), Proper Cleanouts, and backflow prevention devices shall be borne by the Property Owner.

(E) Repair or Replacement of Building Sewer Laterals upon Sale or Transfer of Property. The repairs or replacement of Building Sewer Laterals that result from the testing required as a result of the sale or transfer of property in a non-probate transaction shall be completed prior to the close of escrow of the sale or, if there is no escrow, prior to recording the deed or other document transferring title. For properties sold or transferred in a probate other testamentary proceeding, pursuant to the terms of a trust or similar instrument, or pursuant to the termination of a joint tenancy or similar proceeding, any repair or replacement of a Building Sewer Lateral shall be completed within 180 days after the probate sale or other transfer.

(F) Hardship Deferrals for Building Sewer Lateral Repair or Replacement. In the event that the Property Owner establishes to the satisfaction of the City that repair or replacement of the Building Sewer Lateral(s) before the close of escrow in a non-probate sale will result in undue hardship inconsistent with the purpose or intent of this Chapter, a request for hardship status may be submitted to the City Engineer, which may grant or deny hardship status in their sole discretion provided that adequate funds are maintained in escrow to complete the repairs. If hardship status is granted, the Property Owner who is selling the property (or the Property Owner who is purchasing the property) shall have 90 additional days, and in no circumstances may be granted more than 180 days total in the City Engineer's discretion, after the close of escrow or other transfer of the property to repair or replace the Building Sewer Lateral(s).

(1) For purposes of this section, undue hardship shall be defined as (a) the severe illness or incapacitation of the Property Owner; (b) the immediate transfer or removal of the Property Owner from the state,

thereby making the hiring of a contractor to repair or replace the Building Sewer Lateral(s) impractical or overly burdensome; or (c) any physical or financial situation that would render compliance with the time limits for the repair or replacement of Building Sewer Lateral(s) extraordinarily difficult or impractical. The Property Owner shall bear the burden of submitting documentation and proving the existence of such a *bona fide* hardship to the satisfaction of the City.

(2) Any Property Owner to whom a hardship finding is granted shall be given written notice of the finding. Said notice shall inform the Property Owner that the Building Sewer Lateral(s) repair or replacement requirement is only deferred 90 days (or in City Engineer's discretion up to 180 days) after the close of escrow, not waived entirely. A copy of the notice shall be sent to both the Property Owner who is selling the property and to the purchaser of the property and/or other interested party such as an Escrow Agent or real estate agent.

(3) In the event of a failure to comply with the this Ordinance within the allotted time, the City may bring an enforcement action and exercise any other remedy provided by the City Ordinance or Code or other applicable law against the Property Owner and any other responsible party. In addition, any Property Owner who fails to fully comply with this Ordinance shall be responsible for all costs to complete needed repairs and damages that arise from or relate to such failure. For purposes of this Section, "damages" include all compensatory damages, fines, penalties, assessments and other monetary exactions that may be awarded to, levied or assessed by any person, firm, corporation, company or public entity.

(G) **Extension of Time for Building Sewer Lateral(s) Repairs or Replacement.** A Property Owner may request that an extension of time be granted for repairs or replacement that are required as a result of testing

associated with the sale or transfer of property in a non-probate transaction. Extension requests shall be in writing and must include at the time of the extension request the name and contact information of the party responsible for accomplishing the repair or replacement of the Building Sewer Lateral(s). The City will review the request and may grant a time extension of 90 days, but no more than 180 days, after the close of escrow on the subject property.

(H) **Common Interest Developments.** A property owners' association of a Common Interest Development shall provide CCTV inspection of all Building Sewer Lateral(s) within the common interest areas at least once every fifteen (15) years for compliance with the duties and obligations imposed by this Ordinance in relation to any Building Sewer Lateral(s) located within a common area of the development. If no property owners' association exists, then the individual unit owners, both jointly and individually, shall be liable for compliance with the duties and obligations with respect to Building Sewer Lateral(s) established by this the Ordinance.

§ 6-4.306 BUILDING SEWER LATERAL CERTIFICATION.

After a Building Sewer Lateral(s) passes the testing procedure required by this Ordinance, the Certified Plumber shall submit a signed Certificate of Compliance to the City Engineer and Property Owner specifying the address of the property served by the compliant Building Sewer Lateral(s). A Certificate of Compliance shall be valid for no less than ten (10) and no more than twenty (20) years, in the discretion of the City, as to the requirements in Section 6-4.305(B)(1) through (4). However, cleaning, testing, repair or replacement may still be required by the City for the protection of the public health, safety and welfare, or where the City is aware of two (2) or more sanitary sewer overflows caused by the Building Sewer Lateral within two years. The Certificate of Compliance shall be valid only for the Building Sewer Lateral(s) at the

address(es) specified on the Certificate of Compliance. The City Engineer shall maintain records of all Certificates of Compliance received. The fee for this service, if any, shall be contained within the City's Master Fee Schedule.

§ 6-4.307 NOTICES TO CORRECT VIOLATIONS.

If the City Engineer receives notice that a Building Sewer Lateral does not or may not meet the standards set forth in this Chapter and the Property Owner does not agree in writing to perform the repairs or replacements necessary to timely bring the Building Sewer Lateral into compliance, then the City shall give written notice to the Property Owner of any conditions that violate this Chapter. Such notice shall specify the repair or replacement necessary to correct the condition and the time in which to make the correction, and shall advise the Property Owner of the enforcement provisions of this Chapter. If the repairs are not completed within the time agreed upon in writing by the Property Owner or within the time allowed by the City, or if the City determines that the property may be transferred before the required testing or repairs will or can be completed, the City may record a Notice of Violation, or other Notice, in the Official Records of Contra Costa County specifying the nature of the violation and the necessary corrective action. The Notice shall only be rescinded when the Building Sewer Lateral serving such property has been repaired or replaced to the satisfaction of the City Engineer. The issuance and recording of a Notice of Violation is in addition to all other remedies available to the City.

§ 6-4.308 COORDINATION OF LATERAL REPAIRS WITH CITY UTILITY AND STREET IMPROVEMENT PROJECTS

Whenever the City plans a major repair or replacement of a Public Sewer or sewer main that involves excavation in the street right of way, the City shall work

with Property Owners to coordinate the installation of a Proper Cleanout if none exists on a Lateral, at the expense of the Property Owners.

§ 6-4.309 REGULATIONS TO IMPLEMENT THIS CHAPTER.

The City shall utilize existing authority and may establish rules, regulations, guidelines and policies for implementing an enforcing this Chapter.

§ 6-4.310 NUISANCE.

Any Building Sewer Lateral or appurtenance thereto that is in violation of this Chapter is hereby declared to be unlawful and a public nuisance and subject to abatement pursuant to Antioch Municipal Code sections 5-1.301, *et seq*, as currently in effect or as hereafter amended. Such nuisance conditions include, but are not limited to, any Lateral without a Proper Cleanout, Defective Lateral, any Building Sewer Lateral with or without Proper Cleanout that contain leaks or breaks; uncapped or improperly capped Proper Cleanout; sump pumps, down spouts or yard drains or other sources that discharge into the City's Public Sewer main; and all other sources of accidental, negligent or intended introduction of storm water runoff or similar non-sewage waters into the City's Public Sewer main.

§ 6-4.311 RIGHT OF ENTRY.

As a condition of receipt of City sewer services and use of the Public Sewer main, the City Engineer, or his or her designee, may in accordance with Section 6-4.115 enter, inspect, collect wastewater samples, and test any buildings, structures, or premises to secure compliance or prevent a violation of this Chapter. Any sampling and testing by the City shall be in accordance with Section 6-4.116. Unless there is an emergency threatening the public health, safety or welfare, in which case the provisions of Antioch Municipal Code section 5-1.314 shall apply, the City Engineer shall provide at least five (5)

business days prior notice to the Property Owner of intent to enter upon property. The City Engineer may also request that a Property Owner provide all written records of Building Sewer Lateral inspection, maintenance, repair and replacement at the time of inspection or within ten (10) or more business days after receipt of the request.”

SECTION 2. Section 5-1.314 of the Antioch Municipal Code, “Summary Abatement” is amended to read as follows:

“§ 5-1.314 SUMMARY ABATEMENT.

(A) If, in the opinion of the City Manager, or his or her designee, or in the case of a structure or building, in the opinion of the Building Official, there exists any condition on any premises within the City which is of such a nature as to be immediately dangerous to the public health, safety or welfare, or that constitutes an immediate threat of injury to any person or damage to property which, if not abated, would, during the pendency of the abatement procedures set forth in this chapter, subject the public or property to potential injury or harm of a serious nature, the condition may be abated by the City immediately without compliance with the provisions of this code.

(B) No summary abatement shall be undertaken unless the City Attorney or his or her authorized representative first approves such action.

(C) The owner of the property that was the subject of the summary abatement shall be served with written notice, within two (2) business days following the summary abatement action, of the right to request a post-deprivation hearing before the Board of Administrative Appeals or hearing officer as determined by the City provided such request is made within ten (10) calendar days of the date of the notice of the summary abatement action. The notice of the summary abatement action and right to request a post-deprivation

hearing within ten (10) calendar days shall be served by one or more of the following means: by personal service; by regular first class mail, postage fully prepaid, to each property owner at the last known address of the property owner; or if, after diligent search, the owner of the property cannot be found, the notice shall be served by posting a copy thereof in a conspicuous location upon the property. Failure of the property owner to receive "actual" notice shall not affect the validity of the proceedings.

(D) The cost of the summary abatement, including all administrative costs of any action taken hereunder and reasonable attorneys' fees, may be assessed against the subject premises as a special assessment lien or made a personal obligation of the owner as provided in this code."

SECTION 3. CEQA. This Ordinance is not a "project" subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment, subject to a statutory exemption contained in CEQA Guidelines section 15369(b), or subject to a categorical exemption contained in CEQA Guidelines sections 15301, 15302, 15303, 15304, 15307, 15308, and 15309,

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 6. Publication; Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the _____ and passed and adopted at a regular meeting thereof, held on _____, by the following vote:

AYES:

NOES:

ABSENT:

Wade Harper, Mayor

Attest:

Arne Simonsen, City Clerk

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims ("AGREEMENT") is entered into between Northern California River Watch ("NCRW") and the City of Antioch ("City") (collectively, the "PARTIES") with respect to the following facts and objectives:

RECITALS

WHEREAS, NCRW is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to the protection, enhancement, and restoration of the rivers, creeks, and tributaries of Northern California;

WHEREAS, the City, organized under the laws of the State of California, owns and operates a collection system for the purpose of collecting and conveying for treatment wastewater from residential, commercial, and industrial sources to a wastewater treatment plant not owned or operated by the City;

WHEREAS, on or about November 13, 2012, NCRW provided the City with a Notice of Violation and Intent to File Suit under the Federal Water Pollution Control Act ("Clean Water Act" or "CWA"), 33 U.S.C. §1365, ("CWA Notice Letter"), which is attached hereto as **Exhibit A**;

WHEREAS, the City denies any and all of NCRW's allegations and claims in the CWA Notice Letter;

WHEREAS, NCRW and the City, through their authorized representatives and without either adjudication of NCRW's claims or admission by the City of any alleged violation or other wrongdoing, have chosen to resolve in full NCRW's allegations in the CWA Notice Letter through settlement and avoid the cost and uncertainties of litigation; and

WHEREAS, NCRW and the City have agreed that it is in their mutual interest to enter into this AGREEMENT setting forth the terms and conditions appropriate to resolving NCRW's allegations set forth in the CWA Notice Letter.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NCRW and the City hereby agree as follows:

EFFECTIVE DATE

1. The term "Effective Date," as used in this AGREEMENT, shall mean the last date on which the signature of a party to this AGREEMENT is executed.

AGREEMENT

2. **Sewer System Inspection and Repair**

a. **Televising and Grading Sewer Main Lines within 200 feet of Water Bodies**

The City has already inspected and televised all gravity sewer main lines that are equal to or less than 10 inches in diameter within approximately the last 10 years. Within five (5) years of the Effective Date of this AGREEMENT, for the approximately 25 miles of gravity sewer main lines that lie within two hundred (200) feet of water bodies (as defined in the City's Sewer System Management Plan ("SSMP") as "any stream, creek, river, pond, impoundment, lagoon, wetland, or bay" and not including storm drainage channels), the City agrees to inspect and closed circuit televise ("CCTV") the City's gravity sewer main lines exceeding 10 inches in diameter, not including force mains, and to grade all 25 miles of gravity sewer main lines of all sizes. Grading will be done using a Pipeline Assessment and Certification Program ("PACP") rating scale.

b. **Prioritizing Repairs and Replacement**

The City currently has a recently revised SSMP, and a Sanitary Sewer Overflow and Backup Response Plan, both of which have been provided to NCRW. These documents contain a comprehensive inventory of sewer spill response activities, including field sampling protocols and sanitary sewer overflow ("SSO") response activities, which are and will continue to be required for all SSOs, including those that reach water bodies, that the City will continue to implement. In addition, the City agrees that significantly defective gravity sewer main lines (having received a rating of 4 or 5 on the PACP rating scale) located within 200 feet of water bodies or of areas designated as critical habitat for endangered species will be given higher

priority for repair and replacement than other sewer main lines in the City with comparable defects located more than 200 feet from surface waters. A map showing relevant critical habitat designations is attached to this Agreement as **Exhibit B**.

c. Repair and Replacement Scheduling

The City agrees that in the course of completion of the televising and grading activities described in 2.a. above, the City will repair or replace, as needed, the gravity sewer main lines determined to be a grade of 5 within two (2) years of that determination and within four (4) years of determination of a grade of 4. With respect to sewer main lines that receive a grade of 3 based on the PACP rating system, the City will ascertain whether such lines need to be repaired and will use similar priority ranking to that described in paragraph 2.b.

d. The City agrees to CCTV all gravity sewer main lines, except force mains, within the ten (10) years following the effective date of this AGREEMENT, except for those sewer main lines that have undergone a CCTV inspection in the last ten (10) years and except for sewer main lines that were constructed, replaced, or repaired in the last twenty (20) years.

3. Private Sewer Lateral Inspection and Repair

Within two (2) years from the effective date of this AGREEMENT, the City staff will present to the City Council an ordinance establishing a program for the mandatory inspection and/or repair of privately owned sewer laterals. The proposed program will contain the following events (or additional events as identified by the City) that will serve as a basis or “trigger” for private sewer lateral inspection and/or repair:

a. At the point of property transfer, or the issuance of a building permit for a significant remodel (valuation of \$25,000 or more) or a change in use¹ that will result in an increase in flow (e.g., additional bedroom), except if inspection, repair or replacement

¹ A change in use of the structure served could include (1) from residential to non-residential use; (2) to a non-residential use resulting in higher flow than current non-residential use, and (3) non-residential use where the structure served has been vacant/unoccupied for more than three years.

of the sewer lateral has occurred in the last twenty (20) years, or except if lateral installed within last ten (10) years;

b. The occurrence of two (2) or more sanitary sewer overflows caused by the same private sewer lateral within two (2) years that the City is aware of;

c. Upon repair or replacement of the lower lateral or significant repair or replacement of the main sewer line to which the lateral is attached where evidence exists of issues related to the connected lateral (e.g., roots from the private lateral visible in the lower lateral or main sewer line, visible offsets or damage, etc.).

4. More Detailed SSO Reporting

The City agrees that:

a. Within six (6) months from the effective date of this AGREEMENT, the City agrees that it will include on or with the City's SSO reporting forms:

1) The method or calculations used for estimating total spill volume, spill volume that reached water bodies (if any), and the spill volume recovered;

2) A listing of nearby residences or business addresses contacted to attempt to establish the SSO start time, duration, and flow rate; and

3) Photographs of the manhole flow at the SSO site and the San Diego Method array, if applicable to the method used to estimate spill volume, or other photographs that may aid in establishing the spill volume.

b. In addition, the City agrees to the following:

1) Creation and maintenance of a link from the City's website to the State Water Resources Control Board ("SWRCB") CIWQS SSO Public Reports.

2) Provision of notification to all sewer service customers of the existence of the City's website link to the SWRCB's CIWQS reports, and notification of a commitment to respond and provide information to private parties submitting

overflow reports to CIWQS, where a duplicate report or other notification has been provided to the City.

c. Water Quality Sampling and Response

1) The City agrees to conduct water quality sampling and testing for total and fecal coliform and E. Coli whenever it is estimated that an SSO of fifty (50) gallons or more enters a water body, and if field crews can safely access the affected surface waters. If there are no SSO events of fifty (50) gallons or more that enter a water body, then no analysis is required under this paragraph.

2) In addition, during the first two years of this Agreement only, the City shall sample for ammonia and conduct a metals analysis² for two (2) Category I SSO events that reach surface waters, and submit the sampling results to NCRW within two (2) weeks after receiving the results from the laboratory. If only one Category I SSO occurs during the first two years of this Agreement, then that SSO will be sampled. If there are no Category I SSO events during the first two years of this Agreement, then no analysis is required under this paragraph.

3) If sampling and testing is required under the previous paragraphs, then the City should collect and test samples from three (3) locations: 1) the point of discharge to the water body; 2) in the water body upstream of the point of discharge; and 3) in the waterbody downstream of the point of discharge.

4) If any of the tested constituents are found at higher levels in the point of discharge sample and in the downstream sample than in the upstream sample, then the City agrees to determine and address the cause of the SSO that entered the water body, and will employ the following measures to prevent future overflows at that location by: 1) immediately spot repairing the defect or replacing a segment of the line if the SSO is caused by a structural defect; or 2) if the defect is non-structural, such as a grease

² The following 17 metals will be sampled using EPA Part 136 approved methods: Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cobalt, Copper, Lead, Mercury, Molybdenum, Nickel, Selenium, Silver, Thallium, Vanadium, and Zinc.

blockage or vandalism, then perform additional maintenance, cleaning or other appropriate measures to remedy the non-structural defect.

5. NCRW Attorneys' Costs and Fees

The City agrees to pay to NCRW, within thirty (30) days of the effective date of this AGREEMENT, the sum of \$35,000.00 representing full satisfaction of all claims by NCRW for NCRW's investigative, expert, and attorneys' fees and costs. Payment shall be made by the City to NCRW in the form of a single check payable to "Northern California River Watch," and shall constitute full payment for all costs of anticipated litigation and attorneys' fees incurred by NCRW that have or could have been claimed in connection with NCRW's allegations in its CWA Notice Letter up to and including the Termination Date of this AGREEMENT, and for NCRW's expert and attorneys' fees and costs spent monitoring and enforcing the City's compliance with ongoing obligations under this AGREEMENT, with the exception of any action taken to enforce the settlement agreement in accordance with the dispute resolution procedures set forth in paragraphs 12 and 13 below.

TERMINATION DATE

6. This AGREEMENT shall terminate when one of the following occurs, whichever is earlier:

- a. December 31, 2022; or
- b. When the City completes the activities set forth in paragraphs 2 - 4 above, and payment pursuant to paragraph 5 has been made.

NO ADMISSION OR FINDING

7. Neither this AGREEMENT nor any payment pursuant to the AGREEMENT shall constitute evidence or be construed as a finding, adjudication, or acknowledgment of any fact, law or liability, nor shall it be construed as an admission of violation of any law, rule or regulation. However, this AGREEMENT and/or any payment pursuant to the AGREEMENT may constitute evidence in actions seeking compliance with this AGREEMENT.

MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE

8. In consideration of the above, and except as otherwise provided by this AGREEMENT, the PARTIES hereby forever and fully release each other and their respective successors, assigns, directors, officers, agents, board members, representatives, and employees, and all persons, firms and corporations having an interest in them, from any and all environmental claims and demands of any kind, nature, or description whatsoever, and from any and all liabilities, damages, injuries, actions or causes of action, either at law or in equity, whether known or unknown, which the PARTIES have or may have against each other based upon or connected to NCRW's allegations as set forth in the CWA Notice Letter up to and including the Termination Date of this AGREEMENT.

9. The PARTIES acknowledge that they are familiar with section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The PARTIES hereby waive and relinquish any rights or benefits they may have under California Civil Code section 1542 with respect to any other claims against each other arising from, or related to, the allegations and claims as set forth in the CWA Notice Letter up to and including the Termination Date of this AGREEMENT.

10. For the period beginning on the Effective Date and ending five (5) years from the Effective Date of this AGREEMENT, NCRW agrees that neither NCRW, its officers, executive staff, members of its governing board nor any organization under the control of NCRW, its officers, executive staff, or members of its governing board, will file a complaint pursuant to the CWA Notice Letter, or serve any new 60-day Notice Letter or file any lawsuit against the City seeking relief for alleged violations of the Clean Water Act, the Resource Conservation and Recovery Act ("RCRA"), the Endangered Species Act ("ESA"), or similar state statutes and/or regulations, including the California Porter-Cologne Water Quality Control Act, nor will NCRW support such lawsuits against the City brought by other groups or individuals by providing financial assistance, personnel time, or any other affirmative actions. For the period beyond

five years from the Effective Date of this AGREEMENT but prior to the Termination Date of this AGREEMENT, NCRW agrees that neither NCRW, its officers, executive staff, members of its governing board nor any organization under the control of NCRW will file a complaint or serve any new 60-day Notice Letter pertaining to any matter that is the subject of any pending relief agreed to by the City as a provision of this Agreement which has not been completed.

DISPUTE RESOLUTION PROCEDURES

11. Any disputes with respect to any of the provisions of this AGREEMENT shall be resolved through the following procedure. The PARTIES covenant and agree that, if either party believes the other is in violation of one or more terms of the AGREEMENT, the party shall provide notice to the other in writing of what actions or inactions they deem to be in violation of this AGREEMENT. Within thirty (30) days of receipt of such notice, the party receiving the notice shall respond to the notice in writing. If the PARTIES still dispute compliance with this AGREEMENT, within an additional thirty (30) days, the PARTIES will meet and confer in a good faith attempt to resolve their dispute. If the PARTIES cannot informally resolve the dispute, they will enter into binding arbitration, conducted by an arbitrator agreed upon by both PARTIES. Either party may request that the presiding judge of the Contra Costa County Superior Court may select an arbitrator if the PARTIES cannot reach an agreement. The arbitration shall be binding and not subject to ordinary judicial appeal; however, it shall be subject to the procedural provisions provided for under California Code of Civil Procedure sections 1280, *et seq.* The arbitration shall be conducted in accordance with the arbitration rules and procedures of JAMS (Judicial Arbitration and Mediation Service) to the extent other conventional rules are not promptly agreed to by the PARTIES. The relief the arbitrator is empowered to award is limited to injunctive relief to take action specified in this AGREEMENT, and the arbitrator shall be empowered to determine a prevailing party and may award payment of reasonable attorneys' fees and costs to a prevailing party. To the extent there are multiple issues with a different prevailing party, the arbitrator may take those facts into account in terms of an award for fees and costs, and can order each party to bear their own costs.

12. If NCRW asserts that the City is in violation of this AGREEMENT, and the City corrects the action or inaction within sixty (60) days of written notice from NCRW describing

the asserted violations, no further enforcement action under the terms of the AGREEMENT shall be taken by either party.

FORCE MAJEURE

13. Separate from, and in addition to any other limitations on the City's obligations under this AGREEMENT, the City's obligations to comply with any provisions of this AGREEMENT shall be excused or deferred if compliance, or a delay in compliance, is caused by an event or circumstance beyond the reasonable control of the City or any entity controlled by the City, including its contractors, and which event or circumstance could not have been reasonably foreseen and prevented by the exercise of due diligence by the City. Where implementation of the actions set forth in this AGREEMENT, within the deadlines prescribed, becomes unachievable, despite the timely good faith efforts of the City, the City shall notify NCRW in writing within thirty (30) days of the date that the City knew of the event or circumstance precluding compliance, and shall describe the reason for the non-performance. The PARTIES agree to meet and confer in good faith concerning the non-performance and, where the PARTIES concur that the non-performance was or is impossible, despite the timely good faith efforts of one of the PARTIES, compliance shall be excused or new performance deadlines shall be established by agreement of the parties. In the event that the PARTIES cannot timely agree, either party shall have the right to invoke the dispute resolution procedure described herein.

GENERAL PROVISIONS

14. **Construction.** The language in all parts of this AGREEMENT shall be construed according to its plain and ordinary meaning, except as to those terms defined by law, in the Clean Water Act, or specifically herein.

15. **Choice of Law.** This AGREEMENT shall be governed by the laws of the United States, and where applicable, the laws of the State of California.

16. **Severability.** In the event that any provision, section, or sentence of this AGREEMENT is held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

17. **Correspondence.** All notices required herein or any other correspondence pertaining to this AGREEMENT shall be sent by regular, certified, overnight, or electronic mail as follows:

If to NCRW:

Northern California River Watch
6841 Sebastopol Avenue, Suite 140
Sebastopol, CA 95472
Telephone: (707) 824-4372
Facsimile: (707) 824-4372

And to:

Jerry Bernhaut
c/o Northern California River Watch
Law Office of Jack Silver
PO Box 5469
Santa Rosa, CA 95402-5469
Telephone: (707) 528-8175
Facsimile: (707) 528-8675
j2bernhaut@yahoo.com

If to the City:

Lynn Tracy Nerland
City Attorney
City of Antioch
P.O. Box 5007
Antioch, CA 94531-5007
925-779-7015
925-779-7003 (fax)
lnerland@ci.antioch.ca.us

And to:

Melissa A. Thorme
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814
Telephone: (916) 444-1000
Facsimile: (916) 444-2100
mthorme@downeybrand.com

Notifications of communications shall be deemed submitted on the date that they are sent by electronic mail, postmarked and sent by first-class mail, or deposited with an overnight mail/delivery service. Any change of address or addresses shall be communicated in the manner described above for giving notices.

18. **Counterparts.** This AGREEMENT may be executed in any number of counterparts, all of which together shall constitute one original document. Telecopy, electronic, and/or facsimile copies of original signature shall be deemed to be originally executed counterparts of this AGREEMENT.

19. **Assignment.** Subject only to the express restrictions contained in this AGREEMENT, all of the rights, duties and obligations contained in this AGREEMENT shall inure to the benefit of and be binding upon the PARTIES, and their successors and assigns.

20. **Modification of the AGREEMENT:** This AGREEMENT, and any provisions herein, may not be changed, waived, discharged or terminated unless by a written instrument, signed by the PARTIES.

21. **Full Settlement.** This AGREEMENT constitutes a full and final settlement of this matter. It is expressly understood and agreed that the AGREEMENT has been freely and voluntarily entered into by the PARTIES with and upon advice of counsel.

22. **Integration Clause.** This is an integrated AGREEMENT. This AGREEMENT is intended to be a full and complete statement of the terms of the agreement between the PARTIES and expressly supersedes any and all prior oral or written agreements covenants, representations, and warranties (express or implied) concerning the subject matter of this AGREEMENT.

23. **Negotiated Agreement.** The PARTIES have negotiated this AGREEMENT, and agree that it shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared this AGREEMENT and any uncertainty and ambiguity shall not be interpreted against any one party.

24. **Authority.** The undersigned representatives for NCRW and the City each certify that he or she is fully authorized by the party whom he represents to enter into the terms and conditions of this AGREEMENT.

The PARTIES hereby enter into this AGREEMENT.

Date: January 18, 2013

NORTHERN CALIFORNIA RIVER WATCH

By: Margaret H. Gaudin
Name: Margaret H. Gaudin
Title: Board President

Date: January 18, 2013

CITY OF ANTIOCH

By: Lynn Tracy Nerland
Name: Lynn Tracy Nerland
Title: City Attorney

APPROVED AS TO FORM:

For NCRW:

Date: January 18, 2013

LAW OFFICE OF JACK SILVER

By: Jerry Bernhaut
Jerry Bernhaut, Esq.

For the City:

Date: January 14, 2013

DOWNEY BRAND LLP

By: Melissa A. Thorme
Melissa A. Thorme, Esq.

12951371

Law Office of Jack Silver

P.O. Box 5469 Santa Rosa, California 95402
Phone 707-528-8175 Fax 707-528-8675
lhm28843@sbcglobal.net



**VIA CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**

November 13, 2012



Head of Operations
City of Antioch
Sanitary Sewer Collection System
P.O. Box 5007
Antioch, CA 94531

Lynn Tracy Nerland, City Attorney
City of Antioch
City Hall
Third and H Streets
P.O. Box 5007
Antioch, CA 94531-5007

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Head of Operations and City Attorney:

NOTICE

The Clean Water Act ("CWA" or the "Act") § 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

Northern California River Watch ("River Watch") hereby places the City of Antioch hereinafter referred to as "the Discharger" on notice that following the expiration of 60 days from the date of this NOTICE, River Watch intends to bring suit in the United States District Court against the Discharger for continuing violations of an effluent standard or limitation, permit condition or requirement, a Federal or State Order or Plan issued under the CWA, in particular, but not limited to CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Regional Water Quality Control Board - San Francisco Bay Region, Region Water Quality Control Plan ("Basin Plan,") as exemplified by the incidents of non-compliance identified and outlined in this Notice.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of enumerated statutory exceptions. One such exception authorizes a polluter, who has been issued a permit pursuant to CWA § 402, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a National Pollutant Discharge Elimination System ("NPDES") Permit, define the scope of the authorized exception to the 33 U.S.C. § 1311(a) prohibition, such that violation of a permit limit places a polluter in violation of 33 U.S.C. § 1311(a) and thus in violation of the CWA. Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f)(1).

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the EPA to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. *See* 33 U.S.C. § 1342(b). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards, to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this Notice is the Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB").

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

To comply with this requirement River Watch has identified discharges of raw sewage from the Discharger's sewage collection system to surface waters in violation of the prohibition of the CWA with regard to discharging a pollutant from a point source to waters of the United States without a NPDES permit, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

2. *The activity alleged to constitute a violation.*

River Watch has set forth narratives below describing the discharges of raw sewage to surface waters as the activities leading to violations, and describing with particularity specific incidents referenced in the California State Water Resources Control Board's ("SWRCB") California Integrated Water Quality System ("CIWQS") SSO Public Reports and other public documents in the Discharger's possession or otherwise available to the Discharger, and incorporates by reference records cited below from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The person or persons responsible for the alleged violations identified in this Notice are the City of Antioch as owner and operator of the sewage collection system, and those of its employees responsible for compliance with the Statewide General Waste Discharge Requirements For Sanitary Sewer Systems, Order No. 2006-003-DWQ ("Statewide WDR"), adopted on May 2, 2006, as revised by Order No. WQ 2008-0002.EXEC on February 20, 2008.

4. *The location of the alleged violation.*

The location of the various violations are identified in records created and/or maintained by or for the Discharger which relate to the Discharger's sewage collection system as further described in this Notice.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined records maintained by the RWQCB and the Discharger for the period October 27, 2007 to October 27, 2012. The range of dates covered by this Notice is October 27, 2007 to October 27, 2012. River Watch will from time to time update this Notice to include all violations which occur after the range of dates currently covered. Some violations are continuous and therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The full name, address, and telephone number of the person giving notice is Northern California River Watch, referred to in this Notice as "River Watch." River Watch is a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California, and located at P.O. Box 817, Sebastopol, CA 95472. River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys.

River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed to:

Jack Silver, Esq.
Law Offices of Jack Silver
Jerry Bernhaut, Esq.
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. 707 528-8175 / Fax. 707 528-8675
Email: lhm28843@sbcglobal.net

BACKGROUND

The Discharger provides sewer services for the residents of the City of Antioch. The Discharger's service area lies within the watershed basins of the San Francisco Bay Delta. This waterway is a water of the United States. The Discharger provides sewage collection services for a population of over 103,000 residents. The Discharger owns and manages in excess of 300 miles of gravity sewers. The collected wastewater from all areas within the Discharger's service area is conveyed to the Delta-Diablo Sanitation District's Water Treatment Plant.

The Discharger has a history of sewer system overflows ("SSOs") from its ageing sewer lines. As recorded in the CIWQS Interactive SSO Reports, the Discharger's collection system experienced 163 SSOs between November 2007 and October 2012, with a combined volume of 18,163 gallons – 1,266 gallons of which reached surface waters. For example, on August 21, 2008, a reported spill of 2,390 gallons occurred at 1206 Lemontree Way, 590 gallons of which reached a surface water. Structural defects in the Discharger's collection system, which allow inflow and infiltration ("I/I") of rainwater and groundwater into the sewer lines, result in a build-up of pressure which causes SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains which are connected to adjacent surface waters such as the San Francisco Bay Delta.

The Discharger is a permittee under the Statewide WDR which requires that sewer system operators report SSOs to the CIWQS, including an estimate of the volume of any spill, the volume recovered and the volume which reached a surface water. The Discharger has a history of non-compliance with the SSO reporting requirements of the Statewide WDR. River Watch alleges the Discharger regularly under estimates the duration and volume of SSOs. The Discharger's field reports regularly report the spill start time and the time the Discharger was notified of the spill as identical. These equivalencies are highly unlikely and result in an under estimation of the duration and volume of the spill as well as an under estimation of the volume that reached a surface water. The Discharger's common practice of under estimating spill duration and volume undermines the credibility of reports of spills which reached a drainage channel and/or a separate storm drain where allegedly none of the spill reached a surface water.

River Watch alleges the Discharger regularly mistakenly reports spills as not reaching surface waters. In some cases, records indicate crews arriving within minutes of notification of a spill, which is also unlikely. In reporting the spill which occurred at 101 West 20th Street on September 4, 2012, the Discharger's field report indicates the estimated spill start time and the time the sanitary sewer agency was notified as 3:53:00.0, exactly the same time. The report indicates the spill reached a separate storm drainpipe and that not all the spill was recovered. However, next to the item "Estimated volume of spill that reached surface water, drainage channel, or not recovered from a separate storm drain" the entry is "N/A", indicating that none of the spilled sewage reached a surface water. Given the clear under estimation of the spill volume based on the identical start time and notification, River Watch

alleges a high degree of likelihood that some of the spilled sewage reached a surface water. The Discharger's SSO records generally do not indicate what method was used to estimate the total volume of the spill or how it was determined whether or how much reached a surface water.

In addition to surface overflows which discharge overland into surface waters, underground leakages ("exfiltration") caused by pipeline cracks and other structural defects result in discharges to adjacent surface waters via underground hydrological connections. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines have verified the contamination of the adjacent waters with untreated sewage.¹ River Watch alleges that such discharges are continuous wherever ageing, damaged structurally defective sewer lines in the Discharger's collection system are located adjacent to surface waters. Surface waters and groundwater become contaminated with fecal coliform exposing people to human pathogens. The Discharger's chronic collection system failures pose a substantial threat to public health.

Any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the CWA. In addition, many Basin Plans adopted by the Regional Water Quality Control Boards contain discharge prohibitions which apply to the discharge of untreated or partially treated wastewater. The discharges described herein constitute a nuisance. These discharges are either: injurious to health; indecent or offensive to the senses; an obstruction to the free use of property; and occur during, or as a result of, the transportation, disposal or treatment of wastes.

The Discharger's illegal discharge of untreated wastewater is a significant contribution to the degradation of the San Francisco Bay and San Francisco Bay Delta, with serious adverse effects on the beneficial uses of these waters. River Watch members residing in the area have a vital interest in bringing the Discharger's operation of its collection system into compliance with the CWA.

VIOLATIONS

From October 27, 2007 through October 27, 2012, the Discharger has violated the CWA, the Basin Plan and the Code of Federal Regulations for discharging pollutants to waters of the United States from its collection system without a NPDES permit. The below-listed violations are reported by the SWRCB staff, and evidenced by the SWRCB's CIWQS

¹ See the July, 2008 Report of the Human Marker Study conducted by Dr. Michael L. Johnson, U.C. Davis water quality expert, performed for the City of Ukiah, finding the presence of human derived bacteria in two creeks adjacent to defective sewer lines.

4.5 SSO Reporting Program Database Records and the Discharger's records. These violations are continuing.

Violations Description

1800 Collection system overflows caused by underground exfiltration.

An event in which untreated sewage is discharged from the collection system prior to reaching the treatment Plant. Underground discharges are alleged to have been continuous throughout the 5 year period from October 27, 2007 through October 27, 2012. Evidence to support the allegation of underground discharge of raw sewage exists in the Discharger's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the treatment plant reported in the Discharger's records, video inspection of the collection system, and testing of waterways adjacent to sewer lines, creeks, and wetlands of the San Francisco Bay Delta, for nutrients, pathogens and other constituents indicating sewage contamination, such as caffeine.

60 SSOs

Evidenced in the SWRCB CIWQS Interactive SSO Reports, including the reports discussed above. Also, unrecorded surface overflows witnessed by local residents and surface overflows where it was inaccurately reported that zero (0) volume reached a surface water or drainage.

REMEDIAL MEASURES REQUESTED

River Watch believes the following remedial measures are necessary to bring the Discharger into compliance with the CWA and the Basin Plan, and to prioritize remedial measures to reflect the biological impacts of the Discharger's ongoing non-compliance with the CWA:

A. SEWER SYSTEM INVESTIGATION AND REPAIR

1. The repair or replacement of all sewer lines located within two hundred (200) feet from surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the prior two (2) years and which have been found to be Significantly Defective (having received a rating of 4 or 5 on the PACP rating scale).
2. The completion of a Surface Water Condition Assessment of all sewer lines located within two hundred (200) feet from surface waters, including gutters, canals and storm drains, which have not been CCTV'd within the prior five (5) years.

3. Within one (1) year after completion of the Surface Water Condition Assessment, the repair or replacement of all sewer lines which have been found to be Significantly Defective.
4. With respect to sewer lines which receive a grade of 3 based on the PACP rating system, ascertain whether such lines need to be repaired or re-CCTV'd.
5. Amendment of the Discharger's long term Capital Improvements Plan within a period of five (5) years to provide for the Condition Assessment, by CCTV inspection, of its collection system on a six (6) year cycle, so that the entire collection system will be CCTV'd every six (6) years.

B. PRIVATE SEWER LATERAL INSPECTION AND REPAIR

1. Mandatory private sewer lateral inspection and repair program triggered by any of the following events:
 - a. Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within twenty (20) years prior to the transfer;
 - b. The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;
 - c. A change of the use of the structure served (1) from residential to non-residential uses (2) to a non-residential use that will result in a higher flow than the current non-residential use, and (3) non-residential uses where the structure served has been vacant/unoccupied for more than three (3) years;
 - d. Upon replacement or repair of any part of the sewer lateral;
 - e. Upon issuance of a building permit with a valuation of \$25,000.00 or more;
 - f. Upon significant repair or replacement of the main sewer line to which the lateral is attached.

C. MORE DETAILED SSO REPORTING

1. Modification of the Discharger's (SSO) reporting form submitted to the State of California, to require the method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.
2. A listing of nearby residents or business operators contacted to attempt to establish the SSO start time, duration, and flow rate.

3. Photographs of the manhole flow at the SSO site and the San Diego Method array, if applicable to the method used to estimate spill volume; or other photographic evidence that may aid in establishing the spill volume.
4. Creation of web site capacity to track information regarding SSOs. In the alternative, a link from the Discharger's website to the SWRCB CIWQS SSO Public Reports.
5. Provision of notification to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.

D. WATER QUALITY SAMPLING AND TESTING

1. Water quality sampling and testing whenever it is estimated that an SSO of fifty (50) gallons or more enters surface waters, and if field crews can safely access the affected surface waters. The Discharger should collect and test samples from three (3) locations: the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. Constituents tested for should include Ammonia, Total Coliform, and E. coli.
 - a. If any of said constituents are found at higher levels in the point of discharge sample and the downstream sample than in the upstream sample, the Discharger should determine and address the cause of the SSO that enters surface waters, and employ the following measures to prevent future overflows: (a) if the SSO is caused by a structural defect, then immediately spot repair the defect or replace the entire line; (b) if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, then perform additional maintenance or cleaning, and any other appropriate measures to fix the non-structural defect.

E. HUMAN MARKER SAMPLING

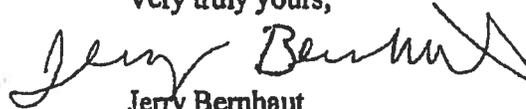
Performance of human marker sampling on creeks, rivers, wetlands and areas of the San Francisco Bay Delta adjacent to the Discharger's sewer lines to test for sewage contamination from underground exfiltration.

CONCLUSION

The violations as set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. The members of River Watch use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shell fish harvesting, hiking, photography, nature walks and the like. The members' health, use and enjoyment of this natural resource is specifically impaired by the Discharger's violations of the CWA as set forth in this Notice.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch intends to file a citizen's suit under CWA § 505(a) against the Discharger for the violations identified in this Notice. During the 60-day notice period, River Watch is willing to discuss effective remedies for these violations. However, if the Discharger wishes to pursue such discussions in the absence of litigation, it is suggested that discussions be initiated soon so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when that notice period ends.

Very truly yours,



Jerry Bernhaut

Attorney for Northern California River Watch

JB:lmh

cc: Jim Jakel, City Manager
Members of the City Council
City of Antioch
City Hall
Third and H Streets
P.O. Box 5007
Antioch, CA 94531-5007

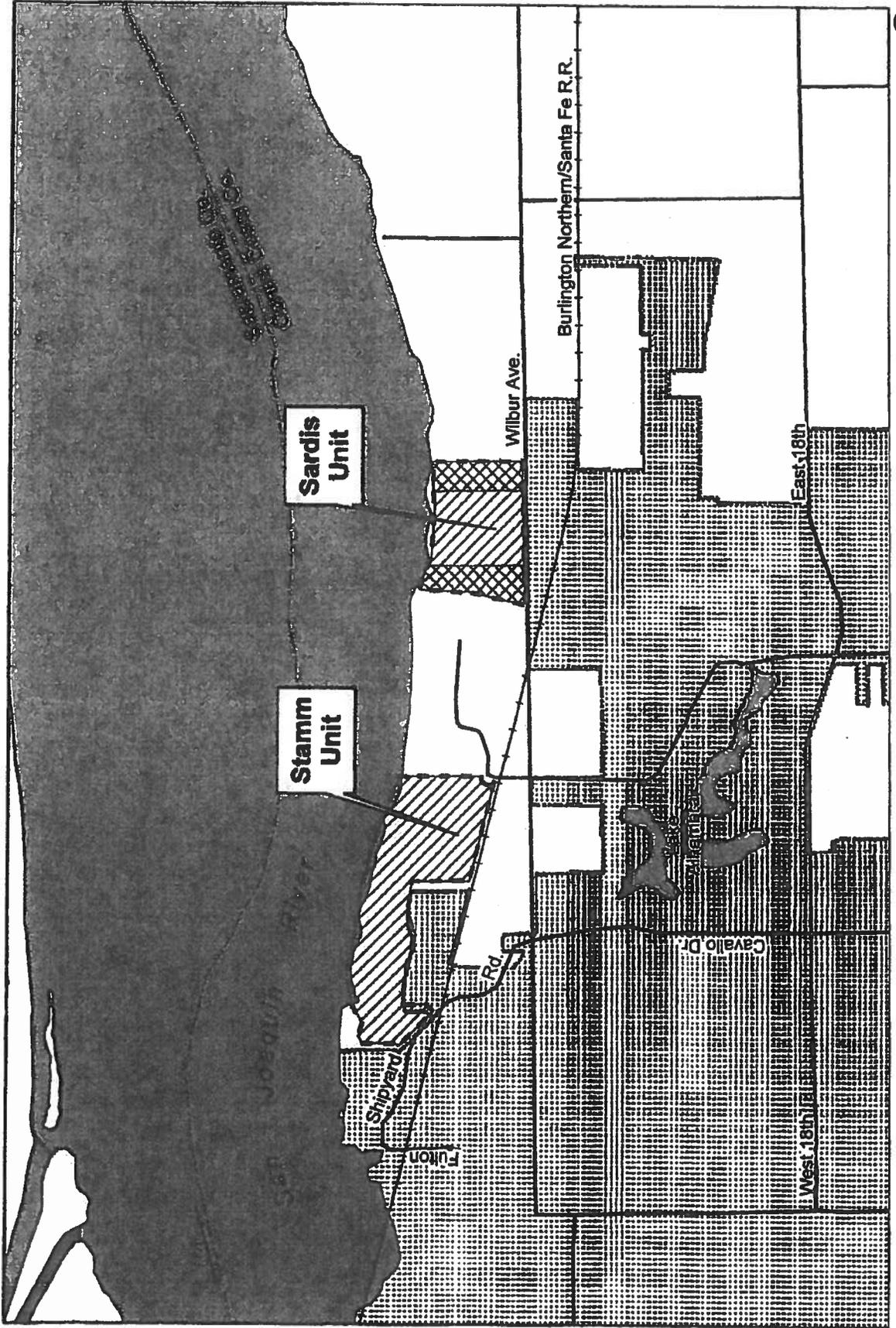
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code 3213A
Washington, D.C. 20460

Regional Administrator
U.S. Environmental Protection Agency Region 9
75 Hawthorne St.
San Francisco, CA 94105

Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-100

EXHIBIT B

Antioch Dunes National Wildlife Refuge

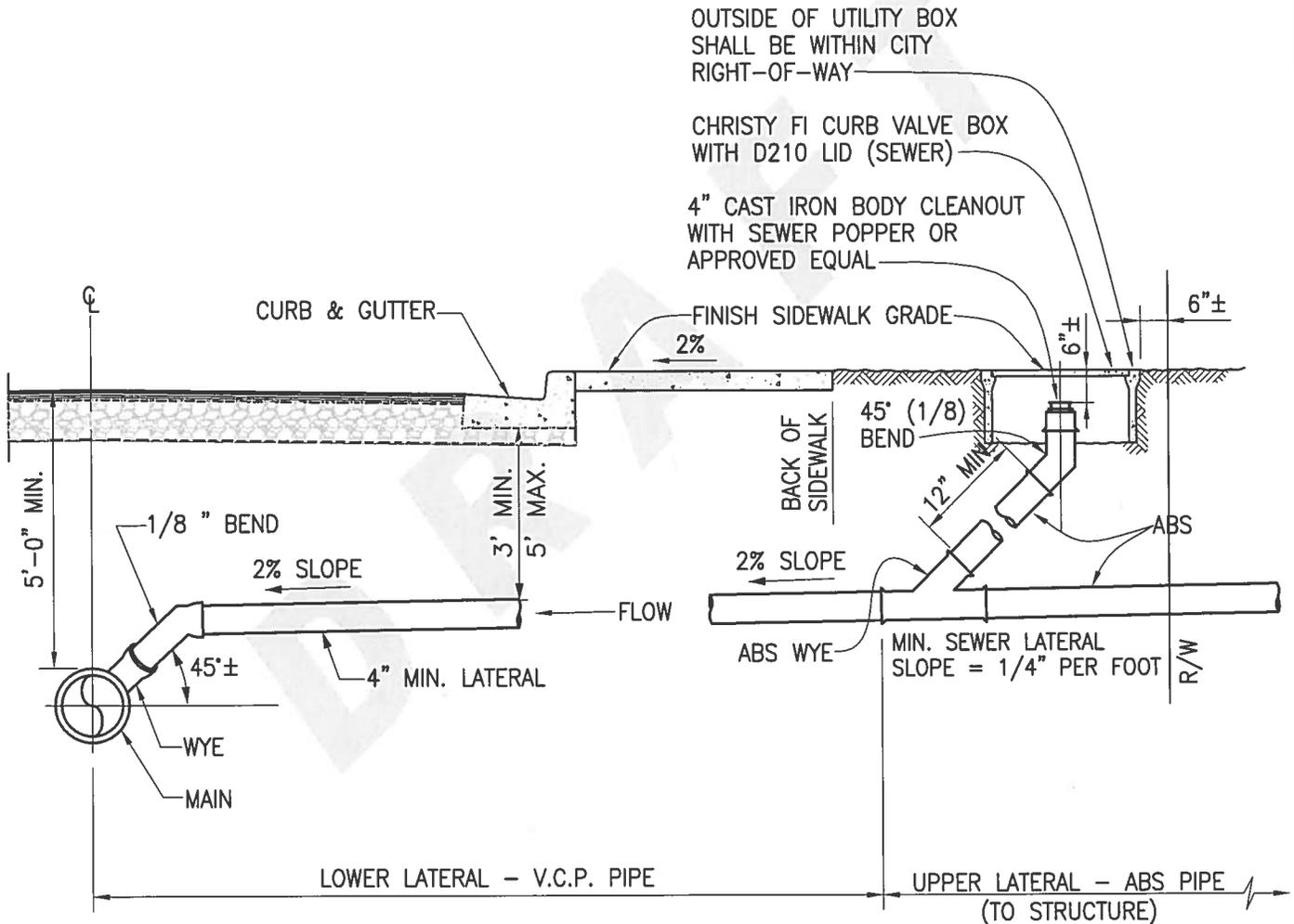


CA/NV Refuge Planning Office, July 2001

- - - Approved Refuge Boundary
- [Dotted Box] City of Antioch
- [White Box] Unincorporated Contra Costa County
- [Diagonal Hatching Box] U.S. Fish and Wildlife Service Lands
- [Cross-hatch Box] Pacific Gas and Electric Lands

NOTES:

1. ALL SANITARY SEWER LATERALS THAT REQUIRE A BACKWATER DEVICE MUST BE INSTALLED AS SHOWN ON CD-23A.
2. USE FERNCO STRONG BACK RC COUPLINGS OR APPROVED EQUAL FOR REPAIRS OR TIE INS.



DEPARTMENT OF PUBLIC WORKS
ENGINEERING SERVICES CITY OF ANTIOCH

DRAWN BY: S. Rodriguez

REVISIONS:

SEWER LATERAL
CLEANOUT DETAIL

CD - 23

APPROVED BY:

RON BERNAL, P.E.
CITY ENGINEER

DATE:

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

PREPARED BY: Ahmed Abu-Aly, Associate Engineer, Capital Improvements Division *AA*

REVIEWED BY: Lynne Filson, Assistant City Engineer *LF*

APPROVED BY: Ron Bernal, Director of Public Works/City Engineer

DATE: December 2, 2014

SUBJECT: Approve Amendment to FY 14/15 Capital Improvement Budget for the Pavement Preventative Maintenance Program, (P.W. 328-8)

RECOMMENDATION

It is recommended the City Council authorize the Director of Finance to amend the 2014-2015 Capital Improvement Budget to increase Gas Tax funding to the Pavement Preventative Maintenance Program to \$3,840,000.

BACKGROUND INFORMATION

The Five-Year CIP program includes a yearly preventive maintenance program to restore pavement conditions and provide pavement preservation treatments such as rubberized chip seal, slurry seal and pavement base repair to existing streets. Staff has developed the attached priority list of streets and recommends bidding two large paving projects; one for the cape seal pavement treatment and one for the pavement base repair, to take advantage of the low cost of oil and the current CalRecycle grant opportunity this year. The total estimated cost for both projects is \$3,840,000, which includes, new handicapped curb ramps, placing asphalt concrete leveling courses in the uneven surface areas, repairing roadway base course areas and placing a final layer of rubberized chip cape seal pavement over these streets.

FINANCIAL IMPACT

The current CIP budget for this program includes \$700,000 for FY 14/15 and \$700,000 for FY 15/16, funded through Gas Tax funds. The approval of this amendment will eliminate the need for funds in FY 15/16 and increase the FY 14/15 budget for this program to \$3,840,000 to be funded through Gas Tax funds and \$162,000 funded by the CalRecycle grant. Staff has reviewed the current Gas Tax fund balance projection with the Finance Director and has confirmed availability of funds for this budget amendment.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan by ensuring well maintained public facilities and rights-of-way, as well as Strategy K-5, by reducing the City's liability from third party claims and continuing to comply with regulatory requirements of state and federal agencies.

AA/lm

OPTIONS

None

ATTACHMENTS

A: List of Proposed Streets including Cost Estimates

ATTACHMENT "A"

List of Streets for Pavement Preventative Maintenance

No.	Roadway Base Failure Repair Locations	Square Feet	Tons	Cost Estimate
1	W 4th Street From L Street to G Street	12,608	394	\$ 42,946
2	G Street, 4th Street to 6th Street	8,640	270	\$ 29,430
3	2nd Street, G Street to I Street	7,128	223	\$ 24,280
4	A Street, Wilbur Avenue to Beede Way	9,635	301	\$ 32,819
5	Wilbur Avenue, EB from A Street	19,219	601	\$ 65,465
6	Wilbur Avenue, WB from Marie Avenue to Almond Street	32,400	1,013	\$ 110,363
7	10th Street, WB A Street to L Street	10,207	319	\$ 34,768
8	10th Street, EB L Street to A Street	3,924	123	\$ 13,366
9	10th Street, G Street to A Street EB	13,521	423	\$ 46,056
10	E 18th, WB Hwy 4 to A Street	72,568	2,268	\$ 247,185
11	E 18th Street, EB A Street to Hwy 4	69,245	2,164	\$ 235,866
12	Cavallo Road, Wilbur Ave to E 18th Street	21,535	673	\$ 73,354
13	E. Tregallas Rd, Hillcrest Ave to Garrow Dr	37,469	1,171	\$ 127,629
14	Deer Valley Rd, S/B Davison Dr to Lone Tree Wy	34,343	1,073	\$ 116,981
15	Deer Valley Rd, N/B Lone Tree Wy to Davison Dr	26,130	817	\$ 89,005
16	Deer Valley Rd, Kaiser Way to City Limits	27,401	856	\$ 93,335
17	Northbound City Limits to Kaiser Way	42,970	1,343	\$ 146,367
18	W Tregallas Rd, Lone Tree Way to Dolores Dr	32,818	1,026	\$ 111,786
19	G Street, W Madill St to James Donlon Blvd	79,799	2,494	\$ 271,815
Total Base Repair			17,549	\$ 1,912,814
Street	Proposed Cape Seal Roads - Boundaries	Sq. Ft.	Square Yard	Cost
Bluerock Drive	Lone Tree Way to Deer Valley Road	214,955	23,884	\$119,419
Granite Circle	Granite Circle / Court	30,000	3,333	\$16,667
Bluerock Court	Bluerock Court	5,850	650	\$3,250
Jade Court	Jade Court	5,400	600	\$3,000
G Street	North of Newbury Avenue to Longview Road	159,185	17,687	\$88,436
Whitehaven Court	All	11,550	1,283	\$6,417
Ravenwood Court	All	6,600	733	\$3,667
Donham Court	All	7,590	843	\$4,217
Bourton Court	All	9,900	1,100	\$5,500
Gloucester Court	All	17,820	1,980	\$9,900
Deerfield Drive	Hillcrest Avenue to Country Hills Road	119,724	13,303	\$66,513
4th Street	L Street to G Street	61,050	6,783	\$33,917
G Street	4th Street to 10th Street	58,275	6,475	\$32,375
10th Street	A Street to O Street	213,750	23,750	\$118,750
A Street	8th Street to Beede Way	38,060	4,229	\$21,144
Wilbur Avenue	A Street to Cavallo Road	135,475	15,053	\$75,264
E 18th Street	A Street to Hwy 4 - City limit	796,600	88,511	\$442,556
E Tregallas Road	Hillcrest Avenue to Garrow Drive	143,005	15,889	\$79,447
Deer Valley Road	Hillcrest Avenue to Lone Tree Way	623,780	69,309	\$346,544
W Tregallas Road	Lone Tree Way to El Rey St	99,900	11,100	\$55,500
Verne Roberts Circle	W 10th St to 2508 Verne Roberts Cr	138,600	15,400	\$77,000
Costco Way	Auto Center Drive to Verne Roberts Circle	17,325	1,925	\$9,625
Leveling Course at Various Locations				\$200,000
Total Cape Seal		2,914,394	323,822	\$1,819,108

TOTAL COST

\$3,731,922

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

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

REVIEWED BY: Lynne Filson, Assistant City Engineer 

APPROVED BY: Ron Bernal, Director of Public Works/City Engineer

DATE: December 2, 2014

SUBJECT: First Amendment to the Consultant Service Agreement with RMC Water and Environment for Engineering Design, Environmental Permitting and Construction Support Services for the West Antioch Creek Channel Improvements Project (P.W. 201-6)

RECOMMENDATION

It is recommended that Council approve the First Amendment to the Consultant Service Agreement with RMC Water and Environment for engineering design, permitting and construction support services for the West Antioch Creek Channel Improvement Project to increase the contract by \$205,085 for a total contract amount of \$1,037,424.

BACKGROUND INFORMATION

On October 9, 2012 the City Council approved an agreement with the Contra Costa Flood Control District to accelerate the Flood Control District's West Antioch Creek Channel Improvement Project by having the City take on certain responsibilities, including contracting with the design consultant and environmental consultant.

On November 27, 2012, the City Council authorized the execution of a design consultant services agreement with RMC Water and Environment (RMC) to provide engineering design, permitting and construction support services for the West Antioch Creek Channel Improvements Project. This project consists of replacing the existing undersized arch culvert system beneath Tenth Street and the narrow gunite ditch between Eighth Street and Tenth Street with a system that provides a 25-year level of flood protection. In addition, the existing earthen channel from Eighth Street downstream to 200 feet north of the BNSF railroad crossing will be desilted in order reestablish the original design capacity of the channel.

Multiple factors have led to the need to expand the scope of RMC's work beyond the original contract. Additional topographical surveying was required to supplement photogrammetric mapping to accurately define the existing creek topography. The Contra Costa County Flood Control District and City Staff requested the consultant generate multiple design alternatives in order to provide the City Council with various options for the channel alignment and composition. Detailed cost estimates and hydraulic calculations were developed for each design alternative to present accurate comparisons. The final project design parameters increased the extent of temporary construction easements and

permanent channel right-of-way required for construction of the project. Additional plats and legal descriptions need to be developed for the acquisitions of necessary land rights. Environmental documentation was expanded to include mitigation strategies within the Mitigation Monitoring and Reporting Program and multiple revisions to the project's Biological Resource Assessment report were performed to accommodate various design scenarios. Further assistance in negotiating sediment disposal agreements with Ironhouse Sanitary District and Reclamation District No. 830 is also included in this amendment.

Staff is recommending an amendment to RMC's Design Consultant Service Agreement to include additional design, environmental compliance, project management and coordination services at cost not to exceed \$205,085.

FINANCIAL IMPACT

The approval of this amendment will increase RMC's contract by \$205,085 for a total contract amount of \$1,037,424. Funding for this work will be provided from Drainage Area 55 Impact Fees.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan by ensuring well maintained public facilities and rights-of-way, as well as Strategy K-5 by reducing the City's liability from third party claims and continuing to comply with regulatory requirements of state and federal agencies.

OPTIONS

None

ATTACHMENTS

A: Amendment No. 1 to the Design Consultant Services Agreement

ATTACHMENT "A"

AMENDMENT NO. 1 TO AGREEMENT
FOR ENGINEERING DESIGN, ENVIRONMENTAL PERMITTING AND
CONSTRUCTION SUPPORT SERVICES FOR THE WEST ANTIOCH CREEK
CHANNEL IMPROVEMENTS
P.W. 201-6

THIS FIRST AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES is entered into this 16th day of December, 2014, by and between the CITY OF ANTIOCH, a municipal corporation ("CITY") and RMC WATER AND ENVIRONMENT, their address is 2175 North California Blvd., Suite 315, Walnut Creek, CA 94596 ("Consultant").

R E C I T A L S

WHEREAS, on November 28, 2012, RMC Water and Environment entered into an Agreement for Professional Consultant Services for the West Antioch Creek Channel Improvements ("Agreement") in the amount of \$832,339.00; and

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

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

Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein.

The term of the contract is extended until December 31, 2016.

2. **COMPENSATION. Section 2 of the Agreement:**

CITY shall increase the compensation for RMC Water and Environment for actual costs in the amount of \$205,085.00 bringing the total compensation to an amount not to exceed \$1,037,424.

3. All other terms and conditions of the Agreement shall remain in full force and effect.

CITY OF ANTIOCH:

RMC WATER AND ENVIRONMENT

By: _____
Steve Duran, City Manager

By: _____
David L. Richardson, Principal

APPROVED AS TO FORM:

By: _____
Lynn Tracy Nerland, City Attorney

AI



EXHIBIT "A"

November 26, 2014

Mr. Scott Buenting, Associate Engineer
City of Antioch
P.O Box 5007
Antioch, CA 94531-5007

Subject: West Antioch Creek Channel Improvements Project P.W. 201-6
Proposed Amendment No. 1 to Design Consulting Services Agreement Dated
November 28, 2012

Dear Mr. Buenting,

Attached please find RMC Water and Environment's (RMC) proposed scope and fee estimate for Amendment No. 1 to our Agreement dated November 28, 2012. We anticipate completing the permitting for and design of the project in the first half of 2015. RMC appreciates the opportunity to continue to serve the City of Antioch on this important project.

Sincerely,

Michael H. Matson, P.E.
Project Manager

Attachments:

Amendment No. 1 Scope of Services
Amendment No. 1 Fee Estimate



**City of Antioch
West Antioch Channel Improvements Project**

Proposed Amendment No. 1

RMC Water and Environment (RMC) was awarded a contract on November 28, 2012 by the City of Antioch (City) to design the West Antioch Creek Channel Improvement Project (Project). The RMC team has advanced the project as scoped in its contract with the City, and has also addressed several changes to the project. Some of these changes have already incurred cost and other changes are required to be implemented prior to completion of final design. The table below summarizes the budget status for each task as of October 31, 2014, along with the anticipated cost to complete and the associated amendment request by task. A detailed spreadsheet summarizing the out of scope and scoped labor remaining (to complete) is included as Attachment A. As part of this amendment request, RMC is requesting that the completion date be amended to June 15, 2015. Discussion of the status of each task is described in more detail below.

Budget and Amendment Summary (as of 10/31/14)

Task	Original Budget	Budget Remaining	Cost to Complete¹	Amendment Request
Task 1: Project Management	\$60,125	-\$36,973	\$ 18,525	\$ 55,498
Task 2: Data Gathering and Review	\$99,438	\$16,433	\$ 15,852	\$ (581)
Task 3: Surveying and Mapping	\$38,972	\$1,776	\$ 20,188	\$ 18,412
Task 4: Geotechnical Investigations	\$98,954	\$0	\$ -	\$ -
Task 5: Alternatives Analysis and Preliminary Design	\$18,658	-\$42,395	\$ -	\$ 42,395
Task 6: Detailed Project Design and PS&E	\$251,234	\$30,674	\$ 62,252	\$ 31,578
Task 7: Environmental Compliance	\$169,280	-\$42,476	\$ 33,949	\$ 76,425
Task 8: Bidding Phase Support Services	\$9,782	\$9,782	\$ 9,782	\$ -
Task 9: DWR Coordination and Additional Grant Funding	\$46,160	\$14,753	\$ 17,088	\$ 2,335
Task 10: Engineering Services During Construction	\$39,736	\$39,736	\$ -	\$ (39,736)
Task 11: Support Soil Disposal Agreement	\$0	\$0	\$ 18,740	\$ 18,740
Project Total	\$832,339	(\$8,709)	\$196,376	\$205,085

Notes:

1. Based on schedule and assumptions presented herein.

A3

Task 1: Project Management

The project schedule has been delayed for various reasons beyond the control of RMC. The initial completion date for the design phase of the project was January 2014. As of October, we estimate that the Project will be 14 months behind the original schedule, with design completion and advertising for bid now projected for March 2015. Additionally, the City has made requests for work outside the original scope of work. As a result, RMC is requesting additional Task 1 budget for the following reasons:

- The extended project duration has resulted in additional project management efforts that must continue through completion of the project.
- The City requested that RMC prepare materials for and organize the June 17, 2014 public meeting. The out of scope work consisted of organization, preparing handbill notices, notifying businesses and the public by telephone and follow up mail, and overall involvement in planning and conducting the meeting beyond that originally scoped for the project.

RMC requests that the City authorize a budget increase of \$55,498 for Task 1. Below is a summary of the scope modifications for this task.

Task 1 Work Summary

Subtask	Remaining Scoped Work	New Work or Rework	Status of New Work or Rework
1.1: General Project Management	• None	<ul style="list-style-type: none"> • Extended 14 months of project management activities including supervising, monitoring, and coordinating design for conformance with standard engineering practices • Extended 14 months of maintenance of project files 	Ongoing to March 2015
1.2: Project Schedule	• None	<ul style="list-style-type: none"> • Extended 14 months of schedule updates 	Ongoing to March 2015
1.3: Project Meetings, Reports, and Invoicing	• None	<ul style="list-style-type: none"> • Progress meetings including agendas and summaries • Up to one additional coordination meeting including agenda and summary • Progress reports and invoices 	Ongoing to March 2015
1.4: Public Outreach Program	• None	<ul style="list-style-type: none"> • Organization and noticing Public Meeting held June 17, 2014 	Completed

Task 2: Data Gathering and Review

Work under Task 2 is largely complete. Remaining work includes finalizing the creek hydraulics for the updated creek configuration and finalizing the SAP report. The remaining budget under Task 2 is approximately \$16,433. The estimated cost for the hydraulic analysis and finalizing the SAP report is \$9,032 and \$7,700, respectively. No amendment budget is needed for Task 2. Below is a summary of the scope modifications for this task.

Task 2 Work Summary

Subtask	Remaining Scoped Work	New Work or Rework	Status of New Work or Rework
2.1: Data Gathering, Review, and Need for Additional Information	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None 	N/A
2.2: Hydrology, Hydraulics, and General Civil Design Review	<ul style="list-style-type: none"> Refine creek hydraulic analysis 	<ul style="list-style-type: none"> Revise model to reflect reconfigured Reach A 	<ul style="list-style-type: none"> Conduct work as a part of finalizing design documents
2.3: Compile Base Plans of Existing Utilities	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None 	N/A
2.4: Hazardous Materials Assessment	<ul style="list-style-type: none"> Finalize SAP Report 	<ul style="list-style-type: none"> None 	N/A

Task 3: Surveying and Mapping

The City approved additional topographic survey efforts to define ground elevations in the basin area north of W. 4th Street that could not be determined through photogrammetric mapping methods due to dense ground cover and water. Additionally, the recent change in the Reach A channel configuration and alignment will require up to twelve (12) additional plats and legal descriptions for the acquisition of temporary construction easements and permanent channel right-of-way. RMC's original scope assumed only four parcels would require plats and legal descriptions. RMC is requesting a budget increase of \$18,412. Below is a summary of the scope modifications for this task.

Task 3 Work Summary

Subtask	Remaining Scoped Work	New Work or Rework	Status of New Work or Rework
3.1 Supplemental Site Surveying	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Supplemental topographic survey in the basin area 	Complete
3.2: Right-of-way Mapping Preparation	<ul style="list-style-type: none"> Plat and legal descriptions for up to four parcels 	<ul style="list-style-type: none"> Up to twelve (12) additional plats and legal descriptions 	Upcoming

Task 4: Geotechnical Investigations

The work under this task is complete. The Task 4 budget is overrun by approximately \$22,707, which is fully covered by reallocating a portion of the remaining budget in Task 2, which was used in conjunction with Task 4 to fund the additional SAP preparation and implementation (i.e. coordination with RWQCB). RMC requests that \$22,707 be reallocated from Task 2 to cover the overrun and close out this task. With this reallocation, no amendment budget is needed for Task 4. Below is a summary of the scope modifications for this task.

A5

Task 4 Work Summary

Subtask	Remaining Scoped Work	New Work or Rework	Status of New Work or Rework
4.1: Site Geotechnical Investigations	• None	• None	N/A
4.2: Desilting Geotechnical Investigations	• None	• None	N/A

Task 5: Alternatives Analysis and Preliminary Design

At the City’s direction, RMC analyzed six alternatives rather than the three alternatives assumed in the original scope. Additionally, the City requested that additional and more detailed analysis be performed for those alternatives relative to the original scope assumptions. The City also requested that the cost estimates reflect an actual project cost rather than comparative project costs. These requests required additional effort by the RMC team. RMC is requesting a budget increase for this task of \$42,395 to cover the overrun and close out the task. Below is a summary of the scope modifications for this task.

Task 5 Work Summary

Subtask	Remaining Scoped Work	New Work or Rework	Status of New Work or Rework
5.1: Alternatives Analysis	• None	<ul style="list-style-type: none"> • Analyze three additional alternatives. • Analyzed six alternatives at a greater level of detail than originally scoped. • Develop new sixth alternative based on County comments 	Completed
5.2: Preliminary Design	• None	• None	N/A

Task 6: Detailed Project Design and Plans, Specifications, and Estimates (PS&E)

After submittal of the 95% PS&E, the City directed RMC to incorporate Contra Costa County Flood Control and Water Conservation District (County) comments that require the entire Reach A channel configuration and alignment to be reworked, including conducting new hydraulic model runs (included under Task 2), revising the channel configuration and alignment, re-configuring channel armoring, modifying the upstream conform transition, modifying the culvert upstream and downstream transitions, revising the demolition and utility relocation plans and eliminating the O Street retaining wall.

The modified Reach A channel configuration and alignment includes a new transition concept for the upstream conform to the existing upstream channel. This upstream conform includes a new erosion control drop structure that will require additional geotechnical design input and review for the design of a vertical sheet pile erosion cut off wall.

Ab

The design changes are considered significant enough that RMC will need to resubmit the 95% PS&E submittal to allow a review cycle prior to preparing the final design bid documents. RMC is requesting a budget increase for this task of \$31,578. Below is a summary of the scope modifications for this task.

Task 6 Work Summary

Subtask	Remaining Scoped Work	New Work or Rework	Status of New Work or Rework
6.1: 35% PS&E Submittals	• None	• None	N/A
6.2: 65% PS&E Submittals	• None	• None	N/A
6.3: 95% PS&E Submittals	• None	<ul style="list-style-type: none"> • Hydraulics review and update • Design rework, including utility relocations, culvert alignment, channel alignment and sections, street restoration, cross sections, specifications • Resubmittal of 95% PS&E • Resubmittal review workshop • Review of updated channel alignment and configuration to confirm hydraulic criteria have been met. • Geotechnical and structural engineering input to sheet pile wall design used in the upstream transition. 	Ongoing
6.4: 100% and Final PS&E Submittals	• As scoped	• Expanded Reach A improvements and utility relocations	Commence after updated 95% PS&E review workshop

Task 7: Environmental Compliance

The required level of effort for performing this task has proven to be higher than originally scoped and budgeted. There has been more coordination over a longer duration with regulatory agencies than initially assumed, there have been multiple revisions of the Biological Resources Assessment (BRA) to accommodate City requests, and rework associated County comments on the 95% submittal. RMC has also expended hours in supporting the City's processing and reviews of the environmental and permit documents. New work for this task associated with the County comments includes consultation on the disposition of the original CEQA document relative to the proposed changes to the Reach A channel configuration and alignment. Mitigation evaluation has also not been per scope assumptions. The original scope assumed that the Project could rely upon the County Habitat Conservation Plan (HCP) for mitigation of project impacts. Instead, RMC negotiated with the County for coverage under the HCP, but the decision by the County that the Project would not be under the HCP has led to additional work in developing the mitigation strategy that was incorporated into the Mitigation Monitoring and Reporting Program. RMC is requesting a budget increase for this task of \$76,425. Below is a summary of the scope modifications for this task.

Note that the budget for Subtask 7.4 was originally reallocated by the City from the Task 10 budget.

Task 7 Work Summary

Subtask	Remaining Scoped Work	New Work or Rework	Status of New Work or Rework
7.1: Permit Acquisition	<ul style="list-style-type: none"> As scoped 	<ul style="list-style-type: none"> Additional coordination with regulatory agencies Multiple iterations of the BRA Rework of permit applications due to the County 95% comments Pursue permits once applications are accepted 	Ongoing pursuit of permits
7.2: Mitigation Monitoring and Reporting Program	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> County negotiations for coverage under HCP Development of MMRP outside of HCP 	Completed
7.3: CEQA Coordination	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Consultation on disposition of original CEQA document relative to County changes Preparation of a street closure analysis for W. 10th Street. 	Completed
7.4: Rare Plant Surveys	<ul style="list-style-type: none"> New task 	<ul style="list-style-type: none"> This work was not in the original scope and consisted of performing rare plant field surveys and preparing a summary report 	Completed

Task 8: Bidding Phase Support Services

This task has not started. No additional work or rework has been identified for this task.

Task 9: DWR Coordination and Additional Grant Funding

The current Urban Streams grant application work will exceed the original budget for Task 9. To complete the grant application, RMC requests a budget increase of \$2,335.

Task 10: Engineering Services During Construction

The City has reallocated \$12,597 out of this task to perform rare plant surveys as part of Task 7. RMC proposes to eliminate this task and reallocate the remaining budget (\$39,717) to other tasks under this amendment.

Task 11: Support Soil Disposal Agreement

The City has requested assistance in negotiating an agreement with Ironhouse Sanitary District (ISD) and Reclamation District No. 830 (RD830) for disposal of Reach B sediment removed as part of the Project. This work is not currently included in RMC’s scope of work. RMC is requesting a new Task 11 budget of \$18,740 to support the City in developing an agreement with ISD and RD830 for sediment disposal on their lands. This work would be limited to the identified amendment budget for consulting with RD830 and ISD on the findings of the SAP and

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the disposition of the City's request to dispose of excavated materials on RD830 and ISD upland sites, including providing limited interpretation to the SAP data for clarification.

General Assumptions

- Additional lead and asbestos investigation for dealership buildings is not included in the scope of the amendment. The original budget for this work was reallocated for preparing and conducting the Sampling and Analysis Plan (SAP) as part of Task 4.
- This amendment removes construction support services from the scope of work, including preparation of record drawings (under Task 6) at the conclusion of the construction phase. Construction services can be added back in once the details of construction management, bidding and construction schedules have been determined by the City.

**STAFF REPORT TO THE MAYOR AND CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF DECEMBER 16, 2014**

PREPARED BY: Ahmed Abu-Aly, Associate Engineer, Capital Improvements Division *AA*

REVIEWED BY: Lynne Filson, Assistant City Engineer *LBF*

APPROVED BY: Ron Bernal, Director of Public Works/City Engineer

DATE: December 2, 2014

SUBJECT: Approval of Proposal and Authorization for the City Manager to Sign an Agreement with Economic and Planning Systems, Inc. (EPS) to Conduct a Transportation Impact Fee Study, (P.W. 644-A)

RECOMMENDATION

It is recommended that the City Council approve the attached proposal and authorize the City Manager to sign an agreement with Economic and Planning Systems, Inc. (EPS) to conduct a Transportation Impact Fee Study in the amount of \$129,500.

BACKGROUND INFORMATION

Transportation infrastructure will be required to support the development projected in the General Plan. In the past, the City has used Assessment Districts to finance major infrastructure and alternative funding options have been reviewed. A Transportation Impact Fee is a proven method of equitably distributing the cost of the improvements required to support new development based on anticipated impacts.

On August 28th, staff solicited a Request for Proposal to ten (10) consultants to provide a technical study and nexus analyses necessary to develop and implement a Transportation Development Impact Fee program for the City of Antioch.

On November 24, 2014, a consultant selection panel composed of City staff conducted interviews with two consultant teams. Based on the evaluation of the proposals and the consultants' qualifications demonstrated during the interview process, the consultant selection panel selected the EPS consultant team as the most qualified firm to provide the services required to develop a Transportation Development Impact Fee Study for the City of Antioch.

FINANCIAL IMPACT

The current FY 14/15 budget includes \$150,000 from Measure J funds for this study. The negotiated price for the study is \$129,500.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan by ensuring well maintained public facilities and rights-of-way, as well as continuing to comply with regulatory requirements of state and federal agencies. This item also supports Strategy F-3 in the Strategic Plan by establishing a means to work with developers to create more homes, jobs, stores, services and necessary infrastructure.

ATTACHMENTS

A: Consultant Services Agreement

ATTACHMENT "A"

CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF ANTIOCH AND ECONOMIC & PLANNING SYSTEMS, INC. FOR THE TRANSPORTATION IMPACT FEE STUDY, P.W. 644-A

THIS AGREEMENT for consulting services is made by and between the City of Antioch ("City") and Economic & Planning Systems, Inc. ("Consultant") as of December 17, 2014.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall furnish all technical and professional services including labor, material, equipment, transportation, supervision and expertise to provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on December 31, 2015, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City' right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant represents that it is experienced in providing these services to public clients and is familiar with the plans and needs of City. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agree to pay Consultant a sum not to exceed **\$129,500.00**, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth below. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder,

including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City' option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services.
- The Consultant's signature.

2.2 Payment Schedule.

2.2.1 City shall make incremental payments, based on invoices received, [according to the payment schedule attached as Exhibit B], for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements of Section 2.1 to pay Consultant.

2.3 Total Payment. City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.4 Hourly Fees. Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the following fee schedule: See Exhibit B.

2.5 Reimbursable Expenses. Reimbursable expenses are specified below, and shall not exceed Ten thousand eight hundred, six hundred seventy-five dollars (\$10,875.00). Expenses not listed below are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

Reimbursable Expenses are: Communications, reproduction, printing, travel, traffic counts and any additional data collection.

2.6 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.7 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Insurers shall have an A.M. Best's rating of no less than A:VII unless otherwise accepted by the City in writing:

4.1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. If Consultant's services include work within 50 feet of a railroad right of way, the Contractor shall have removed any exclusion on their liability policy limiting coverage for work near a railroad, or shall provide a Railroad Protective Liability policy in favor of the City. Limits for such coverage shall be no less than \$5,000,000.

4.2. Automobile Liability Insurance. ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

4.3. Workers' Compensation Insurance. as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

4.4. Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

4.5. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

4.5.1 *Additional Insured Status.* The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor 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 Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

4.5.2 *Primary Coverage.* For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

4.5.3 *Notice of Cancellation.* Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

4.5.4 *Waiver of Subrogation.* Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor 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.

4.5.5 *Deductibles and Self-Insured Retentions.* Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

4.5.6 *Claims made policies.* If any of the required policies provide claims-made coverage:

4.5.6.1 The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

4.5.6.2 Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**

4.5.6.3 If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

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4.6. Certificate of Insurance and Endorsements. Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

4.7. Subcontractors. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.

4.8. Higher limits. If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

4.9 Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

4.10 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES

5.1. CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the CITY) and hold harmless CITY, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of or resulting from the performance of this Agreement by CONSULTANT, its officers, employees, agents, volunteers, subcontractors or sub-consultants, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of CITY.

5.2. In the event that Consultant or any employee, agent, sub-consultant or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or

the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, sub-consultants or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

5.3. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

5.4. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Consultant No Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

7.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 Licenses and Permits. Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

7.5 Nondiscrimination and Equal Opportunity. Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, sexual orientation or any other legally protected status, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

7.6 Prevailing Wages. Should the scope of work fall under the requirements of the California Labor Code and implementing regulations for the payment of prevailing wages, then Consultant shall comply and pay prevailing wages.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 Extension. City may, in their sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no

obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City' remedies shall include, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement; and/or
 - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant in which case the City may charge Consultant the difference between the cost to have a different consultant complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.
- 9.2 Confidentiality.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or

materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be kept confidential by Consultant. Such materials shall not, without the prior written permission of City, be used by Consultant for any purpose other than the performance of this Agreement nor shall such materials be disclosed publicly. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, shall be deemed confidential. Consultant shall not use the City's name or logo or photographs pertaining to the services under this Agreement in any publication without the prior written consent of the City.

9.3 Consultant's Books and Records. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.4 Inspection and Audit of Records. Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

9.5 Intellectual Property. The City shall have and retain all right, title and interest, including copyright, patent, trade secret or other proprietary rights in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents and any other works of authorship fixed in any tangible medium or expression, including but not limited to physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement. Consultant further grants to City a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional or supplemental work created under this Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 Venue. In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.

10.2 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

- 10.3 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.4 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.5 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.7 Inconsistent Terms.** If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.
- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 Contract Administration.** This Agreement shall be administered by Lynne B. Filson ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 Notices.** Any written notice to Consultant shall be sent to:

Teifon Rice-Evans, Managing Principal
Economic & Planning Systems, Inc.
One Kaiser Plaza, Suite 1410
Oakland, CA 94612

Any written notice to City shall be sent to:

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

10.11 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, and all other attachments, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

CITY:

CONSULTANT:

CITY OF ANTIOCH

ECONOMIC & PLANNING SYSTEMS, INC.

Steven Duran, City Manager

By: _____

Name: _____

Title: _____

Attest:

Arne Simonsen, City Clerk of City of Antioch

By: _____

Name: _____

Title: _____

Approved as to Form:

Lynn Tracy Nerland, City Attorney

[Two signatures are required for a corporation or one signature with the corporate bylaws indicating that one person can sign on behalf of the corporation]

All

EXHIBIT "A"

Proposal

Transportation Development Impact Fee Program

The Economics of Land Use



Prepared for:

City of Antioch

Prepared by:

Economic & Planning Systems, Inc.

In association with:

FEHR & PEERS

September 24, 2014

EPS #141136

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Work Plan

City of Antioch Transportation Development Impact Fee:

The Work Plan below describes the technical and organizational tasks necessary to develop a transportation development impact fee program. The products of the Work Plan will include a Transportation Development Impact Fee (TDIF) "nexus study" that meets the statutory requirements of AB 1600 (Government Code Section 66000 et seq.) for levying an impact fee and guidelines for implementing and administering the TDIF. Essentially, the "nexus study" draws a relationship between the increased travel demand associated with new development and the transportation improvements necessary to meet this demand at an acceptable level of service.

The Work Program also includes the evaluation of the potential economic effects of fee changes by comparing the potential, new fee schedule in the City with fees in other relevant cities and by considering the cost burden implications of any potential fee increases.

The Work Program is envisioned as a collaborative effort with City staff. Economic & Planning Systems, Inc. (EPS) is the lead consultant and will be responsible for evaluating funding mechanisms, preparing demographic projections, evaluating the economic implications of the program, preparing a fee administration program, and leading stakeholder and public outreach. Fehr & Peers (F&P) will lead the effort to develop a list of transportation projects and project costs and allocate project costs between new and existing development. EPS will integrate F&P's technical work into the comprehensive fee report.

Task 1: Project Initiation and Financial Mechanism Discussion

In this task the EPS team will meet with City staff to review project parameters, clarify team roles, and review project schedule and key deliverables. The appropriate and potential role of a new transportation development impact fee in the broader context of transportation infrastructure financing will also be discussed. In addition to familiarizing the consultant team with the key players and issues, the primary goals of this task are to:

- Finalize project management-related issues (e.g., team roles, outreach protocol, and key deadlines).
- Establish likely sequencing of tasks and appropriate milestones at which stakeholder input would be of particular value.
- Discuss the role of the new transportation development impact fee in establishing an appropriate and balanced set of financing tools for required transportation improvements.

In advance of the meeting, the EPS team will obtain and review relevant documents and data from the City, as well as identify additional information needs. Information sources may include the City's most up-to-date Capital Improvement Program (CIP), specific plans, the General Plan, land use projections, and other relevant documents.

Product: Revised Timeline (if appropriate)

Task 2: Collect and Analyze Existing Transportation Data

Data likely to be collected during this task include the following:

- Complete set of model files for the Antioch update of the CCTA travel demand model. F&P will do a basic reasonableness check on the land use and roadway network inputs for both the base year and future year, and confirm the input assumptions with City staff. The review will also consider evaluate the land use inputs in the recently-adopted Brentwood General Plan (particularly for those areas near the boundary between the two cities in the vicinity of Sand Creek) and the assumptions related to the a future eBART extension, which could affect traffic patterns in the southeast part of Antioch.
- Available traffic count data from the City and from other relevant sources (such as Caltrans).
- City's initial list of potential capital improvements to be included in the TDIF.
- City's General Plan, adopted specific plans, and any citywide planning studies that may be a source of transportation improvements.

This initial data review will result in a recommended methodology for establishing the nexus between new development in Antioch and the need for the transportation capital improvements, for City staff consideration.

Product: Concise memorandum describing recommended fee methodology

Task 3: Develop Stakeholder and Technical Advisory Committee Involvement Plan

The EPS team will work with the City to develop an involvement plan, but anticipates that a technical advisory committee (TAC), made up of key city staff members and potentially policy-makers, will be convened to review TDIF documents. The TAC will review documents and provide input during key milestones of the project. In addition (as covered under **Task 12**), the EPS team will hold four stakeholder/public meetings including an early City Council study session, a stakeholder meeting with local developers, and two additional public hearings (likely one before the Planning Commission and the other before the City Council).

Product: Stakeholder involvement plan

Task 4: Demographic and Land Use Analysis

EPS will work closely with City staff to assemble the land use assumptions, growth projections, and descriptions of "pipeline" projects. EPS will also define the operative assumptions, such as population and employment densities for each land use category to be used in estimating demand allocation for new infrastructure. We anticipate that we will begin the task with the projections EPS developed as part of our work on the Citywide development impact fee and will update/ refine the assumptions for 2015. F&P will also engage with EPS and City staff to ensure data relative to the future development potential in the City is reported in a manner that is also suitable for transportation impact development.

Product: Current and future land use and population inputs for transportation model

Task 5: Identify Citywide Transportation Improvements

F&P will assemble a list of capital improvement projects from the City's initial list and from the review of specific plans, citywide planning studies, and any other documents provided. The project list will be assembled in a GIS format for documentation, management, mapping and presentation. Initial attributes may include project title, description of work, plan/document source, and location(s).

Working from this list, F&P will use the Antioch update of the CCTA model and run one future-year scenario reflecting the demographic projections developed in **Task 2.3**. We understand that the City is currently embarking upon an update to the General Plan's land use element, and there are also several transportation impact studies going on for various development sites; to the extent that information about the future land uses in those areas is available at the time needed for this TDIF study, it can be incorporated into the model run.

The outputs from the model run will be reviewed and evaluated to see if those results indicate the need for any additional capital improvement projects beyond those already included on the initial list. This evaluation will take the form of a straightforward volume-to-capacity comparison for the major streets throughout the City. If more detailed analysis, such as computation of intersection Level of Service, is desired, that would require an augmentation of the TDIF study schedule and budget.

The project list may include a variety of project types, such as modifying street widths and lane configurations, improving streetscape elements, adding or enhancing bicycle and pedestrian facilities, installing or upgrading traffic signals, and improving accommodations for transit vehicles. The projects related to roadway capacity can be directly reflected in the Antioch model. This scope assumes that there will be up to 30 capital projects on the TDIF list that will need to be evaluated using the Antioch model (i.e., this would include roadway widening or extensions or intersection improvement projects, but would not include bicycle/pedestrian or streetscape projects since those cannot be directly reflected in the model). If there are substantially more projects on the final list that would require modeling effort, this may result in the need for a scope and budget amendment.

Product: Database of potential transportation projects

Task 6: Finalize AB1600 Project List

To prioritize projects for inclusion in the AB1600 fee program, the draft project list will be divided into categories; categories may include congestion relief, multi-modal access, bicycle/pedestrian improvements, and others. The documents identifying the project will also be considered to evaluate the level of justification which was provided. The team will provide recommendations on methods for achieving a defensible nexus for each project category. In some instances, it may be adequate to identify the City's policy direction as justification for certain projects, and in other cases the nexus may rest on the results of the City's model and other analytical studies.

Product: Final database of AB1600 transportation projects

Task 7: Develop Project Costs

Understanding that cost estimates are available for some of the transportation capital improvement projects likely to be included in the TDIF, in this task F&P will conduct a brief peer review of the available cost estimates. F&P will also coordinate with City staff to develop generalized unit costs that can be used to develop cost estimates for the remaining projects on the TDIF list. This scope assumes that new cost estimates will need to be developed for up to 15 projects. If it is determined that more detailed cost estimates are needed for certain projects, then it may be necessary to obtain assistance from a civil engineering firm.

Task 8: Identify Other Funding

The consultant team will match the capital improvements described above with their anticipated or expected funding sources. Projects with designated funding sources will not be included in the TDIF calculations. The consultant team will also identify all other "discretionary" transportation funding sources, including Federal, State, and regional sources. The total discretionary and non-discretionary funding amounts will be deducted from the total of the cost estimates so as to determine the net funding gap for purposes of the TDIF calculation. Given the high level of uncertainty associated with both cost and funding levels, a number of assumptions will have to be made that will be updated as more information becomes available. But ultimately a net cost estimate will need to be established for purposes of calculating the fee.

Task 9: Conduct Nexus Analysis

The purpose of this task is to establish the required nexus between the amount of the fee being charged and the transportation system impacts caused by the new development that will be subject to the fee. There are two key steps in the analysis.

Task 9.1: Establish Existing Deficiencies

It is not appropriate for a development impact fee program to include the costs associated with correcting existing deficiencies in the transportation system. Therefore, these deficiencies must be accounted for and removed from the fee calculations. It is our understanding that no citywide studies (such as a comprehensive General Plan update) or major development studies have been completed in the past several years. If such studies were available, they could be a source for data and analysis of the existing condition of the City's transportation system. In the absence of such pre-existing citywide information, Fehr & Peers will discuss options with City staff. Data can be used from recent project-specific transportation impact studies, such as the Aviano and Heidorn Ranch studies; most of the traffic data available from these studies is in the southeastern area of town (and no existing deficiencies were noted).

Our proposed methodology for establishing existing deficiencies is for F&P to collect new PM peak hour traffic counts at a sample of 30 intersections around the remainder of the City, analyze the intersection LOS, and compare the results against the City's performance standards to determine the locations of existing traffic deficiencies. Existing deficiencies may also be identified in the bicycle or pedestrian systems, by identifying gaps in those networks and/or locations where the current facilities do not meet the City's design standards. The magnitude of each deficiency will be calculated and used to discount the cost of that particular improvement in the fee calculations.

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9.2: Calculate Fee

The next step in the nexus analysis is to apportion facility costs to specific land use categories. Using the results of the Antioch model application described above, Fehr & Peers will calculate the proportion of usage of each facility in the TDIF that comes from new development in Antioch. Using trip generation rates typically applied in transportation impact analyses prepared for the City, the team will calculate fees for each land use category that reflect that category's typical impact on the transportation system.

Task 10: Feasibility Considerations, Fee Comparisons, and Administration

EPS will work with the City to determine a recommended fee schedule that is consistent with the technical work completed, but that also considers other City policy issues and the potential economic consequences of fee changes. EPS will conduct technical work to help inform the City on the potential economic implications of any justifiable fee increases. EPS will provide information on fees from other comparable and neighboring jurisdictions so the City can compare its current method of transportation improvement funding with the proposed TDIF. EPS will also consider the potential effects of any increased fees on the feasibility of new development. Specifically, EPS will consider the collective effects of potential increases relative to development values and standard, supportable fee burden levels. Depending on the outcome of this analysis and discussions with City staff, EPS will recommend methods for making comparability and/or feasibility-related adjustments to the updated fees.

EPS will also develop a set of administrative principles, based on AB1600 requirements, to describe the actions needed to implement and manage the fee program. Typical protocols include: segregated fee accounts, systems for granting fee credits in cases where TDIF projects are built, periodic fee reports to Council to track fee program progress, and protocols for updating and evaluating the fee program.

Task 11: Draft Technical Report

EPS and F&P will prepare a draft AB1600 fee report. All updated/new development fee calculations will be summarized in the Impact Fee Technical Report. F&P will prepare the transportation impact fee section of the technical report (and subsequent revisions). The document will likely include an executive summary, explanation of the fee methodology, a schedule of impact fees, summary explanation and findings of the fee burden analysis, and an improvements database with costs included in each individual fee program. The technical report will establish the required nexus for the recommended fees.

Product: Draft Nexus Study

Task 12: Meetings and Presentations

The Work Plan scope reflects the EPS team's participation in four (4) public meetings or presentations to stakeholders, the Planning Commission, and to the City Council. The budget estimate provided herein also includes periodic conference calls and in-person meetings with City staff/ TAC at key project junctures.

Task 13: Final Impact Fee Report

After one integrated set of comments from City staff, EPS will combine all input received to prepare a "Screen-check" copy of Final Impact Fee Report for staff review. Once final input from the City staff is received, EPS will produce the Final Impact Fee Report.

Product: Final Nexus Study

EXHIBIT "B"

Table 1. Antioch Transportation Impact Fee Budget

Phase/ Task	Economic & Planning Systems										Fehr & Peers		Team Totals	
	Managing Principal (Rice-Evans)	Senior Principal (Kieser)	Exec. VP (Bonassini)	Research Analyst	Production/ Admin	EPS Labor Costs	Principal (J. Morgan)	Senior Engineer (K. Johnson)	Engineer	Support Staff (Graphics/ Admin)	F&P Labor Costs	Labor Cost	Direct Expenses ¹	Total Cost
Total Hourly Billing Rate	\$254	\$300	\$214	\$120	\$85		\$281	\$128	\$94	\$101				
Task 1: Proj. Initiation	5	5	0	0	0	\$2,768	5	5	0	0	\$2,047	\$4,815	\$75	\$4,890
Task 2: Collect/ Analyze Existing Data	2	1	0	0	0	\$807	6	36	20	6	\$8,791	\$9,598	\$500	\$10,098
Task 3: Stakeholder Involvement Plan	4	2	4	0	2	\$2,642	0	0	0	0	\$0	\$2,642	\$0	\$2,642
Task 4: Demo. and Land Use Analysis	10	2	2	8	2	\$4,693	0	0	0	0	\$0	\$4,693	\$0	\$4,693
Task 5: ID Transp. Improvements	5	3	0	2	0	\$2,408	6	25	40	10	\$9,675	\$12,083	\$700	\$12,783
Task 6: Finalize Project List	3	0	0	2	0	\$1,000	2	5	20	6	\$3,696	\$4,697	\$0	\$4,697
Task 7: Develop Project Costs	3	0	0	2	0	\$1,000	4	30	12	4	\$6,503	\$7,503	\$300	\$7,803
Task 8: Identify Other Funding	4	2	1	5	0	\$2,428	0	0	0	0	\$0	\$2,428	\$0	\$2,428
Task 9: Conduct Nexus Analysis	12	2	12	8	0	\$7,173	24	36	80	16	\$20,532	\$27,705	\$8,500	\$36,205
Task 10: Fee Comparisons/Free Admin.	4	2	2	10	0	\$3,241	0	0	0	0	\$0	\$3,241	\$0	\$3,241
Task 11: Draft Technical Reports	10	4	15	5	6	\$8,059	20	10	8	12	\$8,871	\$16,930	\$200	\$17,130
Task 12: Meetings and Presentations	20	20	0	0	0	\$11,073	10	6	0	0	\$3,582	\$14,655	\$400	\$15,055
Task 13: Final Impact Fee Report	8	2	5	5	6	\$4,808	5	5	4	4	\$2,827	\$7,636	\$200	\$7,836
Total	90	45	41	47	16	\$52,100	82	158	184	58	\$66,525	\$118,625	\$10,875	\$129,500

(1) Direct expenses include communications, reproduction, printing, travel, traffic counts, any additional data collection.

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**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF DECEMBER 16, 2014**

FROM: Lynn Tracy Nerland, City Attorney 

DATE: December 9, 2014

SUBJECT: Massage Regulations

RECOMMENDED ACTION: It is recommended that the City Council:

1. Approve by motion the reading of the ordinance by title only; and
2. Introduce the Ordinance amending Sections 5-19.01, 5-19.04, 5-19.22 and 5-19.23 of the Antioch Municipal Code to address new State Laws regarding Massage Establishments and Massage Therapists

BACKGROUND:

City's Massage Regulations

In 2006, following an increase in complaints and incidents of unqualified persons doing business as massage therapists, the City Council adopted a moratorium to allow the City to adopt regulatory standards for massage establishments. At the time, there were no statewide regulations of massage therapists (unlike physical therapists, beauticians, barbers and estheticians and many other professionals). During this interim study period, staff reached out to massage therapists with business licenses in the City, recognizing that legitimate massage therapists offer valuable services to the community. The City Council then adopted the Massage Regulations Ordinance in 2007, which is codified in Chapter 19 of Title 5 of the Antioch Municipal Code ([http://www.amlegal.com/nxt/gateway.dll/California/antioch/cityofantiochcaliforniacodeofordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:antioch_ca](http://www.amlegal.com/nxt/gateway.dll/California/antioch/cityofantiochcaliforniacodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:antioch_ca)).

California Statutes regarding Massage Therapy

In 2009, the California Legislature adopted Senate Bill 731, which attempted to create State-wide massage therapy standards. In particular, a person certified by the newly-created State Massage Therapy Organization did not need a separate City permit to practice massage, but business licensing, zoning approvals, health and safety requirements, etc. still applied.

Assembly Bill 1147 (http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1101-1150/ab_1147_bill_20140918_chaptered.pdf), which was passed this year, continues this distinction of the California Massage Therapy Council (CAMTC) regulating the practice of massage and certifying massage therapists and cities regulating the

business of massage through land use, health and safety, and business licensing requirements.

Assembly Bill 1147 requires some minor amendments to the City's current ordinance regulating massage establishments and massage therapists. However, for those therapists who do not obtain state certification, the City's permit process will apply.

Proposed Ordinance Amendments

Section 5-19.01 – Findings and Purpose -- The proposed Ordinance amendment refers to the new state law.

Section 5-19.04 – Permit Exceptions – A person who has a valid State Certificate is exempted from the Police Department's permit process and will no longer be required to obtain an additional registration certificate from the Police Department. The Police Department had already discontinued this practice given staffing reductions. Business license and zoning requirements still apply.

Section 19.22 – Facilities and Operating Requirements – The prohibitions regarding unprofessional conduct and draping have been revised to track the state law.

Section 19.23 – Responsibility of Employer/Establishment Permittee. The revisions strengthen the requirement that the operator of a massage establishment is responsible for violations at the massage establishment regardless of whether the operator was personally responsible or whether or not the therapist violating the prohibitions is an employee or "subcontractor."

FISCAL IMPACT:

Other than the costs to prepare the Ordinance, it is not expected that these amendments to the massage regulations will have a fiscal impact. If anything, staff resources to implement the massage regulations should decrease slightly.

STRATEGIC PLAN:

Long Term Goal A: Crime Reduction - Reduce crime and improve public safety throughout the City.

Long Term Goal L: City Administration. Provide exemplary City administration.

Strategy M-1: Effectively and efficiently provide legal services in support of the City's policies, procedures and initiatives.

ATTACHMENT:

A. Proposed Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AMENDING SECTIONS 5-19.01, 5-19.04, 5-19.22 AND 5-19.23 OF THE ANTIOCH
MUNICIPAL CODE REGARDING MASSAGE REGULATIONS**

WHEREAS, in light of the lack of statewide regulations, on January 23, 2007, pursuant to Ordinance No. 1085-C-S, the City Council adopted a Massage Regulations ordinance to regulate massage establishments by imposing reasonable standards for massage operators, massage therapists and facilities; and

WHEREAS, in 2008 the State Legislature adopted Senate Bill 731 to amend the Business and Professions Code to certify and regulate massage therapists and massage practitioners, which superseded local licensing and some local regulatory requirements for those who obtain state massage certification; and

WHEREAS, the City Council adopted Ordinance No. 2028-C-S to amend its massage regulations to conform to Senate Bill 731; and

WHEREAS, the State Legislature adopted Assembly Bill 1147, which was approved by the Governor on September 18, 2014, and further delineates the responsibility of the State to regulate the practice of massage and certify massage therapists through the California Massage Therapy Council and the responsibility of cities and counties to regulate the business of providing massage through land use and business license requirements

NOW, THEREFORE, the City Council of the City of Antioch does ordain as follows:

SECTION 1. Section 5-19.01, "Findings and Purpose," of Chapter 19 (Massage Regulations) of Title 5 of the Antioch Municipal Code is amended to read as follows:

"§ 5-19.01 FINDINGS AND PURPOSE.

The City Council finds and declares as follows:

(A) The City is authorized by virtue of the Constitution of the State of California, and § 51031 of the California Government Code to regulate massage establishments by imposing reasonable conditions on the operation of massage establishments.

(B) In adopting these regulations, the City Council acknowledges that massage therapy is a legitimate, viable professional field that provides valuable health benefits. The Council also finds that there are health, safety and welfare concerns including unsanitary massage establishments and improperly trained and/or uneducated massage therapists who do not have a State massage certification and this chapter provides reasonable safeguards against injury and economic costs. The City Council further finds that it is reasonable to conclude that the presence of inexperienced and unlicensed

trainees in massage establishments would encourage and foster prostitution and human trafficking. In addition, massage therapy services occurring at night and with the furnishing of alcoholic beverages are more likely to raise the possibility of criminal conduct when police staffing is at the lowest.

(C) This chapter takes into account the separate certification process of the California Massage Therapy Council under Business and Professions Code sections 4600-4620.

(D) The permit requirements and restrictions imposed by this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the city.”

SECTION 2. Section 5-19.04, “Permit Exceptions,” of Chapter 19 (Massage Regulations) of Title 5 of the Antioch Municipal Code is amended to read as follows:

“§ 5-19.04 PERMIT EXCEPTIONS.

The permit requirements of this chapter shall not apply to the following persons while engaged in the performance of their duties:

(A) Physicians, surgeons, chiropractors, osteopaths, nurses, physical therapists, or acupuncturists who are duly licensed to practice their respective professions in the state;

(B) Barbers, beauticians, cosmetologists, and estheticians who are duly licensed under the laws of the state while engaging in practices within the scope of their licenses;

(C) Hospitals, nursing homes, sanitariums, or any other health facility duly licensed by the state;

(D) Accredited high schools, junior colleges, colleges, or universities whose coaches and trainers are acting within the scope of their employment;

(E) Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as road races, track meets, triathlons, biathlons, or similar single occurrence athletic or recreational events; and

(F) A person who holds a current, valid state certificate from the California Massage Therapy Council as a massage practitioner or massage therapist, under Business and Professions Code sections 4600-4620. However, such a certificate holder shall be subject to the City’s laws including but not limited to business license tax, building and zoning regulations and health, safety and welfare requirements and be subject to having a business license revoked for material misrepresentation in the business license application.

SECTION 3. Section 5-19.22, “Facilities and Operating Requirements,” of Chapter 19 (Massage Regulations) of Title 5 of the Antioch Municipal Code is amended to read as follows:

“§5-19.22, FACILITIES AND OPERATING REQUIREMENTS.

(A) Every massage establishment and every massage therapy technician shall comply with standards established by the Contra Costa County Health Services for such businesses and practitioners and the following facilities and operations requirements:

(1) The massage establishment's premises and facilities shall meet and be maintained in a condition to comply with all applicable code requirements of the city, county, and state, including, but not limited to, those related to the safety of structures, adequacy of the plumbing, lighting, heating, ventilation, waterproofing of rooms in which showers, water or steam baths are used, and the health and cleanliness of the facility.

(2) Massage establishments and massage therapy technicians shall at all times have an adequate supply of clean sanitary towels, coverings, and linens. Towels, non-disposable coverings, and linens shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and disposable coverings shall not be used on more than one client. Soiled linens and paper towels shall be deposited in separate receptacles.

(3) In the massage establishment, wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bathrooms, tanning booths, whirlpool baths, and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day when the premises are open, with a disinfectant. Bathtubs shall be thoroughly cleaned with a disinfectant after each use. All walls, ceilings, floors, and other physical facilities for the establishment shall be in good repair, and maintained in a clean and sanitary condition.

(4) All equipment used in the massage establishment and massage therapy operation shall be maintained in a clean and sanitary condition. Instruments utilized in performing massage therapy shall not be used on more than one client unless they have been sterilized, using standard sterilization methods.

(5) Clients of the massage establishment shall be furnished with a dressing room. Only clients of the same sex will use dressing rooms at the same time. Dressing rooms need not be separate from the room in which the massage therapy is being performed.

(6) Toilet facilities shall be provided in convenient locations within the massage establishment and shall consist of at least one unisex toilet with lavatories or wash basins provided with soap and both hot and cold running water either in the toilet room or vestibule.

(7) A minimum of one washbasin for massage technicians shall be provided at all times in a massage establishment. The basin shall be located within or as close as practicable to the area devoted to performing of massage therapy services. Soap and sanitary towels shall also be provided at each basin.

(B) Massage therapy shall be provided or given only between the hours of 6:00 a.m. and 10:00 p.m. No massage establishment shall be open and no client shall be in the establishment between 10:00 p.m. and 6:00 a.m.

(C) No alcoholic beverages shall be sold, served, furnished, kept, consumed, or possessed on the premises of any massage establishment.

(D) No owner, manager, operator, responsible managing employee, or massage therapy technician shall permit, offer or perform, any service other than those permitted under this Chapter.

(E) No one engaged in massage therapy or operating at a massage establishment shall engage in unprofessional conduct as defined in Section 4609 of the California Business and Professions Code. This prohibition includes no one at a massage establishment or no massage therapy technician exposing his or her genitalia, breasts or buttocks; engaging in sexual activity while providing massage services; or providing massage of genitals or anal region.

(F) No one engaged in massage therapy or operating at a massage establishment shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers that any service is available that is prohibited under this Chapter nor shall any massage establishment employ language in any advertising text or business name that would reasonably suggest to a prospective client that any service is available that is prohibited under this Chapter.

(G) The use or possession of adult-oriented merchandise in or on any part of a massage establishment is expressly prohibited.

(H) No electrical, mechanical or artificial device shall be used by the operator and/or manager, massage therapy technician or any one at a massage establishment for audio and/or video recording or for monitoring the performance of any massage therapy, or the conversation or other sounds in the massage rooms without the knowledge and written consent of the patron.

(I) Locks prohibited.

(1) No massage therapy shall be conducted within any cubicle, room, booth or treatment room on the premises of a massage therapy establishment that is fitted with a lock.

(2) All exterior doors on the premises of a massage therapy establishment shall remain unlocked from the interior side during business hours.

(3) The requirements of this subsection (I) do not apply to a massage establishment solely owned by a state certificate holder or to a massage establishment which employs only persons who hold a state certificate. (See Section 5-19.04(F))

(J) Clients shall be draped to cover genitalia and female breasts.”

SECTION 4. Section 5-19.23, “Responsibility of Employer/Establishment Permittee,” of Chapter 19 (Massage Regulations) of Title 5 of the Antioch Municipal Code is amended to read as follows:

“§5-19-23. RESPONSIBILITY OF EMPLOYER/ESTABLISHMENT PERMITEE.

It shall be the responsibility of the massage establishment permittee who has employed or subcontracted any person acting or purporting to act as a massage therapy technician or the employer or contractor of any person acting or purporting to act as a massage therapy technician or anyone operating a massage establishment to ensure that all massage therapy technicians comply with the requirements of this Chapter and all laws. The massage establishment permittee or operator of a massage establishment shall be held responsible for the conduct of all persons on the premises that engage in providing the service of massage therapy. Any act or omission of any person giving massage therapy, or any service of massage therapy shall be deemed the act or omission of the holder of the massage establishment permit or the operator of the massage establishment for the purposes of determining whether any license or permit may be revoked, suspended, or denied. Proof of knowledge of any violation of this section shall not be required for purposes of suspension, revocation, or denial of such a permit or license.”

SECTION 5. CEQA. This Ordinance is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

SECTION 6. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 7. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 5. Publication; Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the _____ and passed and adopted at a regular meeting thereof, held on _____, by the following vote:

AYES:

NOES:

ABSENT:

Wade Harper, Mayor

Attest:

Arne Simonsen, City Clerk

**REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF DECEMBER 16, 2014**

FROM: Lynn Tracy Nerland, City Attorney



DATE: December 10, 2014

SUBJECT: City Council Appointments to Council Committees and Other Entities

ACTION:

The attached list shows the prior appointments of City Council Members to various Council committees and other entities. Mayor Harper will be making new appointments for City Council approval by majority vote to be acted on as follows:

1. Motion to approve all appointments for Mayor Harper
2. Motion to approve all appointments for Mayor Pro Tem Ogorchock
3. Motion to approve all appointments for Council Member Rocha
4. Motion to approve all appointments for Council Member Tiscareno
5. Motion to approve all appointments for Council Member Wilson

BACKGROUND:

With the election, appointments of City Council Members to Council Committees and other entities need to be made. The current appointments are attached. Given that a few of the positions provide an additional stipend, it is recommended that action be taken on each Council Member's appointments separately with the proposed appointee recuse himself or herself from the dais and that action

In addition, for general information, the list of citizen appointments to City Boards and Commissions and to non-City entities is also included.

FISCAL IMPACT:

There is no fiscal impact to the City from the proposed action.

STRATEGIC PLAN:

Long Term Goal L: City Administration. Provide exemplary City administration.

Strategy L-7: Coordinate City Boards and Commissions administrative requirements.

ATTACHMENTS:

- A: Council Appointments December 2012 to November 2014
- B. Council Committee Assignments December 2012 to November 2014
- C. Local Appointments List 2014

COUNCIL APPOINTMENTS

December 2012 to November 2014

COMMITTEE	REPRESENTATIVES	COMMITTEE INFORMATION
ABAG (Association of Bay Area Governments)	Harper Rocha	General Assembly – once a year
Chamber of Commerce Liaison	vacant	2 nd Thursday, 8:00 am, Chamber conference room
Committee on Aging	Rocha	TBD
Community Advisory Board – S.F. Bay Water Transit Authority	Harper	TBD
Community Facilities District (Mello Roos)	vacant Wilson	1 st Monday of every other month (starting with February), 6:30 p.m., AUSD, 510 G St.
Delta Diablo Sanitation District	Harper Rocha (Alternate)	2 nd Wednesday of month, 5:30 p.m. 2500 Pittsburg/Antioch Highway
East Bay Division (League of California Cities)	Wilson	3 rd Thursday of month, 6:00 p.m., rotates between Contra Costa County and Alameda County cities
East Contra Costa Regional Fee and Financing Authority	Harper vacant (Alternate)	2 nd Thursday of month, 7:00 p.m., Tri Delta Transit, 801 Wilbur Ave.
East County Water Management Association	vacant	As needed, 2-3 times per year
Eastern Contra Costa Transit Authority (Tri Delta) (Board of Directors)	Harper Rocha	4 th Wednesday of month, 4:00 p.m., Tri Delta Transit, 801 Wilbur Ave.
ICLEI (International Council for Local Environmental Initiatives)	Tiscareno	TBD
Mayors' Conference	Harper Rocha (Alternate)	1 st Thursday of month, 6:30 p.m., rotates between cities of County
Northeast Antioch Annexation	vacant Rocha	As needed
State Route 4 By-Pass Authority (Delta Expressway)	Harper vacant (Alternate)	2 nd Thursday of month, 6:30 p.m. Tri Delta Transit, 801 Wilbur Ave.
TRANSPLAN	Harper vacant (Alternate)	2 nd Thursday of month, 7:30 p.m., Tri Delta Transit, 801 Wilbur Ave.

Revised 11/17/14

COUNCIL COMMITTEE ASSIGNMENTS
December 2012 to November 2014

COMMITTEE	REPRESENTATIVES	COMMITTEE INFORMATION
City/School Relations Committee	vacant Wilson	Standing Committee; Schedule TBD; City Manager's Office to develop agenda items and City Clerk's Office to handle noticing
Budget Committee	Harper vacant	Standing Committee; Schedule TBD; Finance Dept. to develop agenda items and City Clerk's Office to handle noticing
CDBG Committee (Community Development Block Grant)	Wilson Tiscareno	Standing Committee; Schedule TBD; Community Development Dept. to develop agenda and handle noticing
Graffiti Committee	Tiscareno	As needed
Historic Preservation Committee	Rocha	As needed
Lone Tree Golf Course Committee	Harper Tiscareno	Standing Committee; Schedule TBD; City Manager's office to develop agenda items and City Clerk's Office to handle noticing
Quality of Life Forum Committee	vacant	As needed
Sycamore Corridor Committee	Harper Wilson	As needed



**CITY OF ANTIOCH
LOCAL APPOINTMENTS LIST – 2014**

NAME	DATE OF APPOINTMENT	EXPIRATION OF TERM
<i>BOARD OF ADMINISTRATIVE APPEALS</i>		
Diana Busenbarrick	07/12	03/16
Andrew Schleder	09/12	03/16
Mike Schneider	09/12	03/16
Deborah M. Simpson	09/12	03/16
Frederick Rouse	03/14	03/16
Ademuyiwa "Ade" Adeyemi	03/14	03/16
<i>ECONOMIC DEVELOPMENT COMMISSION</i>		
Keith Archuleta	07/11	06/15
Martha Parsons	07/11	06/15
Sean Wright	07/11	06/15
Lamar Thorpe	01/13	06/15
Joseph O. Adebayo	06/14	06/17
VACANT		06/17
VACANT		06/17
<i>PARKS & RECREATION COMMISSION</i>		
Rodney McClelland	07/12	03/16
Roy Immekus	07/12	03/16
Janet Farr	04/14	04/18
Manuel Soliz, Jr.	04/14	04/18
Keith Farr	04/14	04/18
Beverly Knight	11/14	03/16
Lori Cook	11/14	04/18



CITY OF ANTIOCH LOCAL APPOINTMENTS LIST – 2014

NAME	DATE OF APPOINTMENT	EXPIRATION OF TERM
<i>PLANNING COMMISSION</i>		
VACANT		10/17
Krystal Hinojosa	02/13	10/16
Robert Miller	02/13	10/16
Kerry Motts	07/12	10/15
Noel Pinto	10/13	10/17
Thomas Westerman	10/11	10/15
VACANT		04/18
<i>POLICE CRIME PREVENTION COMMISSION</i>		
William Cook	09/11	06/15
Richard Augusta	09/12	06/16
VACANT		06/15
Michael Gadams	09/12	06/16
Audrey Taylor	10/13	10/17
James Davis	10/13	10/17
Karen Williams	10/13	10/17

All applicants must be 18 years of age or older and a resident of the City of Antioch
(Economic Development Commission requirement is resident &/or business owner)



**CITY OF ANTIOCH
LOCAL APPOINTMENTS LIST – 2014**

<i>SALES TAX CITIZENS' OVERSIGHT COMMITTEE</i>		
Hansel Ho	03/14	03/18
Barbara Herendeen	03/14	03/18
Melvin Chappel	03/14	03/18
Catherine Walker	03/14	03/18
Ralph Garrow	03/14	03/16
Joseph O. Adebayo	03/14	03/16
Salvatore Sbranti	03/14	03/16
<i>CONTRA COSTA MOSQUITO & VECTOR CONTROL BOARD</i>		
Lola Odunlami	03/14	03/16
<i>CONTRA COSTA LIBRARY COMMISSION</i>		
Walter Ruehlig	03/14	06/14
<i>CONTRA COSTA TRANSPORTATION AUTHORITY (CCTA) CITIZENS ADVISORY COMMITTEE (CAC)</i>		
Jeffrey Belle	08/13	08/17
<i>OVERSIGHT BOARD – SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY</i>		
Brian Kalinowski		
Tina Wehrmeister		

**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE
COUNCIL MEETING OF DECEMBER 16, 2014**

FROM: Michelle Fitzer, Administrative Services Director
Dawn Merchant, Finance Director

DATE: December 15, 2014

SUBJECT: Urgency Item regarding Payroll Specialist Position

RECOMMENDATION:

The City's only Payroll Specialist, Carol Cline, announced her retirement for December 2014. The replacement Payroll Specialist was hired on September 15, 2014 but resigned effective immediately on Monday, December 15. As Ms. Cline has agreed to assist the City part-time as a retired annuitant until a new person can be hired, it is recommended that the City Council take the following actions:

1. Approve a motion to include the following item on the regular session agenda as there is a need for immediate action that arose since the Council's agenda was posted because there is only one position in Antioch that handles payroll; the current Payroll Specialist is retiring as of December 30, 2014 the replacement Payroll Specialist resigned on December 15, 2014 after the agenda for the December 16, 2014 meeting was posted; and the City needs to immediately engage someone with knowledge of the City's payroll system to ensure that City employees are paid appropriately and on time and before the next scheduled City Council meeting on January 13, 2015 (2/3 vote required pursuant to Government Code section 54954.2(b)(2) for the urgency exception to the Brown Act);
2. As part of the regular session agenda, consider the staff presentation, any public comments and then approve the attached Resolution to hire Ms. Cline as a retired annuitant for up to a maximum of 960 hours in the fiscal year starting January 2, 2015 and ending on June 30, 2015 without meeting the 180-day waiting period required of CalPERS annuitants pursuant to State law due to Ms. Cline's unique skills as the only Payroll Specialist in the City of Antioch and the sudden resignation of her replacement and the critical need to fill this position due to the legal mandate to pay City employees in an accurate and timely manner as well as to process W-2 forms, deferred compensation forms, and other payroll forms that need to be processed in January each year.

#14.Urgency Item
12/16/14

FISCAL IMPACT:

Ms. Cline will receive an hourly salary but will not be receiving other benefits as a retired annuitant. Pursuant to the State law, as a PERS annuitant, she cannot be paid an hourly rate less than the minimum or more than the maximum monthly base salary paid for that position, divided by 173.333 hours per month. As this position was budgeted for salary and benefits, there will actually be a cost savings.

OPTIONS:

No options are presented because the City must process payroll and Ms. Cline's assistance as the only Payroll Specialist is needed to do so until another replacement can be hired and trained.

ATTACHMENT:

Resolution

RESOLUTION NO. 2014/XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
APPROVING THE HIRING OF PAYROLL SPECIALIST CAROL CLINE AS A
RETIRED ANNUITANT FOR THE PERIOD OF JANUARY 2, 2015 – JUNE 30, 2015
AND WAIVING THE PERS REQUIRED 180 DAY WAITING PERIOD**

WHEREAS, in the Spring of 2014, the City’s only Payroll Specialist, Carol Cline, announced her retirement for December 30, 2014; and

WHEREAS, the replacement Payroll Specialist was hired on September 15, 2014 but resigned effective immediately on Monday, December 15, 2014; and

WHEREAS, there are no other City employees who are completely trained to run the payroll function, nor complete all year-end reporting; and

WHEREAS, the City has a legal mandate to pay City employees in an accurate and timely manner as well as to process W-2 forms, deferred compensation forms, and other payroll forms; and

WHEREAS, several year-end reporting requirements, including W-2 forms, must be completed in January 2015; and

WHEREAS, Ms. Cline possesses unique skills as the only Payroll Specialist in the City of Antioch, and due to the sudden resignation of her replacement it is critically necessary to fill this position; and

WHEREAS, Ms. Cline has agreed to assist the City on a part-time basis as a retired annuitant until a new employee can be hired.

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

Section 1. That Ms. Cline is authorized to be hired as a retired annuitant due to the critical necessity of the Payroll Specialist position (limited to 960 hours per fiscal year) for the period of January 2, 2015 – June 30, 2015; and

Section 2. That the PERS required 180-day waiting period for appointment of an annuitant (Gov’t Code Section 7522.56) is waived due to the urgency of the situation, given the unexpected immediate resignation of Ms. Cline’s replacement.

* * * * *

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 16th day of December, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH